

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50284-2023

Simarjeet Singh Bains...Petitioner

Versus

State of Punjab and others...Respondents

1	The date when the judgment is reserved	21.04.2026
2	The date when the judgment is pronounced	07.07.2026
3	The date when the judgment is uploaded on the website	07.07.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. A.P.S. Deol, Senior Advocate, with
Mr. Vishal R. Lamba, Advocate, and
Mr. Arun Goyat, Advocate, for the petitioner.

Mr. Jastej Singh, Additional Advocate General, Punjab.

Mr. Aakash Singla, Advocate, for the complainant.

TRIBHUVAN DAHIYA, J.

The petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 25.09.2023, Annexure P-13, whereby learned Additional Sessions Judge, Fast Track Special Court, Ludhiana, has dismissed the petitioner’s application dated 05.04.2023, Annexure P-7,



seeking a direction to the prosecution to supply a copy of statement of PW-Kamalpreet Singh and inquiry report/noting of Ms. Ashwani Gutyal, IPS, the then Additional Deputy Commissioner of Police (ADCP), Ludhiana, along with statements of witnesses recorded by her, and rest of the evidence collected.

2. Facts of the case in brief are, an application was filed by one 'G' under Section 156(3) Cr.P.C., dated 03.12.2020, Annexure P-1, bearing CIS Application No. CRM/3542 of 2020, before learned Chief Judicial Magistrate (CJM), Ludhiana, seeking a direction to the Commissioner of Police, Ludhiana, for registration of FIR against the petitioner and six other accused under Sections 376, 354, 354-A, 506 and 120-B IPC. The allegations *inter alia* were that the petitioner raped her in his office cabin on 04.08.2020. Learned CJM called for status report from the respondent State, whereupon a report dated 22.12.2020, Annexure P-2, was filed by the ADCP, Hq. & Sec. Ludhiana, which is to the following effect:

In the Court of Sh. Palwinder Singh, JMIC, Ludhiana

No. 1392-5A/ADCP-HQ & Sec. dated- 22-12-2020

Sub: Regarding status report of complaint from G... as per orders in CRM 3542 of 2020 CNR No.PBLD030565742020.

Respected Sir,

Brief facts of the case are as follows:

1. A complaint was received from Ms. G... w/o Lt. Jaspal Singh r/o st no. 11-L near Podar School, Ishar Nagar, backside G.N.E. college, Ludhiana vide complaint no. 1921027 on dated 16-11-2020 in the office of Commissioner of Police, Ludhiana which was entrusted to Ms. Kanwardeep Kaur, IPS, JCP Ludhiana (Rural) for enquiry & take necessary action as per law and report. Copy of said complaint is attached as annexure-1.



2. As the said complaint of rape was made after a considerable delay there was a need to conduct preliminary enquiry.
3. No exact date and time of alleged offence was given in the complaint. It has generally been written that the offence was committed 10-12 times over a period of time.
4. During enquiry it was further revealed that the said G... has earlier given a complaint vide complaint number UID 1891931 dated 05-10-2020 against one Sukhchain Singh s/o Basant Singh r/o st. no. 6, Ishar Nagar, backside G.N.E college. Ludhiana leveling certain allegation. The said complaint was enquired by ADCP-2 Ludhiana. Later on both the parties compromised the matter and the complaint was filed, Copy of the said complaint along with copy of enquiry report is attached as annexure-2.
5. After the transfer of enquiry officer Joint CP Rural from Ludhiana as SSP Kapurthala on dated 21-11-2020 the said enquiry was further marked to the undersigned ADCP (Hq & Sec), Ludhiana.
6. In pursuance of the said matter both the parties were called and their statements were recorded. Documentary and other evidences which came up during the enquiry are being verified in detail.
7. Call detail records have been requested for the period in question.
8. The enquiry is still going on in the above said matter
9. It is worthwhile to mention that the complainant G... has also filed a writ petition with No. CRM-M 39189 of 2020 in Hon'ble Punjab & Haryana High Court. The said writ came for first hearing on 27th November 2020 and the Hon'ble High Court has already issued Notice of motion for 23.4.2021.

