HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 454/2018

1. Anuj Kumar S/o Keval Chand Arora, Caste Chhabara R/o 29 C-Block Ward No. 14 Srikaranpur District Sriganganagar.
2. Neeraj Kumar S/o Keval Chand Arora, Caste Chhabara R/o 29 C-Block Ward No. 14 Srikaranpur District Sriganganagar.

----Petitioners

Versus

State Of Rajasthan

----Respondent

For Petitioner(s) : Mr. Pankaj Gupta
For Respondent(s) : Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

DATE OF CONCLUSION OF ARGUMENTS	**12/02/2026**
DATE ON WHICH ORDER IS RESERVED	**12/02/2026**
FULL ORDER OR OPERATIVE PART	**Full Order**
DATE OF PRONOUNCEMENT	**06/04/2026**

REPORTABLE

BY THE COURT:-

1. The instant criminal revision petition has been instituted under Sections 397 and 401 of the Code of Criminal Procedure, 1973, laying a challenge to the order dated 24.03.2018 passed by the learned Additional District and Sessions Judge, Sri Karanpur, District Sri Ganganagar, in Criminal Revision No. 27/2015. By virtue of the impugned order, the learned revisional Court allowed the revision preferred by the State, set aside the order dated 18.03.2015 rendered by the learned trial Court in Criminal Original

Case No. 709/2013, and directed that the present petitioners be proceeded against for offences under Sections 454, 457, 380 and 201 IPC, including issuance of warrants of arrest.

2. The factual matrix, when delineated in its essential contours, reveals that on 25.10.2012, seed godowns belonging to the petitioners were subjected to inspection by the competent authorities, culminating in their seizure under the provisions of the Essential Commodities Act, 1955, particularly under Section 3/7 read with Section 6(A).

2.1. Subsequently, by order dated 12.11.2012, the District Collector directed auction of the seized seeds. In furtherance thereof, the process of "Drumikaran" was undertaken on 08.01.2013 under the supervision of the Sub-Divisional Magistrate, Sri Karanpur, in the presence of responsible officials.

2.2. However, during a subsequent inspection of the sealed godowns, it was alleged that the seals had been tampered with and certain goods were found missing. This discovery gave rise to suspicion of offences relating to house-breaking, theft, and destruction of evidence, culminating in registration of an FIR against the petitioners under Sections 454, 457, 380 and 201 IPC.

2.3. Upon culmination of investigation, a charge-sheet came to be filed. The learned trial Court, upon a conscientious evaluation of the material on record, vide order dated 18.03.2015, discharged the petitioners, holding that no prima facie case warranting framing of charges was made out.

2.4. Aggrieved thereby, the State preferred a revision petition, which came to be allowed by the learned revisional Court on 24.03.2018. The said order not only reversed the discharge but also directed coercive process against the petitioners. The same is under assailment before this Court.

3. Learned counsel for the petitioners has assailed the impugned order as being legally unsustainable, contending that the learned revisional Court has transgressed the well-defined limits of revisional jurisdiction by substituting its own view in the absence of perversity or patent illegality in the order of discharge. It is urged that the order of the trial Court was founded upon a judicious appreciation of the material and did not warrant interference.

4. Per contra, learned Public Prosecutor has supported the impugned order, submitting that the material collected during investigation discloses sufficient grounds for proceeding against the petitioners.

5. Heard learned counsel for the parties and perused the material available on record.

6. This Court finds that the controversy raised herein stands squarely governed by the principles enunciated in ***Reema v. State of Rajasthan (S.B. Criminal Revision Petition No. 581/2025, decided on 22.01.2026***), wherein it was held that although a detailed order is not obligatory at the stage of framing of charge, the order must nonetheless reflect conscious application of judicial mind and cannot be cryptic or mechanical. In *Reema*

(supra), this Court, while relying upon an earlier decision rendered in S.B. Criminal Revision Petition No. 1675/2025 involving analogous circumstances, elaborately considered the scope of judicial scrutiny at the stage of framing of charge. The relevant portion of the said decision is reproduced hereinbelow for ready reference:

