* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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\# **CNR No. DLHC010266822022**

\+ **CRL.A. 321/2022**

HARVINDER SINGH @ VIMPY CHADDHA .....Appellant

Through: Mr. Sudarshan Rajan, Mr. Hitain Bajaj & Mr.Sunny Sharma, Advs.

versus

THE STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Mr. Aman Usman, APP with Mr. Manvendra Yadav, Adv. for State along with Insp. Manoj Kumar, PS Lahori Gate.
Mr. Pawan Reley, Mr. Akshay Lodhi, Ms. Simran Singh, Mr. Gaurav Kumar, Mr. Tanish Rawat & Mr. Prakhar Agrawal, Advs. for R-2.

\# **CNR No. DLHC010296682022**

\+ **CRL.A. 362/2022 & CRL.M.A. 30249/2025, CRL.M.(BAIL) 1613/2025**

AJAY KUMAR TOMAR .....Appellant

Through: Mr. Pawan Reley, Mr. Akshay Lodhi, Ms. Simran Singh, Mr. Gaurav Kumar, Mr. Tanish Rawat & Mr. Prakhar Agrawal, Advs.

versus

STATE (GOVT OF NCT, DELHI) .....Respondent

Through: Mr. Aman Usman, APP with Mr. Manvendra Yadav, Adv. for State along with Insp. Manoj Kumar, PS Lahori Gate.

CNR No. DLHC010477172022

\+ **CRL.A. 651/2022**

STATE (NCT OF DELHI) .....Appellant

Through: Mr. Aman Usman, APP with Mr. Manvendra Yadav, Adv. for State along with Insp. Manoj Kumar, PS Lahori Gate.

versus

AJAY KUMAR TOMAR .....Respondent

Through: Mr. Pawan Reley, Mr.Akshay Lodhi, Ms. Simran Singh, Mr. Gaurav Kumar, Mr. Tanish Rawat & Mr. Prakhar Agrawal, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. These three appeals are arising out of a common Judgment of conviction dated 24th December, 2021 and Order on Sentence dated 13th May, 2022 passed by the learned Additional Sessions Judge, Central District, Tis Hazari Courts, Delhi (**Trial Court**) in SC No. 27870/2016 arising out of FIR no. 128/2011 registered under Section 302 of the Indian Penal Code (**IPC**) at Police Station Lahori Gate (**PS**).

2. The appellant Ajay Kumar Tomar challenges the conviction and sentence in CRL.A. 362/2022, while the deceased's son and the State have taken exception to the order on sentence dated 13th May, 2022 by filing CRL.A. 321/2022 and CRL.A. 651/2022, respectively, under Section 372 Cr.P.C., seeking enhancement of the sentence of the

appellant.

3. Since all the three appeals emanate from the common impugned judgment and order on sentence, they are being disposed of together by this common judgment.

BRIEF FACTS

4. The brief facts are succinctly captured by the learned Trial Court in the paragraph no. 1 of the impugned judgment, which is reproduced hereunder:

> *1. The present FIR is registered on 25.09.2011 at 1.20 hrs on the statement HC Surender Tyagi setting forth that in the night of 24.9.2011 in the course of patrolling duty with Ct. Ravinder on motorcycle No. DL1SL 8367-Sugar88, being driven by Ct.Ravinder, at around 9 pm, when they were proceeding towards Pul duffrin from Pili kothi, at the sound of gun shots fired, they reached near Railway Hospital and saw one Alto color golden grey No. D28CP5582 and one motorcycle no. UP14A5762 parked in between Amar Transport Company and Railway Hospital, on approaching nearer they saw one slim built person, whose name later became known as Mohit S/o Mahender, who was screaming loudly that the police wala after looting chain and locket of uncle Amarjit Singh Chaddha has fired gunshots at him. Sardar Amajeet Singh also told him the same thing asking him to catch him that police person. Upon hearing so, the person present in the police uniform darted swiftly towards Pili Kothi, HC Surender ran after him, the police motorcycle malfunctioned, and HC Surender stopped one motorcycle number DL6SAA4822 coming from Pul Duffrin side and requisitioned its rider for assistance in catching the police person on the run. The said police person who was*

being chased unbuttoned his shirt and threw the shirt of the police uniform that he was wearing on the way, on closing up, HC Surinder called upon him to stop and surrender and on hearing this he retaliated and opened fire with the firearm at them, which shot hit the person driving the motorcycle on his neck. The name of the said person driving the motorcycle and shot at the neck was revealed as Sunny @ Harinder Singh Bajwa S/o Sulakhan Singh. The motorcycle lost its balance and they fell. Taking advantage of the situation, the said police person jumped off the pul. Friends of the victim Sunny namely Ajay Kumar and Vikas @ Vicky came and HC Surender asked them to take Sunny immediately to the hospital with Ct. K. Gopal. HC Surender overpowered the appellant with the assistance of HC Akshay as the appellant had injured his leg following the jump from the bridge, and recovered from his possession two pistols, three broken golden chains and three lockets, ie the robbed articles. The rukka on the statement of HC Surender is prepared by Inspector O. P. Lekhwal on the statement of HC Surinder, upon which the FIR is registered under sections 394/397/302/307/411 IRC and sections 25/27/54/59 Arms Act.

5. Deceased Amarjeet Singh Chadha was first taken to the Railway Hospital and then to the Tirath Ram Hospital, where the doctor observed three rounded gunshot wounds on him and declared him dead at 10:20 PM. PW-29 ASI Ramphal Singh collected the MLC of the victim Sunny (Ex. PW3/A) from St. Stephen's Hospital. The doctor observed a gunshot injury on his neck due to which he was lying unconscious and had to undergo surgery. He died on 26th September, 2011 at St. Stephen's Hospital.

6. The mobile crime team and the photographer were called at the spot. Inspector O.P. Lekhwal (PW-45) inspected the first scene of crime, that is, SPM Marg near Railway Hospital, and prepared the site plan Ex. PW-45/B. From the spot, three empty cartridges and a Golden-Grey color Alto car bearing registration no. DL 8CP 5582 along with its key and a Black Pulsar motorcycle bearing registration no. UP 14A 5762 with its keys were seized *vide* seizure memo Ex. PW 24/B, Ex. PW 24/D and Ex. PW 24/E, respectively. From the second scene of crime, that is, Pul Mithai, one Black color Hero Honda Hunk motorcycle bearing registration no. DL 6S AA 4822 was seized *vide* seizure memo Ex. PW 45/D. The site plan of the second site Ex. PW 45/C was prepared. The blood sample from the seat of the motorcycle and blood earth were also seized *vide* memo Ex. PW 45/E.

7. Thereafter, Inspector OP Lekhwal, IO (PW-45) reached DRP Line from Quarter no. 102/1, Railway Quarters, where he recorded the statement of PW-1 Mohit (Ex. PW 1/DA) and seized his blood stained clothes vide memo Ex. PW 1/A. The blood sample, blood stained earth and earth control was lifted from the spot *vide* seizure memo Ex. 29/DX1. PW-45 then went to St. Stephen's Hospital and recorded the statement of Vikas @ Vicky and Ajay Kumar @ Tinku (friends of Sunny). Their blood-stained clothes were also seized *vide* seizure memos Ex. PW 22/A and Ex. PW 30/C, respectively.

8. During search of the lawn of quarter no. 102/1, the uniform shirt of the appellant was recovered from the sewer/gutter and the same was seized *vide* memo Ex. PW 30/B. The post-mortem of the body of the deceased Amarjeet Singh Chadha was conducted at the

Mortuary, Subzi Mandi ,and after the post-mortem the body was handed over to his relatives. The clothes of the deceased, the three bullet leads, a blood stained cloth piece, and a sample seal produced by the doctor were taken into possession *vide* memo Ex. PW 30/D.

9. The appellant Ajay Kumar Tomar was got admitted in Hindu Rao Hospital and was arrested *vide* arrest memo Ex. PW 30/E and his disclosure statement, Mark Ex. PW 39/A, was recorded.

10. On 26th September, 2011, information was received regarding the death of the second victim, that is, Sunny, *vide* DD No. 25/A (Ex. PW 7/A). The post-mortem of his body was conducted and after post-mortem, the body was handed over to Sunny's relatives.

11. Pursuant to the disclosure statement of the appellant, a raid was conducted and *vide* search memo Ex. PW30/J at Quarter no. J/34, Type-I, Police Colony, Model Town, illegal ammunition, namely ten rounds of 0.315 bore and 17 rounds of 9 mm were recovered and taken into possession vide seizure memo Ex. PW 30/O, regarding which a separate FIR no. 387/11 was registered under Section 25 of the Arms Act at Police Station Model Town.

12. On the pointing out by the appellant, a motorcycle no. DL 1T S 8354 (Ex. PW 30/M) and a white-coloured Santro Car bearing registration no. UP-11V-5632 (Ex. PW 30/N) having a fake registration number were recovered and seized. The actual number of the Santro car was DL-4CND-0350. From the said car, the Registration Certificate (RC) of UP-11V-5632, PAN Card and R.P. Bhawan ID Card were recovered. The motorcycle, car and articles were taken into police possession.

13. Upon verification, the Santro car bearing registration no. UP-11V-5632 was found wanted in a case of robbery bearing FIR No. 90/2010. The copy of the FIR was obtained and the said car was transferred to P.S. Ramala.

14. Upon investigation, it was further found that the motorcycle on which the appellant came at the spot for committing the offence was linked to case FIR no. 501/07 (Ex. PW 28/A) registered under Section 379 IPC and its registration number of UP-14A-5762 was fake, the original number being DL-7SN-6553.

15. During interrogation, the appellant gave disclosure statement (Ex. PW 30/H). He stated that the arms, ammunition and the Santro car got recovered from him had been given to him by one Anil, who had died in a police encounter in February, 2011 and that he had put a fake number plate on the Santro car and discarded the original number plate. He further stated that after Anil's death, the arms, the ammunition and the Santro car remained with him.

16. Upon further verification it was found that the arms, ammunition and the recovered car were connected with FIR no. 20/11 registered under Sections 307/186/353/34 IPC at Police Station Bhora Kalan, District Muzaffar Nagar, U.P.

17. During investigation, the Investigating Officer had also seized the uniform shirt and from its pocket, recovered an I-card bearing no. 0092090 in the name of SI Ajay Kumar Gupta. Upon verification, it was revealed that said I-card had actually been issued in the name of SI Ajay Kumar Gupta, 6th BN DAP. Charge under Section 419 IPC regarding the forged I-card was added.

18. Certified copy of the S-25 vehicle PCR North Zone log book and a copy of the log book of Ambulance No. DL-1A-1223 (Ex. PW-35/A), was also obtained. The statement of the ambulance driver and the doctor were recorded. An application was filed before the Court for the Test Identification Parade (TIP) of the appellant. However the appellant refused to take part in the TIP stating that he had already been shown to the witnesses in the police station. The statement of Mohit under Section 164 Cr.P.C. (Ex. PW 49/A) was recorded.

19. The TIP of case property (Ex. PW-31/C), that is, the gold chain was also conducted. Harvinder Singh, the son of the deceased, correctly identified the case property.

20. The exhibits were sent to FSL Rohini. The chance prints were sent to the CRO. The CRO report upon examination of chance prints mark Q1 (developed on 24th September, 2011), and the chance prints mark Q2 (developed on 04th October, 2011), was found to be 'identical' with the right index finger and right thumb impression respectively, mark S-1 and S-2, on the finger impression slip of appellant Ajay Kumar Tomar.

21. After completing the investigation, a charge sheet was filed against the appellant Ajay Kumar Tomar under Sections 394/397/398/302/307/411/419/420/468/471 IPC and Sections 25/27/54/59 of the Arms Act.

PROCEEDINGS BEFORE THE TRIAL COURT:

22. By the order dated 07.03.2012, Charges were framed against the appellant Ajay Kumar Tomar under Sections 302/392/397/170/171/468 IPC and under Sections 25 & 27 of the

Arms Act, to which the appellant Ajay Kumar Tomar pleaded not guilty and claimed trial.

23. In order to substantiate its case, the prosecution examined 49 witnesses including PW-1 Mohit (eye-witness of the murder of Amarjeet/deceased no. 1), PW-3 Dr. B.K. Jawa (the doctor who prepared the MLC of Sunny/deceased no. 2), PW-4 Dr. Aditya Gupta (the doctor who prepared the MLC of deceased no. 1/Amarjeet Singh Chadha), PW-8 HC Surender, PW-9 Constable Ravinder, PW-14 Dr. Rajiv Gupta (he had prepared the death summary of Sunny which is Ex.PW-14/A), PW-22 Vikas (friend of deceased no. 2), PW-31 Harvinder Singh @ Vimpy (Son of deceased no. 1), PW-45 Inspector O.P. Lekhwal, IO and PW-47 ACP Suresh Kaushik.

