IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

CRIMINAL REVISION No. 3881 of 2025

HIRALAL

Versus

STATE OF M P THROUGH P S CRIME BRANCH INDORE

Appearance:

Shri Raghvendra Singh Raghuvanshi - Advocate for the petitioner [P-1].

Shri Palash Choudhary, counsel for the objector.

Shri Prashant Jain appearing on behalf of Advocate General[r-1].

Heard On: 03.02.2026

Delivered On: 30.04.2026

ORDER

This criminal revision under Section 438 read with Section 442 of BNSS, 2023 is preferred being aggrieved by the order dated 13.05.2025 passed in ST No.85/2025 by 33rd ASJ, Indore whereby the charges under Section 318(4) read with /3(5), 316(5) read with 3(5) and 111(4) read with 3(5) of BNS, 2023 have been framed against the revision petitioner in a case arising out of the Crime No.113/2024 registered at Police Station Crime Branch, Indore.

2. Facts in brief are that the aforesaid Crime no.113/2024 was registered on 30.10.2024 on the complaint of Amit S/o Prakash Upadhayay with allegations that the members of whatsap group UBS Securities

contacted the revision petitioner with a proposal to make investment in the stock market and got transferred an amount of Rs,.26,55,000/- in different accounts. The offence was registered against the unknown persons. After the investigation, final report under Section 193 of BNSS, 2023 was submitted against three persons namely Vinay Yadav R/o Ratlam and Rahual Yadav and Heeralal both Resident of Udaypur, Rajasthan and the investigation was kept pending against other co-accused persons under Section 318(4), 316(4), 114(4), 3(5) of BNS, 2023.

2. Vide order dated 13.05.2025, the charges were framed. Challenging the framing of charges, this revision petition has been preferred on the ground that the framing of charges is based on the surmises and conjunctures, the learned trial Court has failed to exercise its jurisdiction to shift the evidence in connection with the present applicant/revision petitioner. There is neither any call record between the petitioner and other co-accused persons nor any incriminating material has been seized from the revision petitioner. Confessional statements of the revision petitioner as well as other co-accused persons are not even admissible in framing of charges against the revision petitioner. The revision petitioner is law graduate and has been charged for Section 111(4) of BNS, 2023 which is an organized crime and is not applicable to the present applicant/revision petition as there are no criminal antecedents of the present revision petitioner and thus, it is the first offence registered against the revision petitioner. He relied upon **Kashmiara Singh vs. State of Madhya Pradesh; AIR 1952 SC 159, Ghulam Hassan Beigh vs. Mohammad Maqbool Magrey and Others; 2022 SCC OnLine SC**

913; Union of India vs. Prafulla Kumar Samal; (1979) 3 SCC 4, Deepak Bhai Jagdish Chandra Patel vs. State of Gujarat; (2019) 16 SCC 547, Sajjan Kumar vs. CBI (2010) 9 SCC 368.

3. Heard.

4. Counsel for the State as well as counsel for the objector has opposed the prayer.

5. Final report submitted under Section 193 of BNSS, 2023 keeping the investigation pending as 90 days of custody was going to be completed reveal the role of the present revision petitioner. The revision petitioner came into contact with Rahul Yadav and Vinay Mewada (co-accused persons) in the year 2023. Vinay Mewada asked for procuring the bank accounts for a payment of Rs.10,000/- per bank account to the present revision petitioner who consulted regarding the bank accounts with co-accused Rahul Yadav and promised Rahul Yadav to pay Rs.5,000/- per bank account. Thereafter, Rahul Yadav provided 04 bank accounts to the revision petitioner and the revision petitioner further provided those accounts to Vinay Mawada and the amount of consideration received from Vinay Mewada was sent to Rahul Yadav after deducting his share. On 19.06.2024, Rahul Yadav provided the information of bank accounts open in SBI Bank alongwith the cheque book, ATM Cards, SIM No.62322-39088, Password of Email Vinayyadav253@gmail.com and Bank Login ID through parcel to Heeralal. They all were in contact through different social media platforms and were deleting the chat history regularly. Vinay Mewada has made witness to

himself.

