SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			CRLR/681/2026 Gurmeet Kaur --Revisionist **Versus** State Of Uttarakhand --Respondent **Hon'ble Alok Mahra, J.** Mrs. Pushpa Joshi, Senior Advocate, assisted by Ms. Nipush Mola Joshi, Advocate for the revisionist. Mrs. Pushpa Bhatt, Additional Advocate General and Mr. S.C. Dumka, A.G.A. for the State of Uttarakhand. 2. This Criminal Revision has been filed by the revisionist assailing the order dated 17.08.2026 passed by learned Ist Additional Sessions Judge, Udham Singh Nagar in Sessions Trial No.03 of 2025, whereby the application moved by the prosecution under Section 348 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been rejected. 3. Learned Senior Advocate appearing for the revisionist submits that, during the course of trial, the prosecution moved an application under Section 348 of the B.N.S.S. seeking summoning of the Malkhana Moharrir, who was posted in the concerned Malkhana at the relevant time, along with the original Malkhana Register. It is submitted that the said application has been rejected by the learned trial Court principally on the

			ground that the person sought to be summoned was not cited as a prosecution witness in the charge-sheet. 4. Learned Senior Advocate submits that the aforesaid ground for rejection of the application is not sustainable in law. It is submitted that the power conferred upon the Court under Section 348 of the B.N.S.S. is intended to enable the Court to summon or examine any person as a witness if his evidence appears to be essential for a just decision of the case, notwithstanding the fact that such person may not have been cited as a witness in the charge-sheet. It is further submitted that the prosecution evidence is still underway and that the examination of the then Malkhana Moharrir, namely, Mr. Jagdish Thakriyal, along with production of the original Malkhana Register, is necessary for establishing the relevant link evidence regarding the custody and safe deposit of the articles allegedly recovered during the course of investigation. 5. The power under Section 348 of the B.N.S.S. is intended to advance the cause of justice and to enable the Court to arrive at a just decision on the basis of the material necessary for proper adjudication of the case. Merely because a person was not cited as a witness in the charge-sheet cannot, by itself, be treated as an absolute bar against his being summoned where his evidence is otherwise considered necessary for a just decision of the case. At the same time, such power is required to be exercised judiciously and not merely to fill up any lacuna in the prosecution case. 6. In the present case, the prosecution seeks to summon the then Malkhana

Moharrir and the original Malkhana Register for the limited purpose of establishing the custody and movement of the articles allegedly recovered during the investigation. The production of the original Malkhana Register and the testimony of the officer who was responsible for maintaining the Malkhana record at the relevant time may have a direct bearing upon the chain of custody and the link evidence relating to the recovered articles. Since the prosecution evidence is still in progress, permitting such evidence to be brought on record would assist the learned trial Court in determining the matter on its merits and would advance the cause of a fair trial.

7. This Court is, therefore, of the view that the learned trial Court erred in rejecting the application merely on the ground that the proposed witness was not cited in the charge-sheet. The impugned order, consequently, cannot be sustained.

8. Accordingly, the Criminal Revision is allowed. The order dated 17.08.2026 passed by learned Ist Additional Sessions Judge, Udham Singh Nagar in Sessions Trial No. 03 of 2025 is hereby set aside. The application moved by the prosecution under Section 348 of the B.N.S.S. is allowed. Learned trial Court is directed to summon Mr. Jagdish Thakriyal, the then Malkhana Moharrir posted in the concerned Malkhana at the relevant time, and to call for the original Malkhana Register pertaining to the relevant period, in accordance with law.

(Alok Mahra, J.)
16.09.2026

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