

FORM A

In the Court of Sh. Harpal Singh,
Sessions Judge, Kapurthala, (UID No.PB0036)

CNR No. PBKP010011782024



Case No. SC/53/2024

Presented on : 07-03-2024
Registered on : 07-03-2024
Decided on : 21-01-2026

FIR No.216 of 31.10.2023,
Under Sections 379-B, 411, 201 IPC,
Police Station City Phagwara, District Kapurthala.

Case committed by the Court
of Ms. Surekha Dadwal, PCS,
Sub Divisional Judicial
Magistrate, Phagwara vide
order dated 22.02.2024.

Complainant	State of Punjab through Dr. J. Senthil Kumar.
Represented by	Sh. Amandeep Singh, learned P.P. for the State.
Accused	1. Joginder Singh @ Joginder Pal @ Palli son of Sh. Darshan Ram, aged about 34 years, Painter, resident of Gali No.06, Mohalla Shivpuri, Police Station City Phagwara, District Kapurthala; 2. Sumit Joshi son of Sh. Vinod Joshi, aged about 35 years, Auto-Driver, resident of ES-70, Dhobi Mohalla, Police Station Division No.4, Jalandhar, District Jalandhar.
Represented by	Sh.Satpal and Ms.Preety, Legal Aid Defence Counsel.

FORM B

Date of offence	31.10.2023
Date of FIR	31.10.2023
Date of charge-sheet	13.02.2024
Date of framing of charges	20.03.2024
Date of commencement of evidence	16.04.2024
Date on which judgment is reserved	21.01.2026
Date of the Judgment	21.01.2026
Date of the Sentencing Order, if any.	-----

Accused Details

Rank of the accused	Name of accused	Date of arrest	Date of release on bail	Offences charged	Whether Acquitted or convicted	Sentence imposed	Period of Detention undergone during trial for the purpose of section 428 CrPC
No.1	Joginder Singh @ Joginder Pal @ Palli	14.12.23		Sections 379-B, 201, 34, 411 IPC	Acquitted	----	----
No.2	Sumit Joshi	14.12.23		Sections 379-B, 201, 34 IPC	Acquitted	----	----

FORM C

List of prosecution/Defence/Court witnesses.

A. Prosecution

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Expert witness, Medical Witness, Panch Witness, Other witness)
PW1	Dr. J. Senthil Kumar	Complainant
PW2	Jaswinder Kaur	Other witness
PW3	ASI Sukhwinder Kumar	Police witness
PW4	Kuldeep Singh	Junior Assistant, RTO Office, Roopnagar
PW5	ASI Gulshan Mohammad	Police witness
PW6	ASI Darshan Singh	Police witness

B. Defence Witnesses, if any:

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Expert witness, Medical Witness, Panch Witness, Other witness)

C. Court Witnesses, if any:

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Expert witness, Medical Witness, Panch Witness, Other witness)

List of Prosecution/Defence/Court Exhibits

A. Prosecution

Sr.No.	Exhibit Number	Description.
1.	P1/PW1	Application
2.	P2/PW1	Identification memo
3.	Mark/A	Statement of Jaswinder Kaur

4.	P3/PW3	Disclosure statement of accused Joginder Pal in FIR No.194
5.	P4/PW3	Disclosure statement of accused Sumit Joshi in FIR No.194
6.	P5/PW3	Recovery memo of Activa in FIR No.194
7.	P6/PW3	Identification memo of Activa in FIR No.194
8.	P7/PW4	Screen report
9.	P8/PW5	Copy of register No.19
10.	P9/PW6	Police proceedings
11.	P10/PW6	FIR
12.	P10/PW6	Rough site plan
13.	P11/PW6	Arrest memo of accused Joginder Pal
14.	P12/PW6	Arrest memo of accused Sumit Joshi
15.	P13/PW6	Personal search memo of accused Joginder Pal
16.	P14/PW6	Personal search memo of accused Sumit Joshi
17.	P15/PW6	Disclosure statement of accused Joginder Pal
18.	P16/PW6	Disclosure statement of accused Sumit Joshi
19.	P17/PW6	Recovery memo of currency
20.	P18/PW6	Recovery memo of currency
21.	P19/PW6	Rough site plan
22.	P20/PW6	Rough site plan

B. Defence

Sr.No.	Exhibit Number	Description.
1.		
2.		