24. The statement of the appellant Ajay Kumar Tomar was recorded under Section 313 Cr.P.C., wherein he denied all the incriminating evidence put to him and claimed innocence.

25. The appellant in his defence tendered a certified copy of the statement of SI Sunil Yadav recorded in case FIR No.387/2011, PS Model Town.

26. *Vide* impugned judgment dated 24th December, 2021, the learned Trial Court acquitted the appellant of the charges under Section 170/171/468 IPC, but convicted him for the offence punishable under Section 397/302 IPC for the murder of Amarjeet Singh Chadha and for the offence punishable under Section 302 IPC for the murder of Harender Singh @ Sunny and under Sections 25/27 of the Arms Act, 1959.

27. By order dated 13th May, 2022, the learned Trial Court, while

observing that the present case does not fall within the "rarest of the rare case" category, sentenced the appellant with the following punishment:

(a) U/s 302 IPC for the murder of Amarjeet Singh Chadha, the convict Ajay Kumar Tomar is hereby sentenced to life imprisonment with fine of Rs.2 lacs and in lieu of fine, to undergo default sentence of 2 years, SI.

(b) U/s 302 IPC for the murder of Harender Singh @ Sunny Bajwa, the convict Ajay Kumar Tomar is hereby sentenced to life imprisonment with fine of Rs.5 lacs and in lieu of fine, to undergo default sentence of 2 years, SI.

(c) U/s 397 IPC, the convict Ajay Kumar Tomar is hereby sentenced to undergo RI for 10 years with fine of Rs.50,000/- and in lieu of fine, to undergo default sentence of 1 year, SI.

(d) U/s 25 Arms Act, 1959 the convict Ajay Kumar Tomar is hereby sentenced to undergo RI for 03 years with fine of Rs.20,000/- and in lieu of fine, to undergo default sentence of 6, months, SI.

(e) U/s 27 Arms Act, 1959 the convict Ajay Kumar Tomar is hereby sentenced to undergo RI for 10 years with fine of Rs.50,000/- and in lieu of fine, to undergo default sentence of one year, SI.

Submissions on behalf of counsel for appellant Ajay Kumar Tomar in CRL.A. 362/2022:

28. The learned counsel for the appellant Ajay Kumar Tomar has assailed the testimony of PW1 Mohit stating that his presence at the place of occurrence and thereafter at Railway Hospital is highly doubtful. It was submitted that although the prosecution alleges that

the incident took place at about 8:40-8:45 PM, PW-8 HC Surender Kumar and PW-9 Constable Ravinder admittedly left the police station only at about 8:55 PM. The record shows that there were four PCR calls. The first call recorded a quarrel but the Investigating Officer did not make the first call as part of the charge sheet. It is also submitted that the contemporaneous record does not support the version of PW-1 that he had taken the deceased on a *rehri* to Railway Hospital. The ambulance logbook does not mention his presence, PW-35, the ambulance driver, does not support his presence, and PW-36, Dr. Alka, also does not state that PW-1 had brought the deceased to the hospital. It was further submitted that PW-24 HC Ramphal merely referred to "*one more person*" accompanying the deceased in the ambulance. PW-24 did not name PW-1 as that person. According to the learned counsel that "*one more person*" referred to by PW-24 was none other than Gopal Yadav as stated by PW-35 (ambulance driver). It was thus argued that the ambulance logbook and the testimonies of PW-24, PW-35 and PW-36 do not establish the presence of PW-1 or his claim that he accompanied the deceased to Railway Hospital.

29. The learned counsel also pointed out contradictions between the testimonies of PW-1 Mohit and PW-9 Constable Ravinder as regards the person who took the deceased to hospital, absence of recovery of *rehri*, non examination of the two boys who accompanied PW-1 and the inconsistent evidence concerning the location of the Alto car. The attention of the Court was also drawn to the MLC of the Amarjeet Singh Chadha prepared at 9:35 PM which records the name of Harvinder Singh, although PW-31 Harvinder Singh @ Vimpy Bhaiya

himself stated that he reached the hospital only at about 10:30 PM. It was argued that PW-1 admittedly knew PW-31 only as "Vimpy Bhaiya" and did not know his complete name, thus making the contemporaneous recording of his full name a circumstance requiring explanation.

30. The learned counsel further submitted that the aforesaid discrepancies relate to the foundational aspect of the prosecution story and, when considered cumulatively, create a serious doubt as to whether PW-1 was actually present at the time of occurrence and subsequently accompanied the deceased to the hospital.

31. The learned defence counsel also challenged the alleged recovery of pistol, cartridges and gold articles from the appellant Ajay Kumar Tomar, contending that the prosecution evidence on this aspect is inherently inconsistent and incapable of inspiring confidence. It was submitted that the MLC of the appellant records an open compound injury to the right leg and multiple bruises on the left leg, rendering the prosecution version regarding the manner and the timing of the alleged recovery doubtful. Reliance was also placed upon the testimony of the PW-15 ASI Ramesh Lal, who had taken the appellant to Hindu Rao Hospital and remained at the spot only till 9:51 PM, and who categorically stated that no inquiry was made from the appellant on the relevant date. Most significantly, learned counsel relied upon the admission of PW-45 Inspector O. P. Lekhwal, that no recovery was effected from the appellant on 24th September, 2011 or 25th September, 2011.

32. It was further argued that as per seizure memo, the pistols had

already been sealed in a *pullanda*, whereas PW-2 Constable Chetan and PW-6 SI Satish Kumar, subsequently claimed to have seen both pistols lying on the ground and PW-39 SI A.K. Singh stated that only one pistol was handed over to the crime team. The differing accounts regarding the number and nature of the cartridges allegedly found in the pistols were also pointed out. The learned counsel submitted that the documentary record itself contains differing dates on the sketches and seizure memos, thereby undermining the prosecution version.

33. It was argued that the forensic evidence, the biological and serological reports were inconclusive and incapable of establishing any blood group linkage between the appellant, the alleged eyewitnesses and the deceased. The ballistic report also does not conclusively connect the weapons recovered with the fatal injuries and moreover the fingerprint report was challenged on the ground that the source and identification of the photographs of the chance prints were unexplained and there was delay in their examination. It was therefore urged that the alleged recoveries and the subsequent forensic evidence cannot be relied upon as corroborative circumstances against the appellant.

34. The learned counsel further submitted that the prosecution case suffers from an unexplained delay in the registration of the FIR, despite the police having received information regarding the occurrence at 9:00 PM and the statement of PW-8 HC Surender Kumar having been recorded before 11:00 PM, while the police station was situated only about 700-800 metres from the place of occurrence, the FIR was ultimately registered at about 1:20 AM. It

was argued that PW-22 is a planted witness. He did not disclose in his statement before the police that he already knew PW-8. He admitted that he did not even know the address of Sunny. Similarly, PW-8 also suppressed the fact that he knew PW-22 earlier. This mutual suppression assumes significance when both the witnesses are relied upon to establish the prosecution version.

35. It was also submitted that there is an unexplained delay in recording the statement of PW-22. If PW-22 had taken Sunny to the hospital and had met the Investigating Officer in the intervening night of 24th September, 2011 and 25th September, 2011, there was no reason for the Investigating Officer not to record his statement immediately. Instead, his statement was recorded only on the next date. Thus, these circumstances create a serious doubt regarding the presence of PW-22 at the spot and support the defence that PW-22 was subsequently introduced as an eye witness. Reliance was placed upon Supreme Court judgements in ***Yunus and Ors. v. State of UP***, MANU/UP/2775/201, ***State of Gujrat v. Adam Fateh Mohamed Umatiy*** (1971) 3 SCC 208 and ***Santa Singh Vs State of Punjab***, 1956 AIR (SC) 526, in support of his submissions.

36. On the question of sentence, the learned counsel submitted that appellant had no criminal antecedents. Every case registered against him is based on the subsequent recoveries. It was further argued that the appellant has already suffered continuous incarceration for 15 years and has been deprived of the opportunity to see his children growing up. The record shows that he maintains good conduct in jail and therefore the present case is not one where the extreme penalty of

death should be awarded to the appellant.

SUBMISSIONS OF THE STATE:

37. Mr. Usman, learned Additional Public Prosecutor (APP**)** for the State, submitted that the case, when appreciated in its entirety and in proper perspective, establishes the guilt of the appellant Ajay Kumar Tomar for the offences punishable under Sections 302/397 IPC and for the Offences under Sections 25/27 of the Arms Act. It was submitted that the learned Trial Court, after considering the oral, documentary, medical, ballistic, fingerprint and other scientific evidence available on record, recorded a reasoned judgment of conviction dated 24th December, 2021. The findings recorded by the learned Trial Court are based on appreciation of evidence as a whole and do not suffer from any perversity or any illegality. According to him, the finding of guilt recorded by the learned Trial Court deserves to be upheld.

38. It was argued that the prosecution case does not rest upon any isolated circumstance or based upon circumstantial evidence alone. The prosecution has led direct ocular evidence regarding the occurrence which receives substantial corroboration from the police witnesses, medical evidence, ballistic examination, fingerprint evidence and recoveries effected from the appellant. The evidence on record establishes that the appellant snatched three golden chains along with three lockets from the deceased Amarjeet Singh Chadha by using a deadly weapon and thereafter fired three shots at him, resulting in his death. The evidence further establishes that while the appellant was being chased, he fired upon Harender Singh @ Sunny.

The subsequent recovery of two unlicensed pistols with ammunition and the recovery of jewellery, further connects the appellant with the commission of the offences. It was argued that PW-1 Mohit is the most material eye witness of the occurrence.

39. It was submitted that the prosecution version stood disclosed in the very first information furnished to the police within a short span of about three hours of the occurrence. It was pointed out that, as per the FIR, the incident took place between about 8:40 PM and 9:50 PM on 24th September, 2011 and the FIR was promptly registered at about 1:00 AM. The *rukka* itself disclosed the material details of the occurrence, including the three gunshot injuries suffered by deceased No.1 Amarjeet Singh Chaddha, the presence of PW-1 Mohit and PW-22 Ajay/Vikas, the fact that deceased No.2 Sunny had also sustained firearm injuries, and the presence of the motorcycles and Alto car. It was therefore argued that, in such a short interval, there was neither sufficient opportunity nor any plausible reason for the police to concoct an elaborate version or introduce witnesses and vehicles subsequently. It was argued by the learned APP that the presence of PW-1 Mohit, PW-22 Vikas, PW-8 HC Surender and PW-9 Constable Ravinder stood established from the contemporaneous record and was corroborated by the police witnesses.

40. As regards the recovery, it was submitted that the prosecution case was not that the Investigating Officer, that is, PW-45 Inspector O.P. Lekhwal himself recovered the firearms and jewellery from the appellant, but that PW-8 and PW-9 apprehended the appellant, seized the pistols and gold items robbed from deceased no. 1 and thereafter

handed them over to the Investigating Officer. PW-8 deposed about preparation of sketches, inspection by the crime team and subsequent seizure of the aforesaid articles in sealed *pullandas.* The explanation regarding the appellant's shirt being found in the pit was also relied upon and the said pit was on the route between the Alto car, where the first incident occurred, and Pul Mithai, where the second incident took place. The appellant had thrown the shirt while fleeing. It was submitted that the testimony of PW-8, the author of the FIR cannot be discarded when the presence of the witnesses, the recoveries and the involvement of the crime team were all reflected in the earliest version itself.

41. The learned APP further submitted that PW-9 Constable Ravinder had a limited but specific role in relation to the first incident, having taken deceased No.1 along with PW-1 Mohit to the nearby Railway Hospital on a *rehri*, and that there was no reason for the police to falsely introduce PW-1, particularly when his presence was reflected in the contemporaneous medical record and was also corroborated by PW-8, who mentioned him and his presence was recorded in his first statement under section 161 Cr.P.C.

42. It was argued that PW-22 Vikas likewise could not be termed a planted witness, as his testimony was consistent with the account given by PW-8 regarding the pursuit of the appellant, the firing near Pul Mithai, the bullet shot injury to Sunny, the fall of Sunny's motorcycle and the subsequent taking of Sunny to the hospital.