6. Before dealing with the rival contentions, it is appropriate to refer to the scope of exercise of power under section 227 of the Cr.P.C or presently section 250 of the BNSS, 2023. The Apex Court in **P.Vijayan vs. State of Kerala and another - (2010) 2 SCC 398,** made an in-depth consideration regarding the scope of power under section 227 Cr.P.C and held thus:

> "10. Before considering the merits of the claim of both the parties, it is useful to refer to Section 227 of the Code of Criminal Procedure, 1973, which reads as under:
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> "227. Discharge. — 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."
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> If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal. Further, the words "not sufficient ground for proceeding against the

accused" clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."

07. In **Sajjan Kumar vs. Central Bureau of Investigation -(2010) 9 SCC 368,(2010) 9 SCC 368,** the Apex Court has laid down certain guiding principles for discharge as under:

"21. On consideration of the authorities about the scope

of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have

committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to

discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

8. On perusal of the statement of Vinay Mewada recorded on 14.12.2024, satisfy the standard of *prima facie* case for framing the charges under Sections 318(4) read with /3(5) and 316(5) read with 3(5) of BNS, 2023 against him. Accordingly, the learned trial Court has not committed any error in framing the charges against the revision petitioner under Sections 318(4) read with 3(5) and 316(5) read with 3(5) of BNS, 2023. Hence, the findings in this regard is affirmed.

9. Now, the question arises whether the charges under Section 111(4) read with Section 3(5) of BNS, 2023 can be framed against the revision petitioner or not?

10. **Section 111. Organised crime**

(1) Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes trafficking of persons, drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom, by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime.

Explanation. For the purposes of this subsection,-

(i) "organised crime syndicate" means a group of two or more persons who, acting either singly or jointly, as a syndicate or gang indulge in any continuing unlawful activity;

(ii) "continuing unlawful activity" means an activity prohibited by law which is a cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence, and includes economic offence:

(iii) "economic offence includes criminal breach of trust, forgery, counterfeiting of currency-notes, bank-notes and Government stamps. hawala transaction, mass-marketing fraud or running any scheme to defraud several persons or doing any act in any manner with a view to defraud any bank or financial institution or any other institution or organisation for obtaining monetary benefits in any form.

(2) Whoever commits organised crime shall.-

(a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which shall not be less than ten lakh rupees;

(b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(4) Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which

may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(5) Whoever, intentionally, harbours or conceals any person who has committed the offence of an organised crime shall be punished with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

(6) Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than two lakh rupees.

(7) If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than one lakh rupees.

11. The primary intent behind introducing of Section 111 of BNS, 2023, is to provide a targeted and effective mechanism to dismantle organized crime syndicate. From a reading of the said provision of law, it is manifest that for the purpose of invoking Section 111 of BNS, 2023, there are certain basic parameters and if only it is found that the accused comes within the said parameters, the offence punishable under Section 111 of BNS, 2023 can be invoked. The said parameters are as follows:

(a) the offences enlisted in the Section must have been committed;

(b) accused should be a member of an organized crime syndicate;

(c) he should have committed the crime as a member of an organized crime syndicate or on behalf of such syndicate;

(d) he should have been chargesheeted more than once before a competent Court within the preceding period of ten years for a cognizable offence punishable with imprisonment for three years or more and the Court before which chargesheet has been filed should have taken cognizance of such offence and includes economic offence;

(e) the crime must be committed by using violence, intimidation, threat, coercion or by any other unlawful means.

11. **In Aamir Bashir Magray v. State (UT of J&K), 2025 SCC OnLine J&K 721,** the Court opined that in order to bring an accused's actions under 'organised crime', it must be shown that they engaged in a continuing unlawful activity which might include economic offences, and that they were charge-sheeted more than once before a competent Court in the past ten years, with the Court having taken cognizance for those offences.

12. In the case of **Amrish Rana vs. State of H.P.;2026:HHC:3356 reported in 2026 Latest Case Law 346 HP,** the legal position regarding the applicability of Section 111 of BNS, 2023 in para no.14 to 17 has been discussed as below:-

"14. This section was explained by the Karnataka High Court in Avinash vs. State of Karnataka (11.03.2025 - KARHC): MANU/KA/0938/2025 as under:

1. The primary intent behind introducing Section 111 of BNS, 2023, is to provide a targeted and effective mechanism to dismantle organised crime syndicates

From a reading of the said provision of law, it is manifest that for the purpose of invoking Section 111 of BNS, 2023, there are certain basic parameters, and if it is found that the accused comes within the said parameters, the offence punishable under Section 111 of BNS, 2023 can be invoked. The said parameters are as follows:

(a) the offences enlisted in the Section must have been

committed;

(b) accused should be a member of an organised crime syndicate;

(c) he should have committed the crime as a member of an organised crime syndicate or on behalf of such a syndicate.