C. Court Exhibits

Sr.No.	Exhibit Number	Description.
1.		

2.		
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D. Material Objects:

Sr.No.	Material Object Number	Description.
1.		
2.		

Present: Sh. Amandeep Singh, learned P.P. for the State.
Accused Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi in custody and produced through video-conferencing
(Represented by counsel Sh.Satpal and Ms. Preety, Legal Aid Defence Counsel).

JUDGMENT

1 Present accused Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi have been sent up by the authorities of Police Station City Phagwara, District Kapurthala, to face trial for the offence punishable under Sections 379-B, 411, 201 of Indian Penal Code in above-said case/ FIR.

2 In brief, the prosecution story is that on 31.10.2023, ASI Darshan Singh along with ASI Balwinder Singh, S/Ct. Sukhjit Kumar and PHG Sanjeev Kumar, was present at Chankiya Chowk in connection with patrolling duty. In the meantime, complainant Dr. J. Senthil Kumar son of K.V. Janahan, resident of H.No. 67, Scheme No.3, Shaheed Bhagat Singh Nagar Phagwara, Punjab, came there and moved a written application before ASI Darshan Singh. It was mentioned in the application that *“I am complaining about the gold*

chain snatched at Phagwara near The Vishal Mart opposite to Bank of India on 31.10.2023 at 11.25 AM. The gold chain is worth 64 gram at gold cost around 4 lacks. It was wore by his mother in law as gold chain was a traditional Thali chain. Please take necessary action to recover the same.” Accordingly, on the basis of said application, FIR in the present case was registered. Information in this regard was sent to Control Room and special reports were also issued. Afterwards, ASI Darshan Singh along with complainant and his police team reached at the place of occurrence and prepared rough site plan. During investigation proceedings, the accused namely Sumit Joshi and Joginder Kumar @ Palli in FIR No.194 dated 29.09.2023, under Section 379-B IPC, Police Station City Phagwara, District Kapurthala, suffered disclosure statements that on 05.12.2023, they snatched earrings from a lady in the area of Chahal Nagar Phagwara for which FIR No.236 dated 08.12.2023, under Section 379-B, 34 IPC, Police Station City Phagwara has already been registered. They further stated that on 31.10.2023 also, they snatched a chain in front of Vishal Mega Mart Phagwara for which FIR No.216 dated 31.10.2023, under Section 379-B IPC has already been registered at Police Station City Phagwara. Accordingly, both the accused were nominated in the aforesaid FIR's. Special reports were sent to the higher officials. On 14.12.2023, both the aforesaid accused were arrested in the present case. During police remand in the present case, accused Joginder Kumar @ Palli and Sumit Joshi

suffered disclosure statements that on 31.10.2023, they committed the offence of present case. It was further disclosed by them that they had sold out the snatched gold chain to one unknown person for a sum of Rs.3 lacs. Afterwards, on the basis of their disclosure statements, amount of Rs.1 lac each was recovered in the present case from the disclosed place. Thereafter, on completion of necessary formalities and investigation, challan against the accused persons was presented in the Court of learned Area Magistrate.

3 After presentation of challan, a copy thereof along with attending documents was supplied to both the accused free of costs, as provided under Section 207 of Code of Criminal Procedure.

4 After completing necessary formalities, case against the accused was committed to the Court of learned Sessions Judge, Kapurthala by the Court of Ms. Surekha Dadwal, Sub Divisional Judicial Magistrate, Phagwara, vide commitment order dated 22.02.2024, as the case was found to be exclusively triable by the Court of Sessions. Thereafter, this case was kept on the files of this Court for trial.

5 Upon considering the documents relied upon by the prosecution and upon hearing the learned Public Prosecutor for the State as well as learned counsel for the accused, finding a prima-facie case being made out against the accused for having committed the offences punishable under Sections 379-B, 411, 201, 34 of Indian Penal Code, the charge was framed accordingly vide order dated

20.03.2024, to which the accused pleaded not guilty and claimed trial.