> *"9. At the outset, it is pertinent to note that this Court, in S.B. Criminal Revision Petition No. 1675/2025 , an earlier matter involving analogous facts and circumstances, had occasion to examine the legality of an order framing charge, wherein detailed observations were made regarding the scope of judicial scrutiny at the stage of framing of charge, the requirement of meaningful application of mind, and the impermissibility of mechanical framing of charges.*
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> *10. The said order is being reproduced hereunder for ready reference:*
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> 1. *By way of filing the instant revision petition, the petitioner calls in question the order dated 06.11.2025 passed by the learned Special Judge, Prevention of Corruption Act, No. 1, Udaipur, in Special Sessions Case No. 46/2025 (State v. Ganpatlal Sharma & Anr.), arising out of FIR No. 157/2024, CPS ACB Jaipur, whereby charges have been framed against the petitioner under Section 07 of the Prevention of Corruption Act, 1988 (as amended in 2018) and Section 61(2) of the Bharatiya Nyaya Sanhita, despite gross violation of the mandatory provisions of Sections 230, 249, 250(1) and 250(2) of the BNSS, resulting in serious miscarriage of justice and infringement of the petitioner's fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India, rendering the impugned order illegal, arbitrary and unsustainable in law.*
> 2. *The brief facts of the present are that the petitioner is Accused No. 1 (hereinafter referred to as "A-1") in the Sessions Case titled State v. Ganpat Lal Sharma & Anr., arising out of FIR No. 157/2024 registered at Central Police Station (CPS), Anti Corruption Bureau (ACB). Upon completion of investigation, Charge-sheet No. 221/2025 was filed against the petitioner for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (as amended up to 2018) and Section 61(2) of the Bharatiya Nyaya Sanhita. The present Criminal Revision Petition is directed against the order dated 06.11.2025, whereby charges have been framed against the petitioner in blatant violation of Sections 230, 249, 250(1), 250(2) and 252(1) of*

the Bharatiya Nagarik Suraksha Sanhita (BNSS) and Articles 14 and 21 of the Constitution of India. The charge-sheet was submitted on 21.08.2025 before the learned Special Judge, Prevention of Corruption Act, No. 1, Udaipur, by Respondent No. 2, the Additional Superintendent of Police, ACB, Special Unit, Udaipur.

3. *Thereafter, the matter was placed before the learned Special Judge on 17.09.2025, and on the same day, cognizance of the alleged offence was taken, as reflected in the order sheet dated 17.09.2025.*
4. *Subsequently, on 06.11.2025, the learned Special Judge proceeded to take a decision to frame charges against the petitioner. The order sheet dated 06.11.2025 records that after hearing arguments on charge and perusal of the record, a prima facie case under Section 7 of the Prevention of Corruption Act and Section 61(2) of the Bharatiya Nyaya Sanhita, 2023 was found to be made out, and charges were accordingly framed, read over and explained to the accused, who pleaded not guilty and claimed trial. Directions were further issued for summoning prosecution witnesses and for leading prosecution evidence.*
5. *That the present S.B. Criminal Revision Petition is confined to assailing the order dated 06.11.2025, whereby the decision to frame charges and the consequent framing of charges against the petitioner were undertaken, despite non-compliance with the mandatory statutory safeguards contained in Sections 230, 249, 250(1), 250(2) and 252(1) of the BNSS, thereby resulting in grave prejudice to the petitioner and causing violation of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India.*
6. *Heard learned counsels present for the parties and gone through the materials available on record.*

   OBSERVATIONS

   A. Scope of Judicial Scrutiny at the Stage of Framing of Charge
7. *At the outset, it is necessary to recapitulate the well-settled contours governing judicial scrutiny at the stage of framing of charge. The Court, while exercising jurisdiction under Sections 250 (Discharge) and 251 (Framing of charge) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), is neither expected to conduct a meticulous appreciation of evidence nor to weigh the probative value of the material as would be done after a full-fledged trial. Equally, the Court is not to act as a mere conduit for endorsing the opinion of the investigating agency.*
8. *The seminal judgment of the Hon'ble Supreme Court in* ***Union of India v. Prafulla Kumar Samal & Anr., AIR 1979 SC 366****, authoritatively lays down that while framing charge, the Judge has the undoubted power to sift and weigh the material for the limited purpose of finding out whether a prima facie case exists. The Court is duty-bound to apply its judicial mind to the broad probabilities of the case, the total effect of the material placed on record, and to ascertain whether the accusation is not frivolous. The expression "ground for presuming" does not imply proof beyond reasonable doubt but nevertheless requires existence of*

legally admissible material capable of supporting the essential ingredients of the alleged offence.

9. *At the same time, the Hon'ble Supreme Court in **Kanti Bhadra Shah & Anr. v. State of West Bengal, (2000) 1 SCC 722**, clarified that framing of charge does not require a detailed or elaborate order akin to a judgment of acquittal or discharge, the order must nonetheless reflect conscious application of mind. The Court is not obliged to write lengthy reasons while framing charges; however, it must demonstrate that it has examined whether the basic ingredients of the offence are disclosed from the material on record. Thus, the law strikes a delicate balance: brevity is permissible, mechanical endorsement is not.*

B. Mandatory Nature of Procedural Safeguards under BNSS

10. *The BNSS consciously preserves and strengthens procedural safeguards at the pre-trial stage, recognising that deprivation of liberty commences not merely upon conviction but from the moment the criminal process is set in motion. Sections 230 (Supply to accused of copy of police report and other documents), 249 (Opening case for prosecution), 250 (Discharge) and 251 (Framing of charge) of the BNSS are not empty formalities; they are statutory manifestations of the constitutional guarantee of a fair procedure under Articles 14 and 21 of the Constitution of India.*
11. *The Hon'ble Supreme Court has consistently held that where a statute prescribes a particular procedure, it must be followed in that manner or not at all. Procedural compliance is not a matter of convenience but of jurisdiction.*

C. Non-Compliance with Section 230 BNSS – Supply of Documents

12. *Section 230 of the BNSS mandates that in cases instituted on a police report, the Court shall, without delay, and in no case beyond fourteen days, furnish to the accused copies of all documents forwarded with the police report under Section 193(6) BNSS.*
13. *From the record, it emerges that although the order sheet dated 17.09.2025 records that copies of the charge-sheet "along with CD" were supplied, there is prima facie substance in the grievance that all documents forming part of the police report were not furnished, and that the supply was effected through the investigating agency without judicial verification or grant of reasonable time to the accused to ascertain completeness.*
14. *More importantly, where the prosecution case substantially rests upon electronic evidence, compliance with Section 230 BNSS assumes heightened significance. The Hon'ble Supreme Court in **P. Gopalakrishnan @ Dileep v. State of Kerala, (2020) 9 SCC 161**, has categorically held that the original memory card constitutes a document, and the accused is entitled to receive its authenticated clone copy prepared in accordance with law. Supply of an uncertified CD, not prepared through hash-value authentication, does not fulfil the statutory mandate.*
15. *The furnishing of incomplete or legally unrecognised copies strikes at the very root of the accused's right to effectively invoke the remedy of discharge under Section 250 BNSS.*

D. Failure to Conduct Prosecutorial Opening under Section 249 BNSS

16. *Section 249 BNSS obligates the Public Prosecutor to "open the case" by describing the charge and stating by what evidence the prosecution proposes to establish guilt. The phrase "shall open" is peremptory and admits of no discretion.*
17. *The record of proceedings dated 06.11.2025 does not reflect that any such prosecutorial opening was undertaken. Absence of this statutory exercise deprives the Court of an informed basis to assess whether the materials relied upon correspond to the essential ingredients of the offence alleged. Framing of charge without such prosecutorial articulation reduces the judicial exercise to a formal endorsement of the charge-sheet, which the law expressly prohibits.*

E. Curtailment of the Right to Seek Discharge under Section 250 BNSS

18. *For ready reference section 250 BNSS is reproduced herein below-*

Section 250 Discharge

(1) The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232.

(2) If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

19. *Section 250(1) BNSS confers upon the accused a valuable right to prefer an application for discharge within sixty days from the date of commitment. In cases under the Prevention of Corruption Act, where the Special Judge takes cognizance directly, the date of cognizance effectively marks the commencement of this statutory period.*
20. *Learned counsel for the accused-petitioner, namely Mr. C.S. Kotwani, Ms. Preeti Sharma and Mr. Manoj Chaudhary, vehemently urged that the defence was in the process of preparing an application for discharge and had unequivocally expressed its intention to avail the statutory remedy under Section 250 BNSS. It was submitted that despite such clear inclination, the learned court proceeded to frame charges without granting reasonable and adequate time to the accused to exercise the liberty expressly conferred by law.*
21. *Although Section 250(1) BNSS provides a discretion to the accused to prefer an application for discharge within sixty days, the grant of such statutory period cannot be termed as unreasonable or dilatory, as the same flows directly from the legislative mandate. While it may be correct that in every case the court is not denuded of power to consider the question of discharge only upon the formal filing of an application by the accused, yet where the accused manifests a clear and bona fide intention to invoke the remedy of discharge, the court is duty-bound to afford a meaningful opportunity to do so. Denial of such opportunity, particularly when the statute itself prescribes a specific time frame, amounts to rendering the statutory right illusory and defeats*

the very object of Section 250(2) BNSS, which obligates judicial consideration of the sufficiency of grounds before proceeding to frame charges.

22. *In the present case, charges came to be framed on the 50th day from the date of cognizance, thereby truncating the statutory window available to the accused.*
23. *Further, Section 250(2) BNSS mandates the Court to consider the record and hear the submissions of the accused even where no formal discharge application is filed, and to record reasons for declining discharge. The impugned order does not reflect such consideration or reasoning.*

F. Mechanical Framing of Charge and Absence of Meaningful Judicial Application of Mind

24. *The impugned order dated 06.11.2025, when examined on the anvil of the statutory framework and the settled principles governing framing of charge, discloses a manifest deficiency in judicial reasoning and application of mind. The order sheet merely records, in a highly cursory and omnibus manner, that arguments on charge were heard, the record was perused, and a prima facie case under Section 7 of the Prevention of Corruption Act, 1988 (as amended in 2018) and Section 61(2) of the Bharatiya Nyaya Sanhita was found to be made out. Beyond this ritualistic recital, the order is conspicuously silent as to what material, what circumstances, or what factual substratum weighed with the learned Trial Court in forming such an opinion.*
25. *It is no doubt correct that at the stage of framing of charge, the Court is not expected to write a detailed or elaborate order as would be warranted at the stage of discharge or final adjudication. The Hon'ble Supreme Court in* ***Kanti Bhadra Shah & Anr. v. State of West Bengal (2000) 1 SCC 722*** *has clarified that framing of charge does not require a reasoned order akin to a judgment. However, the said principle cannot be misconstrued to legitimise a mechanical or non-speaking exercise, devoid of even minimal articulation of judicial satisfaction. Brevity is permissible; opacity is not.*
26. *The distinction between a brief order and a mechanical order is well recognised in criminal jurisprudence. Even while framing charges, the Court must indicate, albeit succinctly, that it has adverted to the material on record and that such material, if taken at face value,* ***discloses the existence of the essential ingredients of the offence alleged for which charges has to be framed.*** *A mere reproduction of statutory sections or a bare assertion that an offence is "prima facie made out" does not fulfil this requirement.*
27. *This requirement assumes greater significance in prosecutions under the Prevention of Corruption Act post the 2018 amendment. The legislative transformation of Section 7 has introduced the element of "improper or dishonest performance of public duty" as a sine qua non. Therefore, even at the threshold stage, the Court is expected to advert, howsoever briefly to the existence of material indicating demand or acceptance of undue advantage in connection with such improper or dishonest performance. In the absence of even a skeletal reference to such material, the order betrays a presumption rather than a judicial satisfaction.*