43. Further reliance was placed on the scientific evidence, particularly the testimony of PW-2 and PW-6 regarding the lifting of

chance fingerprints from the Alto car and the testimony of PW-32, the fingerprint expert, that the chance prints Q1 and Q2 correspond with the right index finger and right thumb impressions of appellant Ajay Kumar Tomar. It was submitted that the chance prints were lifted by an independent crime team immediately after the occurrence and that no suggestion of fabrication or planting has been put to the concerned witness in cross-examination. It was contended that the objection regarding procedure of lifting or photographing the chance prints could not subsequently be questioned when the witness who could have explained the procedure has not been confronted with such a question.

44. The learned APP further relied upon the ballistic report Ex. PW10/A as per which the empty cartridges recovered from the spot matched the test-fired cartridges from the recovered firearms. The reliance was placed upon the MLC of the appellant to explain the injuries suffered by him while fleeing from Pul Mithai, the evidence regarding him being sent to the hospital by PCR, the DD entries, and the testimony of PW-45 as corroborating the sequence of apprehension, recovery, preparation of sketches, medical examination and registration of the FIR.

45. It was further argued that appellant's refusal to participate in the TIP is a material circumstance which goes against the appellant. It was contended that the plea of false implication by the appellant was wholly untenable, since the name of the appellant, the presence of the eyewitnesses and the material circumstances of the occurrence had been disclosed within a few hours of the crime, leaving no credible

basis for alleging that the police, under pressure to solve the case, had planted witnesses and fabricated recoveries. It was submitted that the prosecution case was supported not merely by the ocular testimony but also by the recovery of the firearms, ballistic evidence, fingerprint evidence, medical evidence, the conduct of the appellant and the injuries suffered by him while attempting to flee from the spot.

46. The State has also challenged the order on the quantum of sentence. It was submitted that the present case is attended with exceptionally grave and aggravating circumstances. The appellant committed the murder of two persons during the same transaction and fire arms were used in the commission of offences. Amarjeet Singh Chadha was fired upon three times after the appellant had snatched his jewellery and thereafter while attempting to flee, the appellant fired upon Harender Singh @ Sunny. The occurrence therefore, involves robbery, use of deadly fire arms, murder of two persons, and continuous use of lethal force while the appellant was being pursued. It was argued that the status and position of the appellant as a police official constitutes an additional aggravating circumstance. A police official is entrusted with protection of life and property and with enforcement of law. The commission of such grave offence by a person occupying a position of public trust represents a serious breach of confidence reposed in him by the society. The fact that the appellant was holding such position at the relevant time, is therefore, a circumstance which deserves due consideration while determining the appropriate sentence.

47. It was argued that the manner in which the offence was

committed, demonstrates the exceptional gravity of the offence. The multiplicity of the victims, the use of a deadly firearm, the robbery committed during the occurrence and subsequent firearm assault constitute circumstances which require the question of sentence to be considered with utmost seriousness.

48. It was further submitted that the nominal record discloses previous conviction of the appellant. He stands convicted in FIR no. 90/2010, Police Station Ramala under Section 411 IPC and sentenced to three years' imprisonment with fine, which conviction was subsequently upheld in an appeal. He has also been convicted in case FIR no. 387/2011 lodged at Police Station Model Town under Section 25 of the Arms Act and his conviction has been upheld by the appellate court. It was argued that the previous convictions assume significance while considering the question of reformation and appropriate sentence. The criminal antecedents of the appellant are therefore a relevant circumstance which signifies that the appellant deserves enhancement of the sentence in order to meet the ends of justice.

49. In view of the fore-going, it was submitted that the findings of guilt, recorded by the learned Trial Court against the appellant under Section 302/397 IPC and under Section 25/27 of the Arms Act are fully supported by the evidence on record. The direct ocular testimony, medical evidence, testimonies of Police officials, ballistic evidence, fingerprint evidence and recoveries are mutually corroborating, thus establishing the prosecution case beyond reasonable doubt. The appellant has failed to demonstrate any material

contradiction or infirmity capable of dislodging the findings recorded by the learned Trial Court and therefore, the conviction deserves to be upheld.

50. The learned APP submitted that the State supports the challenge to the inadequacy of sentence, which needs to be considered in accordance with the settled constitutional and statutory principles governing capital punishment.

51. In the alternative, it was also prayed that if the court is not persuaded to impose the sentence of death, then the appropriate sentence of imprisonment for the remainder of the natural life needs to be passed.

SUBMISSIONS ON BEHALF OF VICTIM/HARVINDER SINGH @VIMPY CHADDHA IN CRL.A. 321/2022

52. Learned counsel appearing on behalf of the victim, who is the son of deceased Amarjit Singh Chadha, submitted that the conviction recorded by the learned Trial Court is fully supported by the ocular testimony as well as the medical, scientific and other corroborative evidence on record. It was contended that the prosecution case rests upon the testimonies of two independent eyewitnesses, namely PW-1 Mohit, who witnessed the murder of Amarjit Singh Chadha, and PW-22 Vikas, who witnessed the murder of Harender Singh @ Sunny. Both witnesses have given consistent, natural and cogent accounts of the occurrence and there is no material circumstance warranting rejection of their testimonies. Their presence and version are stated to be corroborated by the PCR records, FIR and statements recorded under Section 161 Cr.P.C. The discrepancies pointed out by the

defence are merely minor contradictions which do not affect the core of their testimonies. Learned counsel placed reliance upon the judgment of ***Rajendran v. State***, (2021) 6 SCC 178, to submit that insignificant discrepancies ought not to result in discarding otherwise reliable ocular evidence.

53. It was further submitted that the testimonies of the independent witnesses find substantial corroboration from the police witnesses, particularly PW-8 HC Surender Kumar, who witnessed the appellant fleeing towards Pili Kothi after the murder of Amarjit Singh Chadha, followed him on the motorcycle of Sunny, witnessed the appellant firing at Sunny and thereafter jumping from Pul Mithai, resulting in injuries to his leg, and was involved in apprehending and recovering the pistols and jewellery. PW-9 Const. Ravinder was also relied upon as a witness who reached the spot, took Amarjit Singh Chadha to the hospital and witnessed the handing over of the recovered articles to the Investigating Officer. Learned counsel further referred to the testimonies of PW-10, PW-12, PW-15, PW-24, PW-29, PW-30, PW-39, PW-43, PW-45 and PW-47, who, according to him, remained associated with various stages of the investigation, including apprehension of the appellant, recovery and seizure of weapons and jewellery, inspection of the scene, collection of evidence and other investigative proceedings.

54. Learned counsel further submitted that the ocular version is corroborated by the medical and scientific evidence. It was contended that the medical evidence Ex.PW-38/A relating to the deceased Amarjit Singh Chadha records bullet injuries with blackening,

indicating that the shots were fired from close range, and that the three gunshot injuries correspond with the three shots attributed to the appellant by PW-1 Mohit. Similarly, the MLC of Harender Singh @ Sunny Ex.PW-38/B, was relied upon as corroborating the testimony of PW-22 Vikas.

55. Learned counsel submitted that the ballistic evidence provides further corroboration, pointing out that three of the four empty cartridges were found to have matched the test cartridges fired from the pistols allegedly recovered from the appellant. It was submitted that, EC-1, recovered as struck in one of the pistols, matched the test cartridges fired from pistol F-2, while EC-2 and EC-3 recovered from the Alto car matched the test cartridges fired from pistol F-1. The bullet EB-1, received from St. Stephen's Hospital in relation to the deceased Sunny, was also stated to have matched the bullet fired from pistol F-2. The fingerprint evidence was similarly relied upon, with reference to the chance print marked Q1 developed from the Alto car, which, according to the fingerprint expert (PW-32 Avdesh Kumar), was identical to the fingerprint of the appellant.

56. Learned counsel also relied upon the recovery evidence, submitting that the sketches and seizure memos of the pistols Ex.PW-8/A-1 and cartridges Ex.PW-8/A-2 were duly proved through PW-8, PW-10 and PW-45, while the jewellery recovered from the appellant was identified by PW-31 Harvinder Singh @ Vimpy Chadha in the TIP proceedings Ex.PW-31/C. Reliance was placed upon ***Gulab Chand v. State of M.P.*** (1995) 3 SCC 574. The recovery of gunpowder Ex.PW-12/B from the hands of the appellant was also

relied upon as corroborative evidence through PW-12 and PW-24 who corroborated this recovery. It was submitted that merely because gunpowder was not ultimately sent to the FSL, the otherwise credible ocular and other evidence could not be discarded, particularly in view of the principles stated in ***Arun Kumar Mishra v. State***, 2017 SCC OnLine Del 10815, and reiterated in ***Edakkandi Dineshan @ P. Dineshan v. State of Kerala***, (2025) 3 SCC 273. Learned counsel thus contended that the defence submissions proceed as though the prosecution case were based solely upon circumstantial evidence, whereas the case in fact rests upon direct eyewitness testimonies, duly corroborated by medical, ballistic, fingerprint, recovery and other evidence. It was further urged that there was no plausible reason for the appellant to have been falsely implicated or for the witnesses and recoveries to have been planted, particularly as the appellant had already been named in the PCR information and FIR.

57. On the question of sentence, learned counsel appearing for the victim submitted that the case warrants enhancement of sentence and urged that the extreme penalty of death be imposed, having regard to the nature, manner and magnitude of the crime. It was contended that the appellant, being a policeman who was expected to protect the public, had instead turned predator and committed a grave offence, warranting a harsher approach in sentencing. Reliance was placed upon ***Prakash Kadam v. Ramprasad Vishwanath Gupta***, (2011) 6 SCC 189, and ***Dhananjoy Chatterjee v. State of West Bengal***, (1994) 2 SCC 220, to submit that offences committed by persons entrusted with a protective or security role have a serious impact upon public

confidence. Learned counsel submitted that the murders were pre-planned and committed for greed and robbery, involved the use of deadly weapons and resulted in the death of two persons, thereby constituting a crime of exceptional gravity and magnitude. Reliance was also placed upon decisions of the Supreme Court in ***Purushottam Dashrath Borate v. State of Maharashtra***, (2015) 6 SCC 652, ***Machhi Singh v. State of Punjab***, (1983) 3 SCC 470, and ***Bachan Singh v. State of Punjab***, (1980) 2 SCC 684, in support of his submissions.

58. It was further submitted that the appellant had been convicted in another case under Sections 391/411 IPC and under the Arms Act on 19.06.2019, while one more criminal case was stated to be pending, and that his conduct during the trial was not good inasmuch as he attempted to threaten the witnesses and secure bail. Learned counsel therefore contended that the crime had shocked the judicial conscience and that there was no reasonable possibility of reformation of the appellant. In the alternative, if the Court were not inclined to impose the death penalty, it was prayed that the appellant be sentenced to imprisonment for the remainder of his natural life without remission, or a minimum sentence of 30 years without remission. Reliance was placed upon Supreme Court's decisions in ***Subhash Chander v. Krishnan Lal***, (2001) 4 SCC 458, ***Swamy Shraddananda v. State of Karnataka***, (2008) 13 SCC 767, ***Jitendra @ Kalla v. State***, (2019) 13 SCC 691, ***Gurvail Singh v. State of Punjab*** (2013) 2 SCC 713, ***Sandeep v. State of U.P.***, (2012) 6 SCC 107 and ***Neel Kumar v. State of Haryana***, (2012) 5 SCC 766.

ANALYSIS & REASONING

59. We have given our anxious consideration to the submissions made by the learned counsels for the Appellant, victim and the learned APP for the State, and have also perused the elaborate evidence placed on record.

60. The prosecution case, in substance, is that on 24.09.2011, after closing his shop, deceased Amarjeet Singh Chadha was proceeding in his Alto car bearing registration No. DL-8CP-5582 along with PW-1 Mohit, when the appellant, impersonating a police officer and wearing a Delhi Police uniform, stopped the vehicle near Railway Hospital, SPM Marg. According to PW-1 Mohit, the appellant approached the deceased, entered the car, and after conversing with him, snatched the gold chains worn by him and thereafter fired three shots at him. PW-1 stated that he immediately approached the car and saw the appellant holding a pistol and coming out of the vehicle. He raised an alarm and attempted to apprehend him, but the appellant pushed him aside and fled towards Pul Mithai. Amarjeet Singh himself emerged from the car and stated that the appellant had snatched his chains and shot him. PW-1 further stated that the injured Amarjeet Singh was taken on a handcart (*rehri)* to Railway Hospital and, when the facility proved inadequate, he was shifted in an ambulance to Tirath Ram Hospital, where he succumbed to the injuries during treatment. The testimony of PW-1 thus furnishes the direct account of the first occurrence, namely, the stopping of the vehicle, the appellant entering the car, the robbery of the ornaments and the firing upon Amarjeet Singh, followed by the immediate flight of the appellant.