Status report is submitted please.

Addl. Dy. Comm. of Police
Hq & Sec. Ludhiana.

- 2.1. The application was decided by learned Magistrate vide order dated 24.12.2020, Annexure P-3, holding that no ground was made out to direct the concerned SHO or the Commissioner of Police, Ludhiana, to conduct investigation of the case after lodging of FIR, but the application



was treated as a criminal complaint in the interests of justice. The operative paragraph of the order reads as under:

2. Consideration heard & report from the concerned police official i.e. from the office of Additional Deputy Commissioner of Police. Head Quarter & Secretary, Ludhiana No. 1392 dated 22.12.2020 perused, as per which, the applicant Ms. G... has already filed a complaint bearing No.1921027 dated 16.11.2020 to the office of Commissioner of Police, Ludhiana, which was entrusted to Ms. Kanwardeep Kaur, IPS, JCP Ludhiana (Rural) for enquiry & take necessary action as per law & the enquiry is still going in the said matter for taking the action against the responsible & Ms. G... has also approached to the Hon'ble Punjab & Haryana High Court, Chandigarh by way of filing a writ petition No.CRM-M-39189 of 2020. The contents of the application has also been perused & I have also perused the law so passed by the Hon'ble Supreme Court of India & Hon'ble High Courts of India. The only contention of the applicant side is that the police is not taking necessary action against the accused/respondents No.1 to 7 as the accused No.1 Simarjeet Singh & his brother namely Balwinder Singh are sitting MLA, Punjab. However, this court is of the considered view that since matter is under consideration before the police for taking the action against the accused as per law & this fact has not been denied. Further nothing is on the record which can prima facie suggest that the police has become biased to take the action against the accused, so, no ground is made out to direct the concerned SHO of Police Station Shimlapuri or to the respondent No.9 i.e. Commissioner of Police, Ludhiana to conduct the investigation of the case after lodging FIR, but in the interest of justice, this application is treated as complaint & same is fixed for 21.01.2021 for preliminary evidence of the complainant.



2.2. The aforesaid order was set aside by learned Additional Sessions Judge, Ludhiana, accepting the revision petition filed by the complainant 'G', vide order dated 07.06.2021, and the matter was remanded to the Magistrate to decide it afresh in accordance with law. Thereupon, vide order dated 07.07.2021, learned Magistrate considered the application afresh and directed the SHO concerned to register a criminal case treating the complaint/application as FIR and investigate the same. Pursuant thereto, the FIR in question bearing no.180, dated 10.07.2021, Annexure P-4, was registered against the petitioner and six others. After completion of investigation, final report/challan under Section 173(2) Cr.P.C. as well as supplementary report/challan under Section 173(8) Cr.P.C. were filed by the police on 10.11.2021 and 25.09.2022, respectively.

2.3. As per the petitioner, vital documents were not made part of these two challans filed in the case. He had to move an application, dated 05.04.2023, seeking a direction to the prosecution to supply a copy of statement of PW-Kamalpreet Singh and inquiry report/noting of Ms. Ashwani Gutyal, IPS, the then ADCP, Ludhiana, along with statements of witnesses recorded by her, and the other evidence collected. A reply was filed by the prosecution through SHO, PS Division No.6, Ludhiana, dated 06.05.2023, Annexure P-8, praying for dismissal of the application. It was admitted that the said statement of PW-Kamalpreet Singh was recorded by the Investigating Officer, but not during the course of investigation. Hence, there was no need to furnish its copy. The relevant paragraphs of reply to the application read as under:



REPLY ON MERITS:-

1. That the contents of para no.1 of the application are admitted only to the extent that Challans u/s 173 (2) and 173(8) Cr.P.C. have already been presented against the applicant/accused but rest of the contents are incorrect. It is incorrect that during the investigation of the case, statement of PW Kamalpreet Singh was recorded by the Investigating Officer as alleged. In fact the said statement was not recorded during the investigation of the present case by the Investigating Officer, rather the same was recorded during the earlier enquiry proceedings but the same is not a part of the investigation of the present case nor the same is part of the Challan. As mentioned above, the prosecutrix had moved an Application u/s 156(3) Cr.P.C. before the Ld. Magistrate on which the Court of Sh. Harsimranjit Singh, the then ACJM, Ludhiana ordered to lodge the FIR against the applicant and others. However the applicant can plead the same in his defence at the appropriate stage of trial or can obtain the same through RTI.
2. That the contents of para no.2 of the application are admitted only to the extent that Ms. Ashwani Gutyal, IPS, the then ADCP, Ludhiana had conducted the enquiry but the said enquiry was not joined by the applicant nor the said enquiry is part of the investigation or the Challan.