6 The following points arise for determination in this case:-

1. Whether on 31.01.2023 in the area of Vishal Mart opposite to Bank of India, within the ambit of Police Station City Phagwara, accused Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi, in furtherance of common intention with each other, had snatched gold chain from the mother-in-law of complainant Dr. J. Senthil Kumar, after making preparation for causing hurt and as such, have attracted the provisions of Section 379-B, 34 of Indian Penal Code?
2. Whether on 15.12.2023, in the area of Police Station City Phagwara, accused Joginder Singh @ Joginder Pal @ Palli was found in possession of scootery bearing RC No.PB-12-AH-5249 belonging to Jaswinder Kaur wife of Gurpreet Singh knowingly or having reason to believe the same is snatched/ stolen property and as such, has attracted the provisions of Section 411 of Indian Penal Code?
3. Whether accused Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi, not got recovered the gold chain and as such, have attracted the provisions of Section 201, 34 of Indian Penal Code?

7 In order to prove its case, the learned Public Prosecutor for the State got examined complainant Dr. J. Senthil Kumar as **PW1**, who had deposed that on 31.10.2023 at about 11.25 AM, he along with his wife, mother-in-law and father-in-law were in the market for shopping. When they were present near Vishal Mart opposite to Bank of India and his mother-in-law and father-in-law were involved in shopping, and he along with his wife were on nearby shop. In the meantime, two persons came on Scootery and the pillion rider of the scootery had snatched the gold chain/ Mangal Sutra, from the neck of his mother-in-law. The weight of the gold chain/ Mangal Sutra was about 64 grams. They tried to caught them, but they managed to flee away from the spot. He along with his wife went to the police. There he moved application Ex.P1/PW1 about the said fact. After about two and half month of occurrence, he was called at the police station. There he identified the accused persons being snatchers vide identification memo Ex.P2/PW1. He did not get the said gold chain, but they have received Rs. 2 Lakhs on *Sapurdari* with the order of the court and the same is in his possession. He identified accused Sumit Joshi produced through video-conferencing and also identified accused Joginder Singh in the court.

8 The next witness examined by the prosecution is **PW2** Jaswinder Kaur, who had deposed that she was married to Gurpreet Singh of Village Jhaj Noorpur Bedi Rupnagar. She is residing separately from him since 10.03.2023. She is owner of one scooter

Activa bearing RC No.PB-12-AH-5249, which was with her husband Gurpreet Singh after she left her matrimonial home. She never got recorded any statement with the police. She does not identify the accused produced through videoconferencing in the court. Accordingly, in view of aforesaid statement of Jaswinder Kaur as PW2, she was declared hostile at the request of the learned Public Prosecutor for the State and was allowed to be cross-examined, but nothing material could be extracted from it.

9 The next witness examined by the prosecution is **PW3** ASI Sukhwinder Kumar, who had deposed that on 13.12.2023, he was investigating case FIR No.194 of 2023, Police Station City Phagwara and accused Sumit Joshi and Joginder Pal @ Pali suffered disclosure statements that they had committed various snatching including the snatching near Vishal Mega Mart on 31.10.2023. He had proved on record disclosure statements as Ex.P3/PW3 and Ex.P4/PW3. He had further deposed that from accused Joginder @ Pali, one Activa bearing RC No.PB-12-AH-5249, which they used to commit snatching, was recovered in case FIR No.194 of 2023 vide memo Ex.P5/PW3. The Activa was identified by Jaswinder Kaur vide memo Ex.P6/PW3. He identified both the accused through videoconferencing in the court.

10 The next witness examined by the prosecution is **PW4** Kuldeep Singh, Junior Assistant, RTO Office, Roopnagar, who had deposed that he has seen the record and also seen the report of the

vehicle No.PB-12-AH-5249, obtained through Vahan Software, which is Honda Activa, registered in the name of Jaswinder Kaur wife of Gurpreet Singh. He had proved on record the screen report as Ex.P7/PW4.

