

Jaswinder Singh @ Chichar @ Chhinder vs State of Punjab

Present: Mr. N.S.Dandiwal, Advocate
for the petitioner in CRM-M-15873-2024.

Mr. Prateek Pandit, Advocate
for the petitioner in CRM-M-21460-2024.

Mr. Amit Rana, Sr. DAG, Punjab with
Mr. Navdeep Singh, DAG, Punjab.

Learned counsel for the petitioners has brought to the attention of this Court the continued and unjustified delays in the trial proceedings. Zimni orders from the trial court, placed on record, reveal a disturbing trend: since the framing of charges on 29.07.2023, the case has been adjourned on multiple occasions solely due to the non-appearance of prosecution witnesses, all of whom are police officials. Despite the issuance ofailable and non-ailable warrants, these officials have blatantly disregarded the directives of the Trial Court, failing to present themselves for the recording of evidence. This has resulted in significant and undue delay of the trial, solely due to the negligence on the part of the prosecution, severely compromising the petitioners' right to a speedy trial and their personal liberty as guaranteed under the Constitution of India.

On the other hand, learned State counsel, while opposing the petitioners' prayer and submissions, has referred to the criminal antecedents of the petitioners, by arguing that this is not the first instance in which they have been booked under the NDPS Act. However, when confronted with the zimni orders documenting the

repeated failure by the prosecution to produce witnesses, learned State counsel could not dispute the accuracy of these records. Instead, the State counsel provided an undertaking that the prosecution witnesses would appear on the next date of hearing on 11.11.2024 to get their evidence recorded.

This Court, however, cannot overlook the gravity of this issue. The Director General of Police, Punjab, is hereby directed to file an affidavit explaining the repeated non-appearances of prosecution witnesses, particularly in cases registered under the NDPS Act. This court has noted a troubling pattern where prosecution witnesses, primarily police officials, fail to attend court proceedings, leading not only to unnecessary delays in the conclusion of trials but also contributing to the growing backlog of pending cases before the courts. This persistent negligence undermines the very foundation of the judicial process and denies the accused their fundamental right to a fair and speedy trial.

The authorities must take immediate corrective measures to address this issue. Continued indifference by the prosecution will not be tolerated, and it would not lie in the mouth of the State counsel to oppose bail applications in cases where the accused have been languishing in jail due to no fault of their own, but solely because of the failure of the prosecution to perform its duty. If these delays persist, it will significantly undermine the credibility of the case of the prosecution and the ability of the State to administer justice.

The affidavit from the Director General of Police, Punjab, is to be submitted positively on the next date of hearing, ensuring that the issue of non-appearances of prosecution witnesses is addressed and remedial steps are outlined.

Adjourned to 04.11.2024.

Photocopy of this order be placed on the file of other connected case.

**(MANJARI NEHRU KAUL)
JUDGE**

23.10.2024
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