2.4. The application was heard by learned Additional Sessions Judge and dismissed vide order dated 20.05.2023, Annexure P-10, on the ground that as the investigating/prosecuting agency had not relied upon any statement of Kamalpreet Singh and inquiry report of Ms. Ashwani Gutyal, IPS, the then ADCP, Ludhiana, resultantly the accused could not demand the said documents. The aforesaid order was challenged by the petitioner before this Court by filing CRM-M-32500-2023, which was partly allowed vide order dated 09.08.2023, Annexure P-11, by setting aside the order passed by



the trial Court and remanding the matter for fresh decision. The operative part of the order reads as under:

13. Keeping in view the above said facts and circumstances the present petition is partly allowed and the order dated 20.05.2023 (Annexure P-6) is set aside and the trial Court is directed to decide the matter afresh keeping in view the law laid down by the Hon'ble Supreme Court in the case of "*In Re: To issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials*" (Supra) and also the amended Rule framed by the High Court which has been reproduced in para 11 of the present order. The trial Court would decide the matter afresh as expeditiously as possible preferably within a period of two months from 11.08.2023, which is stated to be the next date of hearing.

2.5. At the time of fresh consideration by the trial Court, the State filed a report dated 14.09.2023, Annexure P-12, to the effect that there were no documents/statements which the Government had not relied upon, and the documents demanded could not be termed as 'un-relied documents'. The relevant part of the report is as under:

In compliance of the above order, the documents/statements recorded during investigation which are part of the investigation submitted in court u/s 173 Cr.P.C. and 173(8) Cr.P.C. is produced as relied upon documents. During investigation, there is no documents/statements which the Govt. does not rely upon and are unrelieved documents. A separate list of the documents/statements which are part of the investigation are produced as Ann. A.

The trial Court heard the matter and again dismissed the application vide the impugned order dated 25.09.2023, by holding as under:

... In the present case, the documents sought for are not in the list of relied or un-relied documents and are not collected during



investigation. Even in cases of vigilance under the Prevention of Corruption Act, the preliminary enquiry sometimes is conducted and the documents collected during the said inquiry are not part of the investigation. So, keeping in view the said circumstances when as per the prosecution, the documents sought are not part of investigation and do not find mention in the list of relied or un-relied documents and are much prior to registration of FIR and part of preliminary enquiry and complaint against enquiry officer is pending in the Court, the amended rules of the Hon'ble High Court and the directions of the Hon'ble Supreme Court in case *In Re: To issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials* and other case law are not applicable. Therefore, the applicant is not entitled to demand copies of said documents. Hence, the application is without any merit. Therefore the same is dismissed.

This order is under challenge in the instant petition.

3. In this factual background, learned senior counsel for the petitioner contended that the impugned order passed by the trial Court is contrary to the law laid down in *Criminal Trials Guidelines Regarding Inadequacies and Deficiencies, In Re v. State of Andhra Pradesh and others*, (2021) 10 SCC 598. The statements and documents asked for by the petitioner are very much a part of the investigation, and their copies are required to be furnished to him. Investigation of the case does not begin with registration of the FIR, and includes all the proceedings under the Code for collection of evidence conducted by a police officer. He has also relied upon the Supreme Court judgment in *Sarla Gupta and another v. Directorate of Enforcement*, (2025) 7 SCC 626, to contend that the petitioner is entitled to receive copies of all the records and documents with the prosecution, to protect his right to fair trial.