11 Further, the next witness examined by the prosecution is **PW5** ASI Gulshan Mohammad, who had deposed that on 15.12.2023, he was posted as MHC at Police Station City Phagwara. On that day, IO ASI Darshan Singh came present with the case property i.e. two parcels containing Rs.1 lacs each and deposited the same in the Malkhana and made entry in register No.19 at Sr. No.970. He had brought the copy of register No.19 and proved the same on record as Ex.P8/PW5. He had deposed that case property has been released on Sapurdari by the order of the learned court.

12 The next witness examined by the prosecution is **PW6** ASI Darshan Singh, who being Investigating Officer of the present case had carried out the investigation of this case and deposed about the same. He had also proved on record various important documents pertaining to the present case such as, complaint Ex.P1/PW1, police proceeding Ex.P9/PW6, FIR Ex.P10/PW6, rough site plan Ex.P10/PW6, disclosure statements Ex.P3/PW3 and Ex.P4/PW3, arrest memos Ex.P11/PW6 and Ex.P12/PW6, personal search memos Ex.P13/PW6 and Ex.P14/PW6, disclosure statements Ex.P15/PW6 and Ex.P16/PW6, recovery memos Ex.P17/PW6 and Ex.P18/PW6, rough site plans Ex.P19/PW6 and Ex.P20/PW6, identification memo

Ex.P6/PW3 and report of RTA Office Ex.P7/PW4.

13 Thereafter, prosecution evidence was closed by order vide order dated 02.01.2026.

14 Then, statements of the accused persons under Section 313 Cr.P.C. were recorded, wherein entire incriminating circumstances and evidence against them were put to them. The accused denied all the incriminating circumstances against them and pleaded their innocence. They opted to lead defence evidence, but they have not examined any witness in their defence and ultimately, learned counsel for the accused closed the defence evidence on behalf of both the accused.

15 I have heard learned Public Prosecutor for the State, learned counsel for accused and have carefully gone through the file with their able assistance.

16 Learned Public Prosecutor for the State has argued that the prosecution has fully proved its case beyond reasonable doubt that on 31.01.2023 in the area of Vishal Mart opposite to Bank of India, within the ambit of Police Station City Phagwara, accused Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi, in furtherance of common intention with each other, had snatched gold chain from the mother-in-law of complainant Dr. J. Senthil Kumar, after making preparation for causing hurt. It has also proved that accused Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi, not got recovered the said gold chain. It has also proved on record that on

15.12.2023, in the area of Police Station City Phagwara, accused Joginder Singh @ Joginder Pal @ Palli was found in possession of scootery bearing RC No.PB-12-AH-5249 belonging to Jaswinder Kaur wife of Gurpreet Singh knowingly or having reason to believe the same is snatched/ stolen property. He further submitted that later on, the present accused were arrested and challan was presented against them by following all the necessary formalities. He also submitted that all the proceedings of the investigation from the time of registration of FIR till presentation of challan against present accused in the Court, have been proved by the prosecution witnesses except PW2 Jaswinder Kaur. In this way, the prosecution has succeeded in proving the case against both the accused beyond shadow of reasonable doubt and he prayed for conviction of the accused in accordance with law.

17 Learned defence counsel has argued that the prosecution has miserably failed to prove its case beyond shadow of reasonable doubt and there is no evidence on the file to connect the accused with the commission of alleged offence.

18 He has pointed out that complainant Dr. J. Senthil Kumar, on whose application Ex.P1/PW1, the FIR of present case was recorded, while appearing as PW1 has deposed that on 31.10.2023 at about 11.25 AM, he along with his wife, mother-in-law and father-in-law were in the market for shopping. He has further deposed that when they were present near Vishal Mart opposite Bank