61. The cross-examination of PW-1 was directed principally towards his presence at the spot, his relationship with the family of the deceased, the circumstances in which his statement was recorded, his identification of the appellant and the alleged possibility of his being a planted witness. PW-1 admitted that he had been working at the shop of the deceased only for about two to three weeks prior to the incident and that he did not know the names or addresses of the family members of the deceased. He also admitted that certain details stated by him in Court, including some particulars regarding the deceased asking him to get out of the car and the appellant directing him to stand near the motorcycle, were not specifically recorded in his statement under Section 161 Cr.P.C. He further admitted that he could not give the exact address of his present residence, did not remember several timings, and that his statement was formally recorded later in the night/morning. The appellant also questioned him regarding his conduct in not pursuing the appellant, the presence of public persons, the handcart used for taking the injured to hospital, and the subsequent identification of the appellant. PW-1, however, consistently denied the suggestions that he had not been present at the spot, that he was planted at the instance of the family members of the deceased, or that he had falsely implicated the appellant. He maintained that he had personally witnessed the occurrence and had seen the appellant firing at Amarjeet Singh. He also identified the clothes worn by him at the time of occurrence, which had been seized as bloodstained clothes Ex.PW-1/A. The core of his testimony concerning the actual occurrence, therefore, remained intact despite the extensive cross-

examination. The record also shows that PW-1 had stated that the lights of the Alto car, including the cabin light, were lying switched on at the time of occurrence, which furnishes an explanation for his ability to observe the appellant inside and around the vehicle.

62. The immediate post-occurrence circumstances are further corroborated by PW-8 HC Surender Kumar, who was on patrolling duty with Ct. Ravinder when they heard the sound of gunshots and reached near Railway Hospital. He deposed that they saw the Alto car, the deceased Amarjeet Singh and PW-1 Mohit, and also saw a person in police uniform fleeing from the spot. PW-8 stated that Mohit was raising an alarm that the policeman had robbed the Sikh gentleman of his gold chains and had shot him, while Amarjeet Singh himself was bleeding and stated that the policeman had robbed him and fired upon him. PW-8 chased the appellant towards Pul Mithai and, during the chase, the appellant removed his uniform shirt and continued running. When the police party intercepted him, the appellant fired another shot, which struck Sunny in the neck. The appellant thereafter jumped from Pul Mithai and sustained injuries. PW-8, along with HC Akshay beat constable, ultimately located and apprehended the appellant, from whose possession two pistols and three gold chains/lockets were recovered. One pistol contained four live cartridges, whereas the other had a spent cartridge stuck in its chamber. The gold ornaments were weighed and found to be approximately 160 grams and comprised three broken gold chains and three lockets. PW-8 identified the appellant in Court and also identified the recovered weapons, holster, police uniform and ornaments. His testimony accordingly provides an

important link between the first occurrence involving Amarjeet Singh, the subsequent firing upon Sunny when PW-8 was chasing the appellant in the motorbike of Sunny, the flight of the appellant and his apprehension after he jumped from Pul Mithai with the weapons and robbed property.

63. PW-8 was subjected to extensive cross-examination and confrontations with omissions in his earlier statement Ex.PW-8/D, particularly regarding the description of the motorcycle, the fact that Amarjeet Singh was bleeding, the description of the appellant as an SI, the colour of the T-shirt worn by the appellant after removing his uniform, the precise manner in which the appellant was intercepted and the recovery of the pistols. PW-8 accepted that several such details were not specifically recorded in his statement Ex.PW-8/D. He admitted in his cross examination that "we found that one person in police uniform and one sikh gentleman moving on both sides of the car" which fact was not mentioned by him in his Section 161 Cr.P.C., statement. He also stated that certain proceedings continued after his statement had been recorded and that the investigating officer was simultaneously engaged in other proceedings. Questions were also put regarding the preparation of sketches, seizure memos, the presence or absence of public witnesses and the timing of the investigation. PW-8 nevertheless remained categorical that the appellant was the person whom he had chased and apprehended and that the two pistols and ornaments were recovered from his possession. The omissions elicited in cross-examination principally relate to ancillary details of the investigation rather than to the core circumstance that the appellant

was seen fleeing from the place of occurrence, fired upon Sunny during the chase and was thereafter apprehended with the weapons and ornaments.

64. PW-22 Vikas provides further corroboration with respect to the second occurrence and the firing upon Sunny. He stated that on the evening of 24.09.2011 he was with his friend Ajay @ Tinku and deceased Sunny, and that they reached near Railway Hospital at about 9:00 p.m. He saw an injured Sikh gentleman near a car with blood coming from his abdomen and noticed a person in police uniform running towards Pul Mithai while another police official was chasing him. The police official took a lift on Sunny's motorcycle and asked Sunny to chase the person in uniform. PW-22 and Ajay @ Tinku followed them on another motorcycle. According to PW-22, when the person in uniform found himself surrounded, he took out a pistol and fired, the bullet striking Sunny in the neck. Sunny fell along with his motorcycle, and PW-22 and Ajay helped shift him to a TSR and took him to St. Stephen's Hospital. PW-22 subsequently identified the appellant in Court as the person who had fired upon Sunny. He also identified his own bloodstained clothes, which had been seized by the policeEx.PW-22/A after he had helped carry Sunny to the hospital.

65. In cross-examination, PW-22 admitted several aspects which were relied upon by the defence to challenge his credibility, including that he could not remember the descriptions of the clothes worn by the persons accompanying him, could not give exact addresses of the deceased Sunny and his friend Ajay, did not remember whether he had stated certain details to the police on 25.09.2011, and did not

personally attempt to apprehend the person who had fired upon Sunny. He also admitted that he did not approach the injured Amarjeet Singh or ask the young boy present near the car about the incident and that he did not give a written complaint. He, however, stated that he had personally seen the face of the person who fired at Sunny and that the police had subsequently questioned him about the physical features of that person. He denied the suggestion that he had first seen the appellant in the police station or that his identification was made at the instance of the police or the family members of the deceased. He also denied that he was a planted or interested witness. Thus, while the cross-examination brought out deficiencies concerning peripheral details and omissions in the earlier statement, the witness remained consistent on the core aspect of having followed the fleeing uniformed person and having seen him fire upon Sunny.

66. The prosecution evidence concerning the immediate aftermath of the first occurrence is also supported by police officials and independent medical witnesses. PW-18 ASI Satyawan stated that at about 9:15 p.m. he reached near Railway Hospital on hearing the noise and found Amarjeet Singh injured there along with PW-1 Mohit. According to him, Amarjeet Singh stated that a policeman had looted his gold chain and shot him. Since Railway Hospital lacked the requisite facilities, he was shifted by ambulance to Tirath Ram Hospital, where he subsequently died. PW-35 Rajinder Kumar, the ambulance driver, stated that an injured Sikh gentleman with firearm injuries was brought to Railway Hospital on a handcart and, on the advice of the doctor, was shifted to Tirath Ram Hospital because there

was no ICU facility. PW-36 Dr. Alka Nagpal, who was serving at Railway Hospital, similarly confirmed that at on 24.09.2011 at about 21:25 hours a person was brought in critical condition with multiple bullet injuries and that, after first aid, he was immediately referred to Tirath Ram Hospital through the hospital ambulance. These witnesses materially corroborate the prosecution version regarding the immediate transportation of Amarjeet Singh from the scene to the hospital.

67. The medical evidence regarding the death of Amarjeet Singh is unequivocal. PW-4 Dr. Aditya Gupta proved the MLC Ex.PW-4/A of Amarjeet Singh, who had been brought to Tirath Ram Hospital with the alleged history of firearm injury. PW-38 Dr. K. Goyal conducted the post-mortem examination and found three ante-mortem firearm entry wounds over the abdomen, with corresponding internal injuries to the intestines, kidney and liver. The doctor opined that the injuries were caused by a firearm fired from close range, that the cause of death was shock and haemorrhage resulting from extensive injuries to the liver, intestines and kidney, and that the manner of death was homicidal. Importantly, each of the three firearm injuries was found sufficient to cause death in the ordinary course of nature, individually or collectively. PW-38 testified and post-mortem report also recorded that three bullets had been recovered from the body and were handed over to the police along with the clothes and blood sample. There is no cross examination of this witness to the effect that it was not a case of homicidal death. Thus, the medical evidence independently establishes both the factum of death and admittedly its homicidal nature, while

being broadly consistent with the ocular account given by PW-1 that three shots were fired upon Amarjeet Singh.

68. The prosecution further led evidence concerning the physical and forensic circumstances at the place of occurrence. PW-2 Ct. Chetan, Fingerprint Proficient, inspected the Alto car and lifted two chance prints from the inside of the left front door window. PW-32 Avdesh Kumar, Fingerprint Expert, examined the chance prints along with the specimen fingerprints of the appellant and opined that one of the chance prints Q1and Q2 developed from the scene on 24.09.2011 was identical with the right index finger impression of Ajay Kumar Tomar S2, while another was identical with his right thumb impression S1. He explained that the other chance prints were partial and smudged and therefore unfit for comparison. His report Ex.PW-32/L was proved on record. The appellant while cross examining this witness, merely suggested that the report had been falsely prepared in connivance with the investigating officer, which the expert denied. The fingerprint evidence therefore constitutes additional scientific evidence connecting the appellant with the Alto car of deceased Amarjeet Singh.

69. PW-24 retired HC Ramphal and the investigating officer PW-45 Inspector O.P. Lekhwal proved the seizure of the physical evidence from the first place of occurrence. PW-24 described the recovery of three spent cartridges Ex.PW-24/B, blood from the driver's seat of the Alto car, bloodstained material, a bloodstained matchbox, bloodstained earth and earth control Ex.PW-24/A. He also deposed regarding the seizure of the Alto car Ex.PW-24/D and the Pulsar

motorcycle bearing registration No. UP-14A-5762 Ex.PW-24/E. Beneath the seat of the motorcycle, a purse containing an identity card, salary slip, ATM card, bank documents, photograph and RC connected with Ajay Kumar Tomar was recovered. PW-45 substantially corroborated these proceedings stating that he inspected the Alto car, recovered three spent cartridges and bloodstained material from the car and surrounding area, and subsequently recovered the motorcycle and the articles from beneath its seat. The investigation also established that the motorcycle bearing registration No. UP-14A-5762 was a stolen motorcycle, which fact was verified from PS Seelampur.

70. The evidence relating to the apprehension and recovery from the appellant is of particular significance. PW-8 stated that after the appellant had fired at Sunny and jumped from Pul Mithai, he was ultimately located and overpowered. Two pistols were recovered from his person; one from the holster and the other from the right side of his trouser and three broken gold chains and three lockets were recovered from his pocket. The sketch of pistols and cartridges Ex.PW-8/A1 and Ex.PW-8/A2, was prepared and they were then sealed and seized Ex.PW-8/B. PW-45 corroborated that the appellant was handed over to him by PW-8 HC Surender along with the two pistols and the gold ornaments. The first pistol, bearing the impression "Made in Italy", contained four live cartridges; the second, bearing the impression "Made in USA", contained a spent cartridge in its chamber. The recovered gold ornaments weighed 160 grams. The prosecution also proved the recovery of the appellant's police uniform shirt, bearing

two stars and the name plate "Ajay Kumar", from a drain-like place near the place where he had been apprehended. The uniform shirt was identified by PW-8 and PW-45. These recoveries assume significance because they are not isolated articles but correspond with the direct-eyewitness account that the assailant was impersonating a police officer, was wearing police uniform, used firearms and fled after robbing the deceased.

71. The prosecution also examined PW-31 Harvinder Singh @ Vimpy, son of Amarjeet Singh, who deposed that immediately after the occurrence he received a call from PW-1 Mohit using the mobile phone of his father. He spoke to Amarjeet Singh, who told him that a police official had fired at him and robbed his gold chains and lockets and asked him to reach the Railway Hospital. PW-31 immediately proceeded towards the disclosed place and thereafter reached Tirath Ram Hospital, where he learnt that his father had died. He also established that the Alto car belonged to him and that his father regularly wore the recovered gold ornaments. He identified the recovered ornaments in test identification proceedings and subsequently obtained the car and ornaments on *superdari*. In cross-examination, the defence highlighted several omissions in his statement under Section 161 Cr.P.C., including the absence of some details regarding the handing over of the mobile phone, the request to rush to the spot, the presence of his wife and uncle, and the exact time of reaching the hospital. PW-31 explained that several facts stated by him had not been recorded by the police despite his having narrated them. He nevertheless maintained the core version that he had spoken

to his injured father immediately after the incident and that the recovered jewellery belonged to his father.