4. *Per contra*, learned counsel for the State and the complainant contend that in terms of law laid down in *Criminal Trials Guidelines* case (*supra*), the petitioner is entitled only to get copies of the documents relied or not relied upon by the Investigating Officer in the list of statements, documents, and material objects seized. However, the statements and documents sought for by him are neither the statements or documents relied upon, nor the ones not relied upon by the investigating agency; accordingly, these are not required to be furnished to him. Further, the documents demanded by him cannot be termed a part of the investigation, which commences only with registration of the FIR. Anything collected or looked into by the investigating agency prior to lodging of the FIR does not form part of the investigation and, consequently, cannot be asked for by the accused. Still further, even as per Rule 6 of the Punjab and Haryana High Court Rules and Orders, Volume-III, statements, documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer are required to be specified in the list. The explanation to the Rule is to be read with Rule 6 itself, and a conjoint reading would show that only the statements under Sections 161 and 164 Cr.P.C. and the list of documents and exhibits collected during the investigation, are to be furnished to the accused. Since the statements and documents demanded by the petitioner are not statements of the kind, nor have the same been collected during investigation, these are not required to be furnished.

5. Submissions made by learned counsel for the parties have been considered.

6. As apparent on record, pursuant to an order passed by learned CJM on an application under Section 156(3) Cr.P.C. filed by the complainant



for registration of FIR against the petitioner and six other accused for commission of offences under Sections 376, 354, 354-A, 506 and 120-B IPC, a status report dated 22.12.2020 was filed before the Court by the ADCP, Ludhiana, after conducting preliminary inquiry which had been necessitated, as recorded in the report itself, because the complaint of alleged rape had been made after considerable delay. During enquiry it came to notice that the complainant had earlier given a complaint dated 05.10.2020 against one Sukhchain Singh [accused no.5 in the application filed under Section 156(3) Cr.P.C.]. Both the parties had been called and their statements were recorded; the documents and other evidence which came to notice during inquiry were verified. The complaint was filed/consigned to records after the parties compromised the matter. The report also recorded that the preliminary inquiry remained inconclusive. Finally, the FIR in question bearing no.180, dated 10.07.2021, was lodged pursuant to order dated 07.07.2021 passed by learned Magistrate on the complainant's application under Section 156(3) Cr.P.C.; investigation pursuant whereof has been completed and the final as well as supplementary reports have been presented. Thereafter, the petitioner moved an application, dated 05.04.2023, seeking statements and documents forming part of the preliminary inquiry report mentioned in the status report, dated 22.12.2020, which has been declined vide impugned order dated 25.09.2023 passed by the trial Court. And the reason is that the documents sought are not part of the investigation, nor do the same find mention in the list of *relied* or *not relied* documents; these have been created prior to registration of the FIR as a part of preliminary inquiry.



7. Thus, the first question arising for consideration is, *whether preliminary inquiry is a proceeding within the scope of investigation under the Code of Criminal Procedure?* ‘Investigation’ has been defined under Section 2(h) Cr.P.C. as under:

2. Definitions.—In this Code, unless the context otherwise requires,—

(a) to (g) xxx xxx

(h) “investigation” includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;

Apparently, investigation of a case, as defined under Section 2(h) Cr.P.C., includes all the proceedings under the Code for collection of evidence conducted by a police officer. The preliminary inquiry in question was carried out after an order by the CJM on the complainant’s application under Section 156(3) Cr.P.C. The purpose was to ascertain the veracity of allegations levelled against the petitioner and other accused, which could only have been by way of collection of material/evidence to establish the facts alleged. Hence, the inquiry was a proceeding under the Code for collection of evidence. Further, there is no reason for this Court to give a truncated meaning to explicit words in the provision, and exclude an inquiry from its purview only because it has been conducted prior to registration of FIR. Conversely, there cannot be any addition to the phrase either. It reads, investigation ‘*includes all the proceedings under this Code*’, this cannot be read to mean - ‘includes all the proceedings under this Code after lodging of the FIR’; that would be adding words to the provision giving it a different meaning altogether which is impermissible. “The golden rule [of



interpretation] is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the courts are bound to give effect to that meaning, irrespective of the consequences.” [refer *Gurudevdatla Vksss Maryadit and others v. State of Maharashtra and others*, (2001) 4 SCC 534, p.553] Also, it is not the case that there is an absolute restrain on inquiry or collection of material/evidence prior to lodging of FIR; it is permissible depending upon facts and circumstances of a case, as laid down in *Lalita Kumari v. Government of Uttar Pradesh and others*, (2014) 2 SCC 1. The Court held:

120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. to 120.5. xxx xxx

120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in



reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

Apparently, one of the categories is of cases where there is more than three months' delay in reporting the matter, and the instant case falls thereunder since the complaint alleging rape on 04.08.2020 has been filed on 03.12.2020. Accordingly, the first question posed is answered in the affirmative.

8. The second question arising for consideration is, *whether the statements, documents and material objects collected by the police during the preliminary inquiry, which are neither in the form of statement(s) of witnesses under Section(s) 161 and 164 Cr.P.C., nor have the same been recorded after lodging of the FIR, are required to be included in the list of statements, documents, material objects and exhibits not relied upon by the Investigating Officer which is to be furnished to the accused/petitioner?*

8.1. The right to get a list of documents not relied upon by the Investigating Officer emanates from the judgment dated 20.04.2021 rendered in *Criminal Trials Guidelines* case (*supra*), holding as under:

21. The suo motu proceeding is disposed of in terms of the above directions.

DRAFT CRIMINAL RULES ON PRACTICE, 2021

CHAPTER I : INVESTIGATION

1. to 3. xxx xxx

4. ***Supply of documents under Sections 173, 207 and 208 CrPC.***—(i) Every accused shall be supplied with statements of witness recorded under Sections 161 and 164 CrPC. and a list of documents, material objects and exhibits seized during



investigation and relied upon by the Investigating Officer (IO) in accordance with Sections 207 and 208 CrPC.

Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the investigating officer.

In line therewith, Rule 6 of the Punjab and Haryana High Court Rules and Orders, Volume III, Chapter-I, Part-D, has also been amended, which provides as under:

**(c) Procedure in the trial of warrant cases
instituted on Police Report**

6. Warrant case on Police report - Police to furnish copies to accused before the trial commences:- In a warrant-case (Chapter XIX of the Code of Criminal Procedure, 1973) the procedure would now depend on whether the case has been instituted on a police report or otherwise. Section 238 to 243 of Code of Criminal Procedure, 1973 govern the procedure in warrant cases instituted on police reports. When the accused appears or is brought before the magistrate, the magistrate should, at the commencement of the trial, satisfy himself that he has complied with the provisions of Section 207 Cr.P.C. Further, every accused should be supplied with statements of witness recorded under Sections 161 and 164 Cr.P.C. and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer in accordance with Sections 207 and 208 Cr.P.C.

Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.

8.2. The directions issued by the Supreme Court in the judgment aforementioned are to plug deficiencies in the course of criminal trials, to



ensure fairness and protect the interests of the accused. The purpose of providing list of statements, documents and material objects not relied upon by the Investigating Officer, is to make certain that the accused is able to seek appropriate orders from the trial Court later for production of such documents and material if considered relevant by him/her. In case the Investigating Officer is permitted to exclude the documents - seized during investigation but not made part of the final report - from the list of statements and documents not relied upon by him, the very purpose of issuing the directions and framing the aforementioned Rule 6 in terms therewith, gets defeated. It is in the interest of fair trial that all the documents, whether relied or not relied upon by the Investigating Officer, should be made known to the accused to enable him/her to access the same as and when required during trial. Giving any discretion to the officer to include or not to include the documents seized during investigation in the list of statements and material not relied upon, adversely affects the right to fair trial granted to the accused under the Constitution. The exclusion of a document would keep the accused in dark about an aspect of investigation, and that is why no such discretion is contemplated or vested in the officer either under the directions or the Rule. Further, the objection by the respondents that the documents being asked for have not been collected during investigation of the case, has already been rejected as per the discussion above. Once these documents/material have been held to be a part of the investigation despite having been collected prior to lodging of the FIR, there is no reason to exclude the same from the list; such an omission is detrimental to the rights of the accused/petitioner.