of India and his mother-in-law and father-in-law were involved in shopping, and he along with his wife were on nearby shop, then two persons came on a Scootery. The pillion rider of the Scootery had snatched the gold chain/ Mangal Sutra weighing 64 grams from the neck of his mother-in-law. They tried to catch them, but they managed to flee away from the spot. Then he along with his wife went to the police station, where he moved application about the said facts. He has further deposed that after about two and half month of the occurrence, he was called at the police station, where he identified the accused persons being snatchers. He did not get the said gold chain, but they had received Rs.2 lacs on *Sapurdari* with the order of the court, which is in his possession. Learned defence counsel has drawn the attention of this court towards the application of complainant Dr. J. Senthil Kumar Ex.P1/PW1 on the basis of which, the FIR was recorded in the present case, wherein he has nowhere mentioned the name or description of the assailants. Further, in his cross-examination, he has categorically stated that after the snatching, both the accused fled away immediately and he had seen both the accused from back side when they were fled away from the spot. He had not mentioned the registration number of the vehicle on which the accused fled away. Even he did not tell about the colour of the vehicle in question. He had not mentioned the detail description of the appearance of accused in his statement. He did not know the accused prior to the occurrence. He was called by the police at Police

Station City Phagwara, where he identified the accused. The police had shown him the accused, who were in police lock-up. No independent witness was called at the time of identification of the accused. PW3 ASI Sukhwinder Kumar has stated in his cross-examination that no recovery has been effected in his presence in this case. No identification memo was prepared in this case. Further, PW6 ASI Darshan Singh, Investigating Officer has stated in his cross-examination that no gold chain was recovered from accused persons. It is correct that there is no any numbering and mark on the notes. Learned defence counsel further argued that it has rendered the case of the prosecution highly doubtful to sufficiently connect the accused with the occurrence in question. So, the aforesaid contradictory evidence of the material witnesses of the prosecution, creates a doubt in the mind of this court and also falsified the case of the prosecution.

19 Learned defence counsel further argued that Jaswinder Kaur owner of the allegedly recovered Scootery bearing registration No.PB-12-AH-5249 while appearing as PW2 has failed to support the case of the prosecution and remained hostile witness to the allegations against the accused persons. She has deposed in her examination-in-chief that she is owner of the said Scooter, which was with her husband Gurpreet Singh after she left her matrimonial home. However, said Gurpreet Singh husband of PW2 Jaswinder Kaur has not been cited as witness in the list of witnesses. More so, the said Activa Scooter has not been produced before the court being case

property in the present case. Thus, the benefit of doubt ought to be extended to the accused persons in this regard.

20 Learned defence counsel further argued that ownership of the gold chain allegedly snatched in the present case has also not been proved on the file. There is nothing on record to show that the bill of allegedly snatched gold chain was ever taken into police possession during the investigation. The statements of material prosecution witnesses on record are also silent in this regard. Learned defence counsel has argued that thus the ownership of gold chain is not proved on the file. In this way, the prosecution has failed to prove the ownership of gold chain allegedly snatched and as such, same cannot be held to be stolen property and it can also not be held that said gold chain was snatched by the accused from some one else. So, the prosecution has completely failed to connect the accused with the crime of snatching. Link evidence is the most significant aspect of investigation in a criminal case. Similar observations have also been made by our own Hon'ble Punjab and Haryana High Court in case titled as '**Gian Singh Vs. State of Punjab 2006 (6) RCR (Criminal) 611**', wherein it has been held that incomplete chain of link evidence is a material infirmity and accused is liable to be acquitted on this sole ground. Similarly, in the case in hand, prosecution has failed to complete the chain of link evidence. Thus, considering the material coming forth, as a whole, the prosecution, as such, has failed to sufficiently connect the accused with the occurrence in question. The

version of the prosecution does not stand established, as per the demanding degree of proof. Thus, the benefit of doubt ought to be extended to the accused.

21 Another point raised by the learned defence counsel at the time of arguments is that the alleged recovery of the Activa Scooter bearing registration No.PB-12-AH-5249 as well as currency notes was effected from accused from a public place, but even then no independent witness was joined at the time of recovery, which clearly falsify the story of prosecution. Even there were family members in the houses of accused persons, but they were not joined at the time of recovery. Thus, the formal testimony of official witnesses, is of no avail to the prosecution. Even otherwise, it is clear that no independent witness was joined at the time of recovery, arrest of accused or during investigation of the case. So, non-joining of independent witness is also fatal to the prosecution case. This observation of this Court is also fortified with the judgment reported as '**2015(2) RCC (Criminal) 646 (P&H)** titled as **Satpal @ Pala vs. State of Haryana**' in which it has been held by the Hon'ble Punjab and Haryana High Court that '*non joining of the independent witness in the investigation or at the time of recovery shows that there are certain loop holes which have not been plugged in. There must be some independent corroboration as far as possible to prove the prosecution case against the accused.*' However, in the instant case, there is no record to suggest that any effort was made by the Police