72. The evidence of PW-23 Balbir, brother of the deceased, is formal but relevant to identification of the deceased and the chain of custody of the body. He identified the dead body of Amarjeet Singh at the mortuary on 25.09.2011 and thereafter received the body after post-mortem for the last rites. His cross-examination was limited and did not materially affect the factum of identification.

73. The prosecution further examined PW-39 SI A.K. Singh and other police officials concerning the subsequent investigation and recoveries pursuant to the disclosure statement of the appellant. PW-39 deposed that the appellant was arrested at Hindu Rao Hospital on 25.09.2011 and subsequently, on 02.10.2011, pointed out both places of occurrence. On 03.10.2011, pursuant to his disclosure, the appellant was taken to his quarter No. J-34 in Police Colony, Model Town. From a grain tank in the balcony, two containers containing live cartridges and an empty magazine were recovered. Further search of the quarter resulted in recovery of ATM cards, a copy of the appellant's Delhi Police identity card and family photographs. The appellant thereafter pointed out a Santro car and a motorcycle parked near the quarter, and documents including a PAN card, identity card and RC were recovered from the car. The defence extensively confronted PW-39 with omissions in statements recorded in another FIR and with the absence of photographs, site plans and specific markings on certain articles. PW-39 accepted several such omissions, including that certain details of the recoveries did not appear in his

earlier statement, that no site plan of the quarter was prepared and that photographs of some articles were not taken. Nevertheless, he denied that the recoveries were fabricated or planted and maintained that the appellant had pointed out the relevant places and that the recoveries were effected during the investigation.

74. PW-45 Inspector O.P. Lekhwal, who was the main investigating officer at the initial stage, described the sequence of investigation commencing from receipt of the information regarding firing, his reaching the Railway Hospital area, proceeding towards Pul Mithai, the apprehension of the appellant, preparation of the *rukka*, seizure of the weapons and jewellery, inspection of the Alto car and recovery of spent cartridges and bloodstained material, seizure of the motorcycle and articles found beneath its seat, recovery of the appellant's uniform, recording of statements of witnesses, post-mortem proceedings and subsequent investigation. The cross-examination of PW-45 was extensive and exposed several investigative shortcomings, including failure to collect certain call detail records, failure to collect documentary proof of Mohit's employment, non-seizure of certain mobile phones, omissions in the statements of witnesses, and discrepancies concerning the preparation and endorsement of seizure documents. The defence also questioned the absence of public witnesses and the manner in which certain recoveries were documented. PW-45 accepted some of these procedural deficiencies, including that no CDRs were collected and that no documentary proof of Mohit's employment was obtained. He nevertheless denied the suggestion that Mohit was a fictitious or planted witness or that the

recoveries were fabricated. He also maintained that the documents and recoveries were prepared during the investigation and that the relevant witnesses had participated in the proceedings.

75. The prosecution evidence thus consists of mutually reinforcing categories of evidence: the direct ocular testimony of PW-1 concerning the shooting and robbery of Amarjeet Singh; the immediate post-occurrence testimony of police officials; the evidence of PW-8 and PW-22 regarding the subsequent firing upon Sunny; the medical evidence establishing that Amarjeet Singh died from ante-mortem firearm injuries and that the death was homicidal; the scientific evidence connecting the appellant with the Alto car; the contemporaneous recovery of the weapons and the stolen gold ornaments from the appellant; the recovery of his police uniform and identification card; and the subsequent investigative recoveries and identification proceedings. The cross-examination has undoubtedly brought out some omissions, discrepancies in peripheral details, lapses in investigation and deficiencies in documentation. The principal issues emerging from such cross-examination, therefore, concern the reliability of the eyewitnesses, the circumstances of their identification of the appellant, the manner and timing of recording their statements, the absence of certain independent public witnesses, and the procedural aspects of the seizure and investigation. These aspects require careful appreciation while considering the overall evidentiary chain; however, the testimonies regarding the core occurrence, the immediate flight and apprehension of the appellant, the recovery of the firearms and ornaments, and the medical evidence concerning the

fatal firearm injuries form the core of the prosecution case.

76. The question which arises now for consideration is whether the prosecution has succeeded in establishing, beyond reasonable doubt, that appellant Ajay Kumar Tomar was responsible for causing the gunshot injury resulting in the death of Amarjeet Singh Chaddha and Sunny.

I. First Incident regarding Murder of Amarjeet Singh Chaddha

77. PW-1 Mohit is stated to be the eye-witness of the first incident of murder of Amarjeet Singh Chaddha. The defence has challenged his testimony, arguing that he is a planted witness of the police. His testimony has been challenged on number of counts, the foremost being that there is no documentary proof that he was the employee of the deceased Amarjeet Singh Chaddha and therefore his presence at the spot is doubtful.

78. PW-1 Mohit introduced himself as an employee of the deceased Amarjeet Singh Chaddha. PW-1 deposed that he joined Amarjeet Singh Chaddha just three weeks prior to the incident and had been working at his shop. PW-31, Harvinder Singh @ Vimpy, son of Amarjeet Singh Chaddha corroborated the testimony of PW-1 by confirming that PW-1 had started working at the shop of his father about 2-3 weeks prior to the incident. In his cross examination, PW-31 was suggested that PW-1 Mohit was not employed at the shop, but was working at the residence of the deceased and also used to reside at the residence of the deceased, but PW-31 clarified that Mohit was not residing at their house but was living separately at his own residence

somewhere in Nangloi. The defence relied upon the report of summons issued for the appearance of PW-1 in another FIR pertaining to stolen Pulsar motorcycle No. UP14-A-5762, driven by the appellant on the day of the incident. The said summons were returned unserved with the report that no such person was residing at the address mentioned therein. It was thus submitted that the person namely Mohit, who appeared before the Court as PW-1, was a fictitious person as the report in the other FIR demonstrates that he was not available at the given address.

79. PW-1 was cross examined extensively on the aspect of his residential address and his identity. In such cross examination, he stated that he had received notice from the Court in the present case and such notice was received by his family members. According to him, his father told him about the receipt of the notice of this case in the house. He clarified that earlier, he was residing with his brother's family, and that presently, he was residing at Shani Bazar Road, Nihal Vihar with his parents. He denied the suggestion that he came to the Court with the family of Sardar Amarjeet Singh Chaddha.

80. Merely because PW-1 could not be served with notice in some other case, cannot lead to any kind of presumption that he is a fictitious person or a planted witness, particularly, when he explained that he shifted from the tenanted premises, where he was earlier residing.

81. PW-1 was subjected to extensive and searching cross examination and was confronted with his statement under Section 161 Cr. PC Ex. PW-1/DA. The main omissions highlighted are that, in his

chief examination, PW-1 stated that Amarjeet had directed him to get down from the car and permit the police official to sit inside, whereas, he admitted that this fact was not stated by him to the IO and, instead, explained that Amarjeet had told him to remain seated while he himself would speak to the police official. Likewise, PW-1 claimed in Court that the appellant had specifically instructed him to remain near the motorcycle bearing No. UP14-A-5762; however, on being confronted with Ex. PW-1/DA, he admitted that this particular fact was not recorded therein, the statement only contained that the appellant had asked him to come out of the car and stay outside. The witness was confronted with regard to the number of police officials present at DRP Line: while, Ex. PW-1/DA recorded the presence of 2-3 police officials, he stated in Court that 6-7 officials were present and maintained that version even after he was confronted with Ex. PW-1/DA. He also could not recall the exact date and time when he showed the Alto car to the police and stated that it might have been shown on the second or third day, while, the IO stated that no investigation concerning the car was carried out in the presence of PW-1. Similarly, PW-1 was unable to state when he first met Inspector Lekhwal and gave somewhat varying answers as to whether the IO had made inquiries from him at Tirath Ram Hospital; at one stage, he stated that no police official had inquired anything from him there, while subsequently, stated that Inspector Lekhwal had made inquiries from him within 10-15 minutes of his arrival.

82. The aforesaid omissions, inconsistencies and discrepancies do not travel to the core of the prosecution case or destroy the intrinsic

worth of the ocular account given by PW-1. Significantly, when specifically confronted, PW-1 asserted that upon approaching the car after hearing the gunshots, he saw the appellant holding a pistol, was found duly recorded in Ex. PW-1/DA, thus, the crucial part of his testimony was not an improvement. His consistent stand remains that he was travelling with Amarjeet in the Alto car; that the appellant approached the vehicle, while representing himself as a police official; that PW-1 was made to get out of the car and the appellant entered the car and thereafter three gunshots were heard; and that PW-1 immediately came towards the car, saw the appellant with a pistol, witnessed him firing at Amarjeet, raised an alarm and attempted to apprehend him, where after, the appellant fled and the injured Amarjeet was removed to the Railway Hospital, and subsequently, to Tirath Ram Hospital, where he ultimately expired.

83. The broad sequence is substantially supported by contemporaneous evidence appearing on the record, including the recovery of Alto car and the motorcycle from the spot, the immediate removal of the injured first to the nearest Railway Hospital and then to Tirath Ram Hospital in the ambulance, as corroborated by PW-35, the ambulance driver and by PW-36 Dr. Alka Nagpal from Railway Hospital. The admission of the IO that no documentary proof regarding the employment of PW-1 at the shop of the deceased was collected, may require cautious scrutiny, but by itself does not establish that PW-1 was a planted or a fictitious witness. Even after giving due weightage to every omission and contradiction elicited in cross-examination, the essential and incriminating part of PW-1's

testimony remained unshaken. The discrepancies pertain primarily to the narration of collateral details and the subsequent investigation proceedings. No suggestion was given in the cross examination to PW-1 of any prior enmity for false implication of the appellant. Rather, PW-1 maintained that he had not known the appellant before the occurrence and denied that he had been planted or shown the appellant by the police prior to the TIP.

84. In cross examination, PW-1 stated that he had never visited the house of the deceased, but before the date of incident, he had called the son of the deceased on his mobile phone. Of course, when asked orally, he could not give the mobile number of the deceased, and for that matter, of his own father. The defence had given suggestion to PW-1 that even if the mobile phone was given to him, he cannot dial the number of any person saved in it, but in response, he stated that he can identify the alphabets, and in order to demonstrate the same, letters "Vimpy" were written and PW-1 was asked to read the same and he correctly read and identified the letters. The challenge to the testimony of PW-1 on the ground that he did not know the mobile number of Harvinder Singh @ Vimpy and therefore could not have been able to call him, therefore, stands answered by the witness by correctly reading the letter "Vimpy" before the Court.

85. Umpteen times, suggestions were made to PW-1 that he came to the Court accompanied by the family members of the deceased, so much so, the learned defence counsel pointed towards three Sikh persons, sitting in the Court, and asked him to identify them, as they were the family members of the deceased, but the witness did not

identify them and stated that he does not know any of them, having not seen them before.

86. Another reason for assailing the testimony of PW-1 is that it is highly improbable that the injured was removed to Railway Hospital in the hand cart. It has come in evidence that the spot of incident, where Amarjeet Singh Chaddha was shot, is between Railway Hospital and Pul Duffrin. As per the site plan, the gate of the hospital was hardly 14 feet away from the place of occurrence. The hospital being in close proximity to the place of occurrence, the circumstance of transporting the victim to the hospital in a hand cart, cannot be regarded as a suspicious circumstance. Obviously, the need of the hour was to immediately shift the victim to the hospital by whatever way possible and therefore hand cart may have been used to shift him to the hospital. The mere fact that the IO did not seize the *rehri*, by which the victim was rushed to the hospital, by itself shall not render the ocular account unreliable. Such discrepancy is peripheral to the main question as to who fired upon Amarjeet Singh Chaddha.

87. The testimony of PW-1 Mohit that the the deceased was first rushed to Railway Hospital and then to Tirath Ram Hospital, finds corroboration from the testimony of PW-36 Dr. Alka Nagpal, who stated that since there was no facility like ICU or the surgeon doctor in the hospital, after providing the first aid to the injured, she immediately referred him to Tirath Ram Hospital through ambulance of the Railway Hospital. She proved the copy of the log book of the ambulance as Ex. PW-35/A. Admittedly, the name of Mohit is not mentioned in the log book, but the MLC of Amarjeet Singh Chaddha

Ex. PA-4, prepared at Tirath Ram Shah Hospital by PW-4 Dr. Aditya Gupta, records the name of Mohit as the person, who brought the victim to the hospital along with HC Satyawan Singh and Constable Devender Makhan. PW-4 denied the suggestion that the name of Mohit was added by him in the MLC subsequently at the instance of the IO. There is no reason as to why the doctor would introduce the name of Mohit as the person who brought the victim to the hospital at the instance of the IO.

88. In the column of names of relatives or friends, the name of Harviner Singh, son of the deceased, is mentioned in the MLC Ex. PA-4. It was argued that the recording of name of the son of the deceased in the MLC, creates doubt in the prosecution version, particularly, for the reason that Mohit knew his name as "Vimpy" and not "Harvinder Singh". When asked, PW-4 stated in cross examination that he cannot tell whether Harvinder Singh, son of deceased, was present in the hospital. He could not tell the name of the person at whose instance the name of son of deceased was mentioned in the MLC. Admittedly, so many persons were present at the hospital and therefore it is difficult to say at whose instance the name of the son of victim has been recorded in the MLC in the column of names of relatives or friends. That being so, not much importance can be given to the fact of recording of the name of son of the deceased in the MLC and therefore the prosecution case cannot be disbelieved only on this count.

89. It was also argued that the ambulance driver Rajender Kumar (PW-35) has not said anything about the presence of any person with

the injured. The same is of no effect, inasmuch as, he has not specifically stated that no public person was accompanying the injured in the ambulance. The duty of the ambulance driver was to immediately transfer the injured to Tirath Ram Hospital and not to take note of the attendants of the patient. Moreover, there is no cross examination of the ambulance driver in respect of the presence of Mohit with the injured. Importantly, even PW-35 deposed that the victim, was a Sikh gentleman, who was in an injured condition having been hit with a bullet, was brought to the hospital on a *Theli* (cart), which is in consonance with the testimony of PW-1 Mohit and Constable Ravinder (PW-9).

90. PW-1 Mohit had handed over his clothes having blood stains, which he was wearing at the time of incident, which were seized by PW-45 Inspector O.P. Lekhwal *vide* seizure memo Ex. PW-1/A. The *pullanda* containing such clothes were sent to FSL. The FSL result Ex. PW-39/G confirms the presence of human blood on the clothes of PW-1. PW-1 identified his blood stained clothes in Court, which he was wearing at the time of incident. Thus, the forensic evidence also corroborates the presence of PW-1 at the spot and him shifting the victim to the hospital.

91. HC Surender (PW-8), Constable Ravinder (PW-9) and HC Satyawan Singh (PW-18) have corroborated the presence of PW-1 Mohit at the place of incident near Railway Hospital and at Tirath Ram Hospital. The testimony of PW-1 finds contemporaneous support from the circumstances noticed by PW-9 when he reached the spot shortly after the occurrence. At that time, PW-9 found Mohit

screaming that the police official had looted the chain, while Amarjeet himself was saying that the police wala had shot him after looting his chain. The same finds further substantial corroboration from PW-18 HC Satyawan Singh, who found Amarjeet in an injured condition near Railway Hospital along with PW-1 Mohit. PW-1 categorically stated that Amarjeet, before being removed to the hospital, cried that appellant had snatched his chain and had shot him. Similarly, PW-8 HC Surender Kumar also deposed that on reaching the spot, he found one person in police uniform and a Sikh gentleman moving on both sides of the car. He also saw one Pulsar motorcycle stationed on the rear side of the car and a thin built boy, who was screaming that a policeman had robbed Sikh gentleman/his Uncle Ji of his gold chains and had also shot him. The Sikh gentleman also said that he has been robbed by that policeman, who had fired gunshot at him and asked to catch that policeman. According to him, the Sikh gentleman was bleeding. Thus, the presence of PW-1 with injured Amarjeet Singh immediately after the occurrence, his account of the assault and the contemporaneous statement made by Amarjeet in the presence of PW-8 and PW-18, constitute a consistent evidentiary chain connecting the appellant with the first incident.

92. The statement made by the victim Amarjeet at the spot itself in the presence of PW-1, PW-8 and PW-18 may also constitute a "dying declaration", as it is a statement concerning the circumstances resulting in his death. A dying declaration, if found to be voluntary, truthful and reliable, can form the basis of conviction without necessarily requiring independent corroboration. However, the Court

must carefully scrutinize the circumstances in which it was made and assess its consistency with the other evidence on record.

93. PW-1 categorically deposed that Amarjeet was shot thrice by the appellant in the Alto car. As already discussed, the victim came out of the car and was screaming that he was robbed by a policeman, who also fired a gunshot. The testimony of PW-1 Mohit, as regards above, must also be considered in the context of the surrounding circumstances and the evidence concerning the condition of the deceased immediately after the incident. PW-1 deposed that injured Amarjeet Singh Chaddha spoke to his son (PW-31) over mobile phone and PW-31, in turn testified that during the said conversation, his father informed him that a policeman had robbed him of his gold chains and shot him. Significantly, this part of their testimonies are not controverted by the defence in cross examination of PW-1 or PW-31, thereby, lending further assurance to the account of the deceased's oral dying declaration. Significantly, all the above mentioned witnesses account regarding the utterances made by the deceased, were not materially challenged in cross examination, thereby, lending assurance to the statement made by the deceased in their presence. The fact that the deceased himself came out of the car and made the utterances of having been robbed and shot by the policeman, reveal that he was in a fit state of mind till such time, and thus that being so, the oral statement of Amarjeet Singh Chaddha as to the cause of his death, can be relied upon as a "dying declaration".

94. The ocular testimony of PW-1 is further strengthened by the scientific and ballistic evidence collected during investigation. PW-45

Inspector O.P. Lekhwal, who inspected the Alto car bearing registration No. DL-8CP-5582, found three spent cartridges, two lying between the driver's seat and the rear seat and the third on the ground near the right side window, besides blood on the driver's seat, from which the Investigating Officer collected the blood sample, a portion of the blood stained seat cover, blood stained matchbox, blood stained earth and earth control, thereby to confirm that gunshots were fired in or around the vehicle and Amarjeet suffered firearm injuries during the occurrence. The scaled site plan Ex. PW-19/B records the place where the Alto car was found parked. The chance fingerprints lifted from the Alto car, were examined by the fingerprint expert PW-32 Avdesh Kumar and compared with the specimen fingerprints of the appellant, the report Ex. PW-32/L furnishes scientific evidence connecting the appellant with the vehicle involved in the occurrence since the finger prints lifted from the Alto car match that of the appellant.

95. The ballistic evidence, proved through the report Ex. PW-10/A, is also of considerable significance; the two improvised pistols of 7.65 mm calibre, marked F1 and F2 were recovered from the appellant and were found to be in working order and capable of firing standard 7.65 mm cartridges; the four cartridge cases EC1 to EC4 were opined to be fired empty cartridges, while the bullets EB1 to EB4 were 7.65 mm bullets; upon comparison, the individual characteristics of the firing pin and breech face marks on EC1 were found identical with those on test-fired cartridge cases TC3 and TC4, leading to the opinion that EC1 had been fired through pistol F2, while the corresponding

characteristics on EC2 and EC3 being the empty cartridges found outside the Alto car seized *vide* Ex. PW-24/B, were found identical with those on test-fired cartridge cases TC1 and TC2, leading to the opinion that EC2 and EC3 had been fired through pistol F1. Thus, prosecution case does not rest simply on the ocular testimony of PW-1 alone, but is materially corroborated by the recovery of physical evidence from the Alto car, the fingerprint evidence, the ballistic examination, linking the recovered cartridge cases and bullet from the seized firearms and the recovery and identification of the firearm and other articles connected with the occurrence, which, taken cumulatively, lend substantial corroborative force to the prosecution version.

96. PW-45 Insp. O.P. Lekhwal deposed that PW-8 HC Surender had produced two pistols, three broken chains and three lockets, whereupon he examined them and prepared their sketches (Ex. PW8/A1 and Ex. PW8/A2) and obtained the signatures of the appellant on both sketches. Thereafter, he sent the appellant to Hindu Rao Hospital for medical examination. He further stated that in the meanwhile, the crime team reached at the spot along with PW-39 SI A.K. Singh, whereupon weapons were shown to the crime team members and thereafter they were sealed into two separate parcels. It is thus evident that the weapons were sealed after they had already been shown to the members of the crime team and therefore that being so, the argument of the learned counsel for the appellant that the claim of PW-2 Constable Chetan and PW-6 SI Satish Kumar of having seen the pistols lying on the ground creates any kind of doubt in the

prosecution version is baseless.

97. No doubt PW-39 SI A.K. Singh deposed only about one pistol and not two pistols having been shown to the crime team by PW-45 Inspector O.P. Lekhwal but in view of the overwhelming evidence on record regarding the recovery of two pistols, not much importance can be given to such a statement made by PW-39.

98. The sketches Ex. PW8/A1 and Ex. PW8/A2 were prepared on 24th September, 2011 but their seizure memo Ex. PW8/B is bearing the date of 25th September, 2011. The incident took place in the night of 24th September, 2011 and the proceedings were conducted in the intervening night of 24th/25th September, 2011 and therefore, that explains the change of date on the seizure memo from the date mentioned in the sketches of the pistols and the cartridges.

99. It emerges from the evidence that the appellant was on the seat next to the driver seat, while the deceased was on the driver seat of the Alto car at the time of the occurrence. The shots were fired from close proximity, that is, at point-blank range. Dr. K. Goel (PW-38) gave the opinion that range of the firearm was within the blast effect range, that is, close range and was riffled. As per post-mortem report Ex. PW-38/A, there were three firearm wounds and each firearm injury was individually sufficient to cause death in ordinary course of nature. The presence of three gunshot wounds is in consonance with the testimony of PW-1, according to whom, three gunshots were fired from inside the car. The testimony of PW-1 thus finds further corroboration from the medical evidence on record.

100. Even though, in a case based on direct evidence, it is not

essential to prove motive for the murder, in the present case, robbery is attributed as motive for the murder. PW-1 Mohit is witness to the snatching of the chains, which the deceased was wearing. PW-8 HC Surender, who nabbed the appellant following a chase, recovered three gold chains and lockets from the left pocket of pant of the appellant and handed over the same to PW-45 Inspector O.P. Lekhwal. On weighing, the chains were found to be of 160 grams in weight. PW-31, son of the deceased, identified all the three broken chains and lockets in the Test Identification Parade. No satisfactory explanation has been furnished by the appellant regarding the recovery of the robbed gold chains and lockets in his statement under Section 313 Cr. PC. There is no reason to disbelieve the recovery of robbed chains with lockets and their subsequent identification by PW-31.

101. One gold *kara*, two rings and some currency notes recovered from the person of the deceased, were handed over by the officials of the hospital. The question as to why such ornaments, which were on the person of the deceased and currency notes were not robbed, is hypothetical. The learned Trial Court rightly appreciated that the lack of proof of "why behind the act does not defeat the proof of the act itself."

102. The defence has attempted to derive advantage from the lapse and omission of the investigation, including the absence of call detail record or location chart of Amarjeet's mobile phone, failure to seize the blood-stained *rehri* and proof of employment of PW-1 by the victim. These omissions may reflect some deficiencies in the investigation, but cannot automatically result in the acquittal of the

appellant as the evidence clearly establishes the involvement of the appellant in the commission of murder. In ***Dhrub Singh v. State of Bihar***, 2026 SCC OnLine SC 1735, it has been *inter alia* held that a faulty investigation cannot enure to the benefit of the appellant.

103. In the present case, the earliest information received by the police *vide* Ex. PW-17/A records that Amarjeet was shot by a person in police uniform, is of great significance. There is no material delay of such nature as would permit the possibility of the appellant or the witnesses being falsely introduced after deliberation. The presence of PW-1 with the injured, PW-8 and PW-9 reaching the spot after hearing the gunshot and seeing Amarjeet Singh in an injured condition and PW-1 standing next to him raising hue and cry, the genesis of the case starting from the statement of PW-8, PW-18 reaching at the spot immediately after the shooting, subsequent recovery and seizure of Alto car with spent cartridges and blood, the fingerprint evidence, the ballistic corroboration and the subsequent recovery of firearms and jewellery, collectively form a supporting chain. Even if, there are any investigative shortcomings, the cumulative effect of the evidence remains compelling. The theory that PW-1 was planted or that the physical evidence was subsequently fabricated, would require the Court to disregard not merely one piece of evidence, but several independent circumstances which converge upon the appellant. Such a theory is not supported by any credible material on record.

104. Accordingly, upon an overall assessment of the evidence, we find that the prosecution has successfully proved beyond reasonable doubt that Amarjeet Singh Chaddha was shot by appellant Ajay

Kumar Tomar, and that the firearm injuries so inflicted, resulted in his death. The testimony of PW-1 Mohit is found to be substantially trustworthy and is corroborated on material particulars by the evidence of PW-8 and PW-18, the medical record, that is, the MLC and post-mortem report, the scene of crime evidence, the empty cartridges found from the car and the ballistic opinion of matching the fire cartridges with the pistol, fingerprint evidence, ballistic examination and the recoveries effected from the appellant. The discrepancies relied upon by the defence do not touch the core of prosecution case, which has been found to be intact. Some of the omissions pointed out, at best, may be regarded as investigative deficiencies and lapses, but they do not create any reasonable doubt, concerning the identity of the assailant or the manner of the occurrence. The prosecution has therefore been able to discharge the burden of proving the charge of murder of Amarjeet Singh Chaddha beyond reasonable doubt and the conviction of appellant Ajay Kumar Tomar under Section 302 IPC, insofar, as it relates to the murder of Amarjeet Singh Chaddha calls for no interference.

II. <u>Second Incident regarding Murder of Sunny:</u>

105. The next question, which falls for consideration, is whether the prosecution has been able to establish beyond reasonable doubt that the gunshot injury sustained by Harender Singh @ Sunny was caused by the appellant and that such act of the appellant constitutes the offence of murder punishable under Section 302 IPC.

106. The prosecution case, in relation to Sunny, rests primarily on the testimonies of HC Surender Tyagi (PW-8), who was chasing the

appellant and Vikas @ Vicky (PW-22), a friend of the deceased, who witnessed the occurrence from close proximity.

107. PW-8 HC Surender stated that while patrolling, he heard gunshots and reached the place of occurrence, where, he saw the injured Amarjeet Singh Chadha and a boy and also saw a person in police uniform, fleeing from the place. He immediately chased him. During such chase, he was encumbered by some hand-carts and as his government motorcycle failed to start, he sought assistance from a civilian motorcyclist named Sunny, who agreed to assist him in the chase of the appellant. PW-8 sat on the pillion seat of Sunny's motorcycle and chased the appellant. Upon being intercepted and called upon to surrender, the appellant turned and fired at them. The bullet struck Sunny in the neck. This resulted in imbalance of the motorcycle, due to which, Sunny and PW-8 fell down. While PW-8 was attending to Sunny, the appellant jumped off the bridge. The friends of Sunny, Ajay and Vikas and Constable K. Gopal, reached there and PW-8 told them to take Sunny to the hospital.

108. The testimony of PW-8 is important as it deals with the circumstances immediately preceding and following the firing. The present case was not a case where the witness had merely arrived at the scene after the occurrence and attributed the shooting to the appellant. PW-8 was in active pursuit of the appellant and was travelling on the same motorcycle on which Sunny was riding. The firing took place during that pursuit and in the immediate presence of PW-8. The subsequent apprehension of the appellant, who was found injured after jumping from the *Pul*, and the recovery of two pistols

from his person provide further corroboration to the ocular account. PW-8 and PW-10 HC Akshay were witnesses to the seizure of the firearms, that is, one pistol containing four live cartridges while the other pistol having an empty cartridge stuck in its chamber. The significance of testimony of PW-8 lies not merely in his assertion that the appellant was fleeing from the first place of occurrence, but in the fact that his testimony provides a continuous chain of events leading directly to the shooting of Sunny.

109. PW-8, in his cross-examination, categorically stated that he had not sustained any injury and that he had no bloodstains on his uniform while he was managing Sunny. He further deposed that he had noticed Sunny's motorcycle lying at the place of occurrence, with bloodstains on its leg guard and the front portion of its seat, though he could not recall whether any blood was present on the pillion rider's seat. He also explained that the motorcycle had fallen at a distance of approximately 10-12 feet from the path after getting imbalanced, resulting in the fall of its occupants. While it was suggested to him that the absence of bloodstains on his uniform indicated that he was not accompanying Sunny while chasing the appellant, he denied the same. The mere fact that PW-8 did not sustain any injury or that his uniform did not bear bloodstains cannot, by itself, discredit his testimony, particularly when the presence of blood on the motorcycle was specifically acknowledged by him. The absence of injuries or bloodstains on his uniform is not, in itself, sufficient to negate his presence at the spot or the sequence of events narrated by him.

110. The testimony of PW-22 Vikas @ Vicky materially

corroborates the version of PW-8 regarding the occurrence. PW-22 stated that on 24.09.2011, he, alongwith his friend Ajay @ Tinku, had gone to Sunny's shop at Darya Ganj to deliver some articles. They remained at the shop till 8:30 PM. Thereafter, PW-22 sat on Ajay's motorcycle which was driven by Ajay and Sunny sat on his own motorcycle and left from the shop. At 9 PM, when they reached near Railway Hospital, he saw one Sardarji limping near a car with blood oozing out of his abdomen. He also saw one police person running away and another police official chasing him. The other police official had taken lift on Sunny's motorbike in order to chase the appellant person. PW-22 and Ajay also followed them. During the chase, the police official had asked the appellant to stop surrender, but the appellant took out a pistol and fired. The bullet struck Sunny in the neck and the motorcycle got imbalanced which made Sunny and the police official sitting behind him fall down. PW-22 stated that he alongwith Ajay and PW-43 HC K. Gopal took injured Sunny to St. Stephen Hospital in a TSR.

111. The defence has sought to impeach the testimony of PW-22 Vikas on the ground that he was an interested witness. The fact that PW-22 was a friend of Sunny does not, by itself, render his testimony unreliable. His presence is supported by independent witnesses like PW-43 HC K. Gopal. The record reveals that PW-22 Vikas was one of the persons who accompanied the injured Sunny to St. Stephen's Hospital and his blood-stained clothes were seized during investigation as they had Sunny's blood. His account of the gunshot injury to Sunny is also consistent with the testimony of PW-8 and with

the medical evidence. Hence, his testimony cannot be rejected merely on account of his relationship or friendship with the deceased Sunny. The Supreme Court in ***Baban Shankar Daphal and Ors. Vs. State of Maharashtra***, 2025 SCC Online SC 137 held that an otherwise trustworthy eyewitness does not become unreliable merely because of relationship or association with the deceased. The relevant paras of the judgment reads as under:-

> "*28. In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinized. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the outcome, such as a desire for revenge or to falsely implicate the appellant due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.*
> *29. The distinction between "interested" and "related" witnesses has been clarified in Dalip Singh v. State of Punjab, where this Court emphasized that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a related witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. …*"

112. The argument that PW-22 was subsequently introduced as a

planted witness also does not appeal much. The sequence of events demonstrates that the firing at Sunny occurred at approximately 9 PM and the appellant was apprehended shortly thereafter. The statement of PW-8 was recorded that day itself and the FIR was registered in the early hours of the following day. There is no unexplained interval in this sequence which gives a reasonable basis for an inference that PW-22 Vikas was planted as an eyewitness to the murder of Sunny.

113. The defence has also sought to cast doubt upon PW-8 HC Surender Kumar on the ground that he was acquainted with PW-22 Vikas prior to the incident and did not disclose such acquaintance in his initial statement. PW-8 had stated that although he had earlier seen Vikas, he did not identify him as the same person at the spot and came to know the names of the persons associated with Sunny subsequently. Such a circumstance cannot render his testimony unreliable. More importantly, the alleged prior acquaintance does not furnish any plausible reason for PW-8 to falsely attribute the firing upon Sunny to the appellant. Such circumstances, in our considered view, do not materially affect the core of PW-8's testimony regarding the incident.

114. As regards the contradictions pointed out by the defence, these discrepancies do not completely dislodge the prosecution version insofar as the core incident and participation of the appellant is concerned. As held by Supreme Court in ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat***, (1983) 3 SCC 217, discrepancies which do not go to the root of the matter and shake the basic version of the incident cannot be annexed with undue importance, considering when all important “probabilities factor” echoes in favour of the version

narrated by the witnesses.

115. The non-examination of Ajay as witness, another friend of Sunny, who was present with PW-22 Vikas, does not create a reasonable doubt in the prosecution case. The prosecution had examined PW-22, who gave an account of the occurrence and whose presence at the spot and subsequent presence at the hospital, were independently corroborated. Dealing with this argument, the learned Trial Court noted that no objection was recorded by the defence when the witness was given up being repetitive and unnecessary. Ajay would have been examined in proof of the same facts as were affirmed on oath by Vikas, there are no proceedings which are attributed to have been carried out exclusively by Ajay. The prejudice to the defence is premised on a conjecture that if Ajay had been examined, he would not have supported the prosecution case or that there would have been contradictions and inconsistencies benefiting the defence. The learned Trial Court observed, and rightly so, that non-examination of Ajay by the prosecution does not take away from the authenticity, efficacy and veracity of the deposition of Vikas and his testimony has been sound enough to carry the case of the prosecution on its lone shoulders. Disbelieving and ignoring the creditworthy testimony of one eye witness on the ground that another eye witness for the same facts has not been examined is something like ‘throwing the baby out of the bath water’. The learned Trial Court rightly concluded that the strength or proof lies not in quantity but in quality and the defence has not alleged any other circumstance apart from the false implication but it is not ventured as to why the friends and relatives would be

interested in shielding the actual culprit and falsely implicating an innocent. The view taken by the learned Trial Court is just and reasonable. The testimony of PW-22 Vikas cannot be looked upon with suspicion merely because of non-examination of Ajay.

116. The testimony of PW-43 HC K. Gopal provides further corroboration regarding the incident post the shooting. PW-43 stated that he was on duty at picket in the area of Pul Mithai, near Avanti Bai Chowk. At around 9-9:15 PM, on hearing the sound of a shot being fired from the direction of Pul Mithai, he, alongwith PW-10 HC Akshay, proceeded towards the spot and found that a large crowd had gathered. He found Sunny lying injured, a Hunk motorcycle lying fallen and PW-8 HC Surender present there. On the instructions of PW-8, he stopped a TSR and accompanied Sunny and his friends to St. Stephen's Hospital. Thus, the testimony of PW-43 establishes the presence of Sunny, Vikas, Ajay and PW-8 at the precise place and time following the firing. It also established the version of the incident given by PW-8 and PW-22 regarding the gunshot injury sustained by Sunny and his immediate removal to hospital.

117. Furthermore, the medical evidence lends support to the prosecution version regarding murder of Sunny by gunshot wound. PW-3 Dr. B.K. Jawa, Senior CMO examined Sunny at St. Stephen's Hospital at about 9:30 PM on 24.09.2011. The MLC of Sunny [Ex. PW 3/A] records that Sunny was unconscious and unfit for statement. A gunshot injury was noted on the right side of the neck as the wound of entry, with an exit wound on the left cheek. There was bleeding from the wound and soot around the entry wound. Sunny was

admitted in a critical condition, remained under treatment and ultimately expired on 26.09.2011. PW-33 Constable Ashwani alongwith the IO went to St. Stephen Hospital and took the dead body of Sunny to Subzi Mandi Mortuary for preservation. Inquest papers were prepared. The death summary [Ex. PW 38/B6], as proved by PW-34 Liazley Roburt Ilias, Medical Record Clerk, St. Stephen Hospital recorded that Sunny continued to be in a state of shock and deteriorated into irreversible shock and suffered cardiac arrest and despite CPR and resuscitative measures he could not be revived.

118. PW- 38 Dr. K. Goyal conducted the post-mortem of deceased Sunny on 27.09.2011. The post-mortem report [Ex. PW 38/B] recorded cause of death as shock and hemorrhage as a result of injuries to vessels and other structures of neck consequent upon fire arm injury. It was also stated that the firearm injury was sufficient to cause death in ordinary course of nature. The chain, therefore, is complete that the appellant fired from a firearm at Sunny, which struck him in the neck and that he subsequently died due to such firearm injury. The defence has not been able to demonstrate any intervening cause capable of breaking this chain. The death of Sunny is thus directly attributable to the firearm injury inflicted by the appellant.

119. The recovery of the firearms from the appellant immediately after the shooting lends further assurance to this version. The appellant was apprehended in the course of the same pursuit in which Sunny had been shot. Two pistols were recovered from his person. PW-11 Sh. V.R. Anand, Director, Ballistic, FSL Rohini, proved the ballistic

report Ex.PW10/A, wherein the individual characteristics of the pistols were examined and the cartridge/bullet were linked to the two pistols recovered from the appellant. The ballistic evidence further establishes that cartridge cases recovered from the place of occurrence corresponded with the firing characteristics of the recovered firearms. Thus, the ocular evidence of PW-8 and PW-22 regarding the use of a firearm by the appellant is also supported by the ballistic evidence.

120. We note the submission of the counsel of the appellant that the appellant had no prior enmity with Sunny and that the firing was not premeditated. But, the absence of previous enmity does not, by itself, take the case outside the ambit of Section 302 IPC. The relevant question is the intention with which the act was committed. The evidence establishes that the appellant, while trying to escape was called out to stop and surrender and he deliberately took out a firearm and fired it towards the persons pursuing him. The appellant did not fire into the air or at an empty space as if to frighten his pursuers. He fired at the person pursuing him and the bullet struck Sunny in the neck. The neck is a vital part of the human body and after being shot in the neck, Sunny died due to fatal haemorrhage and shock. The choice to use a firearm in such circumstances, coupled with the fact that the shot struck the neck, demonstrates the requisite *mens rea*. The fact that the appellant may not have set out with a prior design to kill Sunny does not negate the intention of his act which caused a bodily injury of such nature as was sufficient in the ordinary course of nature to cause death. An intention to kill need not be pre-mediatated and can be formed even at the spur of the moment. The ingredients of Section

300 IPC are therefore satisfied.

121. On an overall appreciation of the evidence, we find the testimony of PW-8 HC Surender Tyagi and PW-22 Vikas @ Vicky to be trustworthy on the material aspect of the firing upon Sunny. Their presence is established by the surrounding circumstances, their versions materially corroborate each other, their account is consistent with the testimony of PW-43 HC K. Gopal regarding the immediate aftermath, and, most importantly, their version that the bullet struck Sunny in the neck is borne out by the medical evidence. The ocular account, medical evidence and forensic evidence thus converge upon the same conclusion and leave no reasonable hypothesis consistent with the appellant's innocence in relation to the death of Sunny.

122. We, therefore, find that the prosecution has proved beyond reasonable doubt that it was the appellant who caused the fatal firearm injury to Harender Singh @ Sunny and that such injury was intentionally inflicted in circumstances falling within Section 300 IPC. The conviction of the appellant for the offence punishable under Section 302 IPC for the murder of Harender Singh @ Sunny is accordingly liable to be upheld.

III. <u>Issue regarding Quantum of Sentence:</u>

123. The final issue for consideration before us is regarding the plea of enhancement of sentence of the appellant. The State as well as the victim have sought enhancement of the sentence imposed upon the appellant by preferring CRL. A. 651/2022 and CRL. A. 321/2022 respectively, primarily on the ground that the offence committed by the appellant is of an exceptionally grave nature and warrants the

extreme penalty of death.

124. Undoubtedly, the offence committed by the appellant is heinous and has resulted in the loss of two human lives. The appellant was a police officer, entrusted by the State with the duty of protecting the lives and property of citizens and upholding the rule of law. The abuse of such position of trust constitutes a significant aggravating circumstance when viewed against the fact that he himself became the perpetrator of two murders; one committed in furtherance of his greed and the other of an innocent civilian, namely, Sunny, during the course of his escape. The position held by the appellant and the manner in which it was abused, therefore, warrant due consideration while determining the appropriate sentence.

125. The aggravating circumstances, cannot by themselves justify the imposition of the death penalty. The question for consideration is whether, notwithstanding the aggravating circumstances, the present case crosses the exceptionally high threshold required for imposition of the death penalty. The sentencing jurisdiction requires the Court to assess not only the manner and circumstances of the crime but also the circumstances of the offender; and to ascertain whether the alternative sentence of life imprisonment is wholly inadequate.

126. The principles governing such determination stand firmly settled in ***Bachan Singh*** (supra), wherein the Supreme Court held that life imprisonment is the rule and death penalty an exception, to be resorted to only when the case falls within the narrow category of the "rarest of rare" cases. The subsequent exposition in ***Machhi Singh*** (supra), requires the aggravating and mitigating circumstances to be

placed in balance and the Court to determine whether the circumstances are such that there remains no reasonable alternative but to impose the extreme penalty.

127. Applying these principles to the present case, we are of the view that the circumstances undoubtedly disclose commission of heinous offence, involving two fatalities, nevertheless, the material on record does not reveal such exceptional brutality, extraordinary depravity or circumstances of such nature as would justify the conclusion that the appellant's case stands beyond the possibility of reform or rehabilitation and would bring it within the category contemplated in ***Bachan Singh*** (supra) and ***Machhi Singh*** (supra). The principle has also been reiterated in ***Sundar v. State***, (2024) 12 SCC 764, that even where the crime is grave and unpardonable, the death penalty cannot be imposed merely on account of the nature of the crime unless the possibility of reformation of the convict is effectively ruled out. In ***Madan v. State of U.P.***, (2023) 15 SCC 701, while reiterating what was held in ***Ramnaresh & Ors. v. State of Chhattisgarh***, (2012) 4 SCC 257, the Apex Court held that while determining whether the death penalty is warranted, the courts must cumulatively balance all aggravating circumstances, including the heinous nature of offence, brutality, motive, manner and circumstances of the crime, the vulnerability of the victim, and the appellant's criminal history, against mitigating circumstances, including the appellant's age, mental and emotional condition, possibility of reformation and rehabilitation, circumstances leading to the offence, and reliability of the evidence, while applying the test of the "rarest of the rare" and ensuring that life

imprisonment would be wholly inadequate to meet the ends of justice, as life imprisonment remains the rule and the death penalty an exception. The relevant paragraphs read as under:-

> *"**77.** This Court, in Ramnaresh v. State of Chhattisgarh, observed thus : (SCC pp. 284-286, paras 76-77)*
>
> > *"76. The law enunciated by this Court in its recent judgments, as already noticed, adds and elaborates the principles that were stated in Bachan Singh [Bachan Singh v. State of Punjab, (1980) 2 SCC 684 : 1980 SCC (Cri) 580] and thereafter, in Machhi Singh [Machhi Singh v. State of Punjab, (1983) 3 SCC 470 : 1983 SCC (Cri) 681] . The aforesaid judgments, primarily dissect these principles into two different compartments—one being the "aggravating circumstances" while the other being the "mitigating circumstances". The court would consider the cumulative effect of both these aspects and normally, it may not be very appropriate for the court to decide the most significant aspect of sentencing policy with reference to one of the classes under any of the following heads while completely ignoring other classes under other heads. To balance the two is the primary duty of the court. It will be appropriate for the court to come to a final conclusion upon balancing the exercise that would help to administer the criminal justice system better and provide an effective and meaningful reasoning by the court as contemplated under Section 354(3)CrPC.*
> >
> > *Aggravating circumstances*
> >
> > *(1) The offences relating to the commission of heinous crimes like murder, rape, armed dacoity, kidnapping, etc. by the appellant with a*

prior record of conviction for capital felony or offences committed by the person having a substantial history of serious assaults and criminal convictions.

(2) The offence was committed while the offender was engaged in the commission of another serious offence.

(3) The offence was committed with the intention to create a fear psychosis in the public at large and was committed in a public place by a weapon or device which clearly could be hazardous to the life of more than one person.

(4) The offence of murder was committed for ransom or like offences to receive money or monetary benefits.

(5) Hired killings.

(6) The offence was committed outrageously for want only while involving inhumane treatment and torture to the victim.

(7) The offence was committed by a person while in lawful custody.

(8) The murder or the offence was committed to prevent a person lawfully carrying out his duty like arrest or custody in a place of lawful confinement of himself or another. For instance, murder is of a person who had acted in lawful discharge of his duty under Section 43CrPC.

(9) When the crime is enormous in proportion like making an attempt of murder of the entire family or members of a particular community.

(10) When the victim is innocent, helpless or a person relies upon the trust of relationship and social norms, like a child, helpless woman, a daughter or a niece staying with a father/uncle and is inflicted with the crime by such a trusted person.

(11) When murder is committed for a motive which evidences total depravity and meanness.
(12) When there is a cold-blooded murder without provocation.
(13) The crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society.
Mitigating circumstances
(1) The manner and circumstances in and under which the offence was committed, for example, extreme mental or emotional disturbance or extreme provocation in contradistinction to all these situations in normal course.
(2) The age of the appellant is a relevant consideration but not a determinative factor by itself.
(3) The chances of the appellant of not indulging in commission of the crime again and the probability of the appellant being reformed and rehabilitated.
(4) The condition of the appellant shows that he was mentally defective and the defect impaired his capacity to appreciate the circumstances of his criminal conduct.
(5) The circumstances which, in normal course of life, would render such a behaviour possible and could have the effect of giving rise to mental imbalance in that given situation like persistent harassment or, in fact, leading to such a peak of human behaviour that, in the facts and circumstances of the case, the appellant believed that he was morally justified in committing the offence.
(6) Where the court upon proper appreciation of evidence is of the view that the crime was not committed in a preordained manner and that the death resulted in the course of commission of another crime and that there was a

possibility of it being construed as consequences to the commission of the primary crime.
(7) Where it is absolutely unsafe to rely upon the testimony of a sole eyewitness though the prosecution has brought home the guilt of the appellant.
77. While determining the questions relatable to sentencing policy, the court has to follow certain principles and those principles are the loadstar besides the above considerations in imposition or otherwise of the death sentence.
Principles
(1) The court has to apply the test to determine, if it was the "rarest of the rare" case for imposition of a death sentence.
(2) In the opinion of the court, imposition of any other punishment i.e. life imprisonment would be completely inadequate and would not meet the ends of justice.
(3) Life imprisonment is the rule and death sentence is an exception.
(4) The option to impose sentence of imprisonment for life cannot be cautiously exercised having regard to the nature and circumstances of the crime and all relevant considerations.
(5) The method (planned or otherwise) and the manner (extent of brutality and inhumanity, etc.) in which the crime was committed and the circumstances leading to commission of such heinous crime.""

128. The commission of two murders, though a grave aggravating circumstance, cannot mechanically lead to the conclusion that the death penalty must follow. Also, the appellant's status as a police officer and the breach of trust of the public, which believes the police officials to be their protectors, while undoubtedly an aggravating

circumstance, cannot by itself furnish the basis for capital punishment. While awarding the sentence, the Court is required to determine whether the cumulative effect of all the circumstances is so overwhelming that life imprisonment would serve no legitimate purpose. On the material placed before us, such a conclusion cannot safely be drawn.

129. We are, therefore, unable to accept the submission that the present case satisfies the standard contemplated in ***Bachan Singh*** (supra) and ***Machhi Singh*** (supra) which would bring the case within the "rarest of rare" category. The present case, however grave, does not constitute a "rarest of rare" case warranting the extreme penalty of death.

130. In our view, the sentence awarded by the learned Trial Court, therefore, does not call for enhancement and the prayer of the State and the victim in that regard is rejected. The sentence imposed by the learned Trial Court is maintained.

Conclusion:

131. On a cumulative appreciation of evidence, we find that the learned Trial Court has rightly convicted the accused/appellant Ajay Kumar Tomar under Sections 302/397 IPC for the murder of Amarjeet Singh Chaddha and for committing robbery of gold chains and lockets of deceased Amarjeet Singh Chadha and under Section 302 IPC for having intentionally inflicted such bodily injuries as is likely to cause death in the ordinary course and thereby committed the murder of Sunny @ Harender Singh and under Sections 25/27 of the Arms Act, 1959 for use and conscious possession of firearm and ammunition.

132. In view thereof, **CRL.A. 362/2022** filed by the appellant Ajay Kumar Tomar is dismissed along with pending applications, if any.

133. Similarly, **CRL.A. 651/2022** and **CRL.A. 321/2022** filed by the State and victim respectively are dismissed.

134. Copy of this judgment be sent to the learned Trial Court and the Jail Superintendent for information and necessary action.

RAVINDER DUDEJA, J.

NAVIN CHAWLA, J.

NOVEMBER 17, 2026/*NA/AK*