(d) he should have been chargesheeted more than once before a competent Court within the preceding period of ten years for a cognizable offence punishable with imprisonment for three years or more, and the Court before which the chargesheet has been filed should have taken cognisance of such offence, including an economic offence.

(e) the crime must be committed by using violence, intimidation, threat, coercion or by any other unlawful means.

15. It was laid down by the Kerala High Court in Mohd. Hashim v. State of Kerala, 2024 SCC OnLine Ker 5260, where no charge sheet was filed against the accused in the preceding ten years, he cannot be held liable for the commission of an offence punishable under Section 111 of the BNS Act. It was observed:

"10. Section 111 (1) explicitly stipulates that to attract the offence, there should be a continuing unlawful activity, by any person or group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate. The material ingredient to attract the above provision, so far as the present case is concerned, is that there should have been a continuing unlawful activity committed by a member of an organised crime syndicate or on behalf of such syndicate.

11. Explanation (i) and (ii) of sub-section (1) of Section 111 of BNS define an organised crime syndicate and a continuing unlawful activity, respectively.

12. Continuing unlawful activity under explanation (ii) of Section 111(1) of the BNS means an activity prohibited by law, which is a cognizable offence

punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheet has to be filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such an offence. Furthermore, an organised crime syndicate under Explanation (i) of sub-section (1) of Section 111 of the BNS means a group of two or more persons who, acting either singly or jointly as a syndicate or gang, indulge in any continuing unlawful activity.

13. While interpreting the analogous provisions of the Maharashtra Control of Organised Crime Act, 1999, which mandates the existence of at least two charge sheets in respect of a specified offence in the preceding ten years, the Honourable Supreme Court in State of Maharashtra v. Shiva alias Shivaji Ramaji Sonawane [(2015) 14 SCC 272] has unequivocally held as follows:

> "9. It was in the above backdrop that the High Court held that once the respondents had been acquitted for the offence punishable under the IPC and Arms Act in Crimes No. 37 and 38 of 2001 and once the Trial Court had recorded an acquittal even for the offence punishable under Section 4 read with Section 25 of the Arms Act in MCOCA Crimes No. 1 and 2 of 2002 all that remained incriminating was the filing of charge sheets against the respondents in the past and taking of cognizance by the competent court over a period of ten years prior to the enforcement of the MCOCA. The filing of charge sheets or taking of the cognisance in the same did not, declared the High Court, by itself constitute an offence punishable under Section 3 of the MCOCA. That is because the involvement of respondents in previous offences was just about one requirement, but by no means the only requirement, which the prosecution has to satisfy to secure a conviction under MCOCA. What was

equally, if not more important, was the commission of an offence by the respondents that would constitute "continuing unlawful activity". So long as that requirement failed, as was the position in the instant case, there was no question of convicting the respondents under Section 3 of the MCOCA. That reasoning does not, in our opinion, suffer from any infirmity.

10. The very fact that more than one charge sheet had been filed against the respondents, alleging offences punishable with more than three years' imprisonment, is not enough. As rightly pointed out by the High Court, commission of offences before the enactment of MCOCA does not constitute an offence under MCOCA. Registration of cases, filing of charge sheets and taking of cognisance by the competent court in relation to the offence alleged to have been committed by the respondents in the past is but one of the requirements for invocation of Section 3 of the MCOCA. Continuation of unlawful activities is the second and equally important requirement that ought to be satisfied. Only if an organised crime is committed by the accused after the promulgation of MCOCA, he may, seen in the light of the previous charge sheets and the cognisance taken by the competent court, be said to have committed an offence under Section 3 of the Act.