officials to join independent witness, which is also fatal to the prosecution case. In case titled as '**Pardeep Singh @ Deep vs. State of Punjab, CRA-S-3383 of 2019 decided on 10.08.2022**' it has been held by the Hon'ble Punjab and Haryana High Court that '*recovery was effected at the disclosure statement suffered by accused. Investigating Officer while preparing recovery memo for currency notes did not join any independent witness, thus the Police has not been able to lead unflinching evidence of establishing the prime factum of the accused being the offender, accordingly, accused was acquitted*'.

22 Learned defence counsel has also argued that no test identification parade of the accused was got conducted as per law. PW1 complainant Dr. J. Senthil Kumar has categorically stated in his cross-examination that the police had shown him the accused, who were in police lock-up. No test identification parade was conducted by the police. Further, PW6 ASI Darshan Singh, Investigating Officer had also stated in his cross-examination that no identification parade was conducted before the Magistrate or any Municipal Commissioner. The accused were shown to the complainant at Police Station in police lock-up and at that time, both the accused were alone in the lock-up. Moreover, from the perusal of the identification memo dated 15.12.2023 Ex.P2/PW1, it transpires that complainant Dr. J. Senthil Kumar was called at the Police Station to identify the accused persons, but no test identification parade of the accused was

got conducted as per law. Further, complainant had not given description/ identity of the accused in his application Ex.P1/PW1 moved before the police. So, when the accused was not known to the complainant nor any description was made by the complainant in his application Ex.P1/PW1, then the heavy duty was casted upon the prosecution to have got conducted the test identification parade of the accused as the accused had taken specific plea that they have been falsely implicated in the present case, but no test identification parade was conducted in this case as per law. Thus, this court feels that the prosecution has not got conducted the test identification parade to identify the accused from the complainant as per law and in this regard he has relied upon the judgment of Hon'ble Supreme Court of India in a case titled as Suraj Pal Vs. State of Haryana Criminal Appeal Nos.146 of 2019 (Arising out of SLP (Crl.) No. 10418 of 2018) decided on 25.1.2019.

23 As a sequel to my findings above, prosecution has failed to prove its case beyond shadow of reasonable doubt. Accordingly, accused namely Joginder Singh @ Joginder Pal @ Palli and Sumit Joshi are hereby acquitted of the charges framed against them by giving them benefit of doubt. Case property, if any, be disposed off as per rules after the expiry of period of appeal/ revision and subject to the decision thereof. File be consigned to the record room.

Pronounced in open Court
Dt.21.01.2026
(Kaushal Kumar)

(Harpal Singh),
Sessions Judge, Kapurthala,
(UID No.PB0036)

State Vs. Joginder Singh @ Joginder Pal @ Palli & Anr.

CNR No.PBKP010011782024

Sessions Case No.53/2024

Present: Sh. Amandeep Singh, learned P.P. for the State.
Accused Joginder Singh @ Joginder Pal @ Palli and
Sumit Joshi in custody and produced through video-
conferencing
(Represented by counsel Sh.Satpal and Ms. Preety,
Legal Aid Defence Counsel).

No DW is present. Learned counsel for the accused
closed the defence evidence on behalf of both the accused.

Heard. Vide my separate judgment of even date, the
accused namely Joginder Singh @ Joginder Pal @ Palli and Sumit
Joshi have been acquitted of the charges framed against them. Case
property, if any, be disposed off as per rules after the expiry of period
of appeal/ revision and subject to the decision thereof. File be
consigned to the Judicial Record Room.

Pronounced in open Court
Dt.21.01.2026
(Kaushal Kumar)

(Harpal Singh),
Sessions Judge, Kapurthala,
(UID No.PB0036)