8.3. The law regarding the right of the accused has been reiterated in *Sarla Gupta* case (*supra*), holding as under:

68. Hence, some of our important conclusions are as under:

68.1. When records, instruments or documents of title of the property are seized along with the property under Section 17 and 18 of the PMLA, the accused from whom the same are seized is entitled to true copies thereof;

68.2. Once cognizance is taken on the basis of a complaint under Section 44(1)(b) of the PMLA, the learned Special Judge must direct that along with the process, a copy of the complaint and the following documents be provided to the accused:

(i) Statements recorded by the learned Special Judge of the complainant and the witnesses, if any, before taking cognizance;

(ii) The documents including the copies of the statements under Section 50 of the PMLA produced before the Special Court, along with the complaint, and the documents produced subsequently by the ED till the date of taking cognizance; and

(iii) Copies of the supplementary complaints and the documents, if any, produced with supplementary complaints.

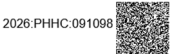
68.3. We hold that a copy of the list of statements, documents, material objects and exhibits that are not relied upon by the investigating officer must also be furnished to the accused. As held by this Court, the object is to ensure that the accused has knowledge of the documents, objects, etc. in the custody of the investigating officer which are not relied upon so that at the appropriate stage, the accused can apply by invoking the provisions of Section 91 CrPC (Section 94 BNSS) for providing copies of the documents which are not relied upon by the prosecution.



68.4. At the time of hearing for framing of charge, reliance can be placed only on the documents forming part of the chargesheet. In case of the PMLA, at the time of framing charge, reliance can be placed only on those documents which are produced along with the complaint or supplementary complaints. Though the accused will be entitled to a list of documents, objects, exhibits, etc. that are not relied upon by the ED at the stage of framing of charge, in ordinary course, the accused is not entitled to seek copies of the said documents at the stage of framing of charge.

68.5. At the stage of entering upon defence, an accused can apply for the issue of process for the production of any document or thing in accordance with Section 233(3) CrPC [Section 256(3) BNSS]. At this stage, he can also apply for the production of a document or a thing that is in the custody of the prosecution but has not been produced. A fair trial is a part of the right guaranteed to an accused under Article 21 of the Constitution. The right to a fair trial of the accused includes the right to defend. The right to defend consists of the right to lead the defence evidence by examining the witnesses and producing the documents. Therefore, the accused is entitled to exercise his right at the stage of entering upon defence by compelling the prosecution or a third party to produce a document or a thing in their possession or custody. The Court can decline the request of the accused for issuing process for the production of documents only on the limited grounds set out in sub-section (3) of section 233 CrPC.

68.6 When at the stage of defence evidence of the accused, documents are produced on the prayer of the accused and the accused desires to cross-examine any of the prosecution witnesses based on the said documents, it is always open for the accused to apply under Section 311 CrPC (Section 348 BNSS) to recall a prosecution witness already examined for further cross-examination. The reason is that the right to effectively



cross-examine the prosecution witnesses is also a part of the right to have a fair trial. The accused can exercise this right even if evidence of both sides is closed.

8.4. Accordingly, it has been reiterated by the Supreme Court that the material and documents which have been obtained by the prosecution and have a bearing on the case in its opinion, should be disclosed to the accused in the interest of justice, fair investigation and trial. Also, for the same purpose, the documents obtained during investigation but not relied upon by the Investigating Officer should also be disclosed in the list of documents to be furnished to the accused. This has been considered necessary to give him a chance of fair defence and ensure that his interests as that of the administration of criminal justice are not adversely affected or prejudiced in any manner. Therefore, in the instant case the Investigating Officer was required to include the statements, documents and other material collected/seized during the preliminary inquiry, mentioned in its report dated 22.12.2020, in the list of documents not relied upon, and furnish the same to the petitioner. The second question posed is accordingly answered in the affirmative.

9. In view of the discussion, petition is allowed. The impugned order, dated 25.09.2023, is set aside directing the respondent State to handover the list of documents/material demanded by the petitioner vide application dated 05.04.2023, within two weeks of receiving a certified copy of this judgment.

(TRIBHUVAN DAHIYA)
JUDGE

07.07.2026
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes