



CRM-M-47852-2025(O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

125 CRM-M-47852-2025(O&M)
Decided on:29.08.2025

Jitender @ Monu**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Randeep Panwar, Advocate for
Mr. Rajesh Nain, Advocate for the applicant-petitioner.

**********SANJAY VASHISTH, J.**

1. Present petition has been filed under Section 528 of BNSS, seeking setting aside and quashing of order dated 30.07.2025, passed by learned Additional Sessions Judge, Sonapat, vide which application filed by petitioner under Section 348 BNSS, for re-summoning of SI Surender has been allowed, which pertains to FIR No.94 dated 03.03.2023 under Section 307 IPC and 25 of Arms Act, registered at Police Kundli.

2. The examination-in-chief and cross-examination of material witness, SI Surender (PW-10), were conducted on 26.03.2025. However, it was subsequently brought to the notice of the learned Public Prosecutor that certain case properties i.e. one pistol, four live cartridges, one empty cartridge, and one motorcycle bearing registration No. HR-05AP-2789 (make Bajaj Pulsar), which were allegedly used in the commission of the offence, could not be exhibited due to their non-production by Malkhana Mohrar of Police Station Kundli on the said date.

3. Said prayer for re-summoning was opposed by the petitioner-accused, who is facing trial. Nevertheless, learned trial Court



observed that the weapon reportedly used in the commission of the crime and recovered from accused constitute material evidence which is essential to be proved through the testimony of SI Surender. Court further held that such evidence is indispensable for a 'just and proper adjudication of the case'.

4. Learned counsel for the petitioner contends that application for re-summoning the witness should not be entertained after a lapse of approximately four months, particularly when the witness had already appeared before the Court and given evidence pertaining to the investigation conducted by the investigating officer. Counsel argued that permitting such an application at this belated stage would tantamount to allowing the prosecution to fill lacunae in their case, thereby causing prejudice to the rights of the accused.

5. Having carefully examined the application and impugned order dated 30.07.2025, and after hearing learned counsel for the petitioner, this Court finds that there cannot be any dispute that the recoveries, which are now sought to be proved, were infact effected during the course of investigation of case and must be part of the final report/challan. Non-production of such material evidence during the earlier stage of trial was inadvertent mistake. Allowing, prosecution to prove such evidence, even at this stage, in the interest of justice to ensure a fair trial, cannot be construed as permitting the prosecution to fill lacunae.



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Further no prejudice is likely to suffer by the petitioner because he shall be afforded adequate portunity to cross-examine the witness, SI Surrender, regarding the recoveries in question.

6. In view of the foregoing discussion, this Court finds no merit in the present petition. Impugned order dated 30.07.2025, passed by learned Additional Sessions Judge, Sonapat, does not suffer from any illegality or infirmity warranting interference. Prayer made by the Public Prosecutor for re-summoning the witness SI Surrender is justified in the interest of justice and fair trial. Accordingly, present petition is hereby dismissed.

(SANJAY VASHISTH)
JUDGE

August 29, 2025
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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**