11. In the case at hand, the offences which the respondents are alleged to have committed after the promulgation of MCOCA were not proved against them. The acquittal of the respondents in Crimes Nos. 37 and 38 of 2001 signified that they were not involved in the commission of the offences with which they were charged. Not only were the respondents were acquitted of the charge under the Arms Act, but they were also acquitted in Crimes Case Nos. 1 and 2 of

> 2002. No appeal against that acquittal had been filed by the State. This implied that the prosecution had failed to prove the second ingredient required for completion of an offence under MCOCA. The High Court was, therefore, right in holding that Section 3 of the MCOCA could not be invoked only on the basis of the previous charge sheets for Section 3 would come into play only if the respondents were proved to have committed an offence for gain or any pecuniary benefit or undue economic or other advantage after the promulgation of MCOCA. Such being the case, the High Court was, in our opinion, justified in allowing the appeal and setting aside the order passed by the Trial Court".

14. Subsequently, the Honourable Supreme Court in State of Gujarat v. Sandip Omprakash Gupta [2022 SCC OnLine SC 1727], while interpreting the analogous provisions of the Gujarat Control of Terrorism and Organised Crime Act, 2015, clarified the ratio in Shivaji alias Shivaji Ramaji Sonawane (supra) by observing thus:

> "52. It is a sound rule of construction that the substantive law should be construed strictly so as to give effect and protection to the substantive rights unless the statute otherwise intends. Strict construction is one that limits the application of the statute by the words used. According to Sutherland, 'strict construction refuses to extend the import of words used in a statute so as to embrace cases or acts which the words do not clearly describe'.
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> 53. The rule as stated by Mahajan C.J. in Tolaram Relumal v. State of Bombay, (1954) 1 SCC 961: AIR 1954 SC 496, is that "if two possible and reasonable constructions can be put upon a penal provision, the court must lean towards that construction which exempts the subject from penalty rather than the one which imposes a penalty. It is not competent to the court to stretch the meaning of an expression used by the legislature in order to carry out the intention of the legislature." In State of Jharkhand v. Ambay Cements,

(2005) 1 SCC 368, this Court held that it is a settled rule of interpretation that where a statute is penal in character, it must be strictly construed and followed. The basic rule of strict construction of a penal statute is that a person cannot be penalised without a clear reading of the law. Presumptions or assumptions have no role in the interpretation of penal statutes.

They are to be construed strictly in accordance with the provisions of law. Nothing can be implied. In such cases, the courts are not so much concerned with what might possibly have been intended. Instead, they are concerned with what has actually been said.

54. We are of the view and the same would be in tune with the dictum as laid in Shiva alias Shivaji Ramaji Sonawane (supra) that there would have to be some act or omission which amounts to organised crime after the 2015 Act came into force i.e., 01.12.2019 in respect of which, the 2026:HHC:3356 accused is sought to be tried for the first time in the special court.

55. We are in agreement with the view taken by the High Court of Judicature at Bombay in the case of Jaisingh (supra) that neither the definition of the term 'organised crime' nor of the term 'continuing unlawful activity' nor any other provision therein declares any activity performed prior to the enactment of the MCOCA to be an offence under the 1999 Act nor the provision relating to punishment relates to any offence prior to the date of enforcement of the 1999 Act, i.e., 24.02.1999. However, by referring to the expression 'preceding period of ten years' in Section 2(1) (d), which is a definition clause of the term 'continuing unlawful activity' inference is sought to be drawn that in fact, it takes into its ambit the acts done prior to the enforcement of the 1999 Act as being an offence under the 1999 Act. The same analogy will apply to the 2015 Act.

56. There is a vast difference between the act or activity, which is being termed or called an offence under a statute and such act or activity being taken into consideration as one of the requisites for taking action

under the statute. For the purpose of organised crime, there has to be a continuing unlawful activity. There cannot be continuing unlawful activity unless at least two charge sheets are found to have been lodged in relation to the offence punishable with three years' imprisonment during the period of ten years. Indisputably, the period of ten years may relate to the period prior to 01.12.2019 or thereafter. In other words, it provides that the activities, which were offences under the law in force at the relevant time and in respect of which two charge sheets have been filed and the Court has taken cognisance thereof, during the period of the preceding ten years, then it will be considered as continuing unlawful activity on 01.12.2019 or thereafter. It nowhere by itself declares any activity to be an offence under the said 2015 Act prior to 01.12.2019. It also does not convert any activity done prior to 01.12.2019 to be an offence under the said 2015 Act. It merely considers two charge sheets in relation to the acts which were already declared as offences under the law in force to be one of the requisites for the purpose of identifying continuing unlawful activity and/or for the purpose of an action under the said 2015 Act.