28. *The Hon'ble Supreme Court in **Union of India v. Prafulla Kumar Samal & Anr., AIR 1979 SC 366**, has categorically held that the Judge cannot act merely as a post office or a mouthpiece of the prosecution. The Court must consider the broad probabilities of the case, the total effect of the evidence and documents produced, and any basic infirmities apparent on the face of the record. The impugned order, however, reflects no such exercise and instead appears to have proceeded on the erroneous assumption that the filing of a charge-sheet ipso facto warrants framing of charge.*
29. *Further, the expression "arguments on charge heard" recorded in the order sheet, without even a fleeting reference to the nature of such arguments or the reasons for their rejection, renders the exercise under Sections 250 and 251 of the BNSS illusory. Such recording, unaccompanied by any demonstrable consideration, amounts to an empty formality, which has been consistently deprecated by constitutional courts. The Hon'ble Supreme Court in **Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan (2010) 9 SCC 496** has held that "rubber-stamp reasons" or pretence of reasoning cannot be equated with a valid judicial decision-making process.*
30. *This Court, in **H.G. Grover v. State of Rajasthan (S.B. Criminal Revision Petition No. 1356/2022)**, has reiterated that although meticulous appreciation of evidence is not required at the stage of framing of charge, the Trial Court must nonetheless satisfy itself that the material on record discloses the essential ingredients of the offence and must reflect such satisfaction in the order. The absence of such reflection renders the order vulnerable to judicial correction.*
31. *Thus, the impugned order dated 06.11.2025, viewed holistically, suffers from procedural superficiality and lack of discernible judicial reasoning. It does not demonstrate that the learned Trial Court applied its independent judicial mind to the statutory ingredients of the offences alleged, nor does it indicate how the material on record satisfies the threshold of "ground for presuming" as contemplated under Section 251 BNSS. Such an order, though brief, crosses the impermissible line into mechanical adjudication and therefore cannot be sustained in law.*
32. *At this juncture, it is of crucial significance to underscore that Section 250 BNSS expressly enables the accused to avail a statutory period of sixty days to prefer an application for discharge. The provision is not merely directory but confers a substantive procedural right upon the accused to invoke judicial scrutiny of the sufficiency of grounds before being compelled to face a full-fledged trial. Once the defence, through its counsel, categorically conveys its intention to exercise such right, the Court is obligated to facilitate and receive such application, rather than foreclose the statutory remedy by prematurely proceeding to frame charges.*
33. *This Court is conscious of the fact that the Bharatiya Nagarik Suraksha Sanhita is a relatively new procedural code, and situations may arise where the accused expressly seeks to avail the entire statutory window of sixty days for moving an application for discharge. Such procedural contingencies are*

inherent in the legislative scheme and may, in future, warrant authoritative pronouncement by constitutional courts.

34. However, since the precise contours of such situations do not presently fall for exhaustive adjudication, this Court refrains from making any broader or final comment on the issue. Nonetheless, so long as the statutory provision stands on the statute book, adherence thereto is not optional but mandatory. It is incumbent upon the Court, at the very least, to examine whether the mandate of Section 250 BNSS has been complied with in letter and spirit. The failure to do so, particularly in the face of an expressed intent by the accused to invoke the said provision, vitiates the procedural fairness of the proceedings and strikes at the root of the statutory safeguard envisaged by the legislature.

G. Nature of Present Observations and Consequential Directions

35. It is clarified, with utmost circumspection, that the foregoing discussion is purely academic and procedural in nature. This Court has consciously refrained from expressing any opinion on whether the material on record ultimately warrants framing of charge against the petitioner or not. The merits of the prosecution case are left completely open to be left upon the learned trial court to adjudge whether charges are liable to be framed or not.

36. In view of the cumulative procedural infirmities noticed hereinabove, the impugned order dated 06.11.2025 cannot be sustained. The matter deserves to be remanded to the learned Special Judge for fresh consideration.

37. Accordingly, the instant revision petition is allowed in part and the impugned order dated 06.11.2025 is set aside. The matter is remitted with directions that:

- *the learned Trial Court shall afford adequate opportunity to both parties;*
- *the petitioner shall be granted ten days' further time, if so advised, to move an application for discharge;*
- *the learned Special Judge shall thereafter pass an appropriate order strictly in accordance with law, keeping in view the statutory scheme of the BNSS and the settled legal position.*

38. The learned Trial Court shall remain entirely free and uninfluenced by any observation made herein and shall decide the matter independently on the basis of the material available on record and the submissions advanced before it.

A careful reading of the aforesaid extracted portion unmistakably reveals that the Court, even at the stage of framing of charge, is under a legal obligation to undertake a meaningful, albeit limited, scrutiny of the material on record and to ensure that the essential ingredients of the alleged offence are prima facie disclosed. The exercise cannot be reduced to a mechanical endorsement of the charge-sheet.

Doctrine of "Mere Suspicion" vs. "Grave Suspicion"

a. At this juncture, it becomes apposite to advert to the doctrinal distinction between *"mere suspicion"* and *"grave suspicion,"* which constitutes the jurisprudential fulcrum of adjudication at the stage of framing of charge.

b. Criminal jurisprudence has consistently underscored that the threshold for proceeding to trial lies not in the realm of conjecture, but in the existence of material giving rise to a reasoned and credible inference of culpability.

c. Mere suspicion, regardless of its intensity, remains inherently speculative. It is characterized by absence of foundational facts, lack of evidentiary linkage, and dependence upon surmises. Such suspicion, howsoever compelling at a superficial level, does not possess the legal tenability required to subject an individual to the rigours of a criminal trial.

d. Grave suspicion, in contradistinction, is rooted in tangible material; either direct evidence or a coherent chain of circumstances, which establishes a live and proximate nexus between the accused and the alleged offence. It imports a degree of probability which, if left unrebutted, would justify calling upon the accused to stand trial.

e. The distinction, therefore, is not merely lexical but substantive: while mere suspicion is conjectural and infirm, grave suspicion is grounded in material particulars and carries legal weight sufficient to justify continuation of criminal proceedings.

Applying the aforesaid principles to the facts of the present case, this Court is constrained to observe that the impugned order passed by the learned revisional Court suffers from manifest infirmities.

6.1. The learned revisional Court, while reversing the well-reasoned order of discharge, has failed to indicate any perversity, illegality, or material irregularity in the findings recorded by the learned trial Court. There is a conspicuous absence of independent analysis of the material on record.

6.2. The order impugned herein does not disclose as to what specific material persuaded the revisional Court to conclude that a prima facie case exist. The reasoning is cursory, omnibus, and bereft of any demonstrable application of judicial mind. Such an approach, in the considered opinion of this Court, militates against the settled principles governing revisional jurisdiction, which is supervisory and not appellate in nature. The infirmity is not merely technical but strikes at the root of procedural fairness. The direction to proceed against the petitioners, coupled with coercive measures, entails serious consequences affecting their liberty and reputation, and therefore necessitates a higher degree of judicial scrutiny.

6.3. This Court is, however, mindful of the self-imposed limitations at this stage and refrains from entering into the merits of the evidence or recording any conclusive finding on the culpability of the petitioners. There is not an iota of evidence which could suggest that these petitioners may trespass or

removed the property belonging to others in absence of the ingredients essential to constitute the offence forcing an individual to face the rigor of trial certainly tantamounts to infringement of his right to liberty. In view of the cumulative analysis aforesaid, this Court is of the considered opinion that the impugned order cannot be sustained in the eyes of law.

7. Consequently, the instant revision petition is allowed. The impugned order dated 24.03.2018 passed by the learned Additional District and Sessions Judge, Sri Karanpur, District Sri Ganganagar, in Criminal Revision No.27/2015 is hereby set aside. The order dated 18.03.2015 passed by the learned ACJM, Sri Karanpur District Sri Ganganagar in Criminal Original Case No.709/2013 is affirmed.

7. The stay petition, if any, stands disposed of accordingly.

(FARJAND ALI),J

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