57. If the decision of the coordinate Bench of this Court in the case of Shiva alias Shivaji Ramaji Sonawane (supra) is looked into closely along with other provisions of the Act, the same would indicate that the offence of 'organised crime' could be said to have been constituted by at least one instance of continuation, apart from continuing unlawful activity evidenced by more than one chargesheets in the preceding ten years. We say so, keeping in mind the following:

(a) If 'organised crime' was synonymous with 'continuing unlawful activity', two separate definitions were not necessary.

(b) The definitions themselves indicate that the ingredients of the use of violence in such activity with the objective of gaining pecuniary benefit are not included in the

definition of 'continuing unlawful activity', but find place only in the definition of 'organised crime'.

(c) What is made punishable under Section 3 is 'organised crime' and not 'continuing unlawful activity'.

(d) If 'organised crime' were to refer to only more than one chargesheets filed, the classification of crime in Section 3(1)(i) and 3(1) (ii) resply on the basis of consequence of resulting in death or otherwise would have been phrased differently, namely, by providing that 'if any one of such offence has resulted in the death', since continuing unlawful activity requires more than one offence. Reference to 'such offence' in Section 3(1) implies a specific act or omission.

(e) As held by this Court in State of Maharashtra v. Bharat Shanti Lal Shah (supra) continuing unlawful activity evidenced by more than one chargesheets is one of the ingredients of the offence of organised crime and the purpose thereof is to see the antecedents and not to convict, without proof of other facts which constitute the ingredients of Section 2(1)(e) and Section 3, which respectively define commission of offence of organised crime and prescribe punishment.

(f) There would have to be some act or omission which amounts to organised crime after the Act came into force, in respect of which the accused is sought to be tried for the first time, in the Special Court (i.e. has not been or is not being tried elsewhere).

(g) However, we need to clarify something important. Shiva alias Shivaji Ramaji Sonawane (supra) dealt with the situation

> where a person commits no unlawful activity after the invocation of the MCOCA. In such circumstances, the person cannot be arrested under the said Act on account of the offences committed by him before the coming into force of the said Act, even if he is found guilty of the same. However, if the person continues with the unlawful activities and is arrested, after the promulgation of the said Act, then such a person can be tried for the offence under the said Act. If a person ceases to indulge in any unlawful act after the said Act, then he is absolved of the prosecution under the said Act. But, if he continues with the unlawful activity, it cannot be said that the State has to wait till he commits two acts of which cognizance is taken by the Court after coming into force. The same principle would apply, even in the case of the 2015 Act, with which we are concerned.
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> 58. In the overall view of the matter, we are convinced that the dictum as laid by this Court in Shiva alias Shivaji Ramaji Sonawane(supra) does not require any relook. The dictum in Shiva alias Shivaji Ramaji Sonawane (supra) is the correct exposition of law"

16. Section 111 (1) of the BNS in respect of organised crime is, in essence, analogous to the provisions of the Maharashtra Control of Organised Control Act and the Gujarat Control of Terrorism and Organised Crime Act. The legal principles laid down by the Honourable Supreme Court in its interpretation of organised crime as defined by the above two state legislations are applicable on all fours to Section 111 (1) of the BNS. Thus, it is not necessary to have a further interpretation of the above analogous provision.

17. In view of the above discussion, to attract an offence under Section 111 (1) of the BNS it is imperative that a group of two or more persons indulge in any continuing unlawful activity prohibited by law, which is a cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheet has to be filed before a competent Court

within the preceding period of ten years and that Court has taken cognizance of such an offence."

13. Now, come to the facts of this case, in the final report submitted under Setion 193 of BNSS, 2023, the applicability of Section 111 of BNS, 2023 has been justified on the ground as mentioned below:-

> सदर अपराध मे कई अन्य आरोपीयों के नाम सामने आ रहे है एवं आवेदक क राशि हड़पने के लिए कमर्शियल बैंक खातो का भी उपयोग किया जाक यह एक संगठित सायबर अपराध है। उक्त अपराध में पूर्व मे जिन आरोपियो को गिरफ्तार किया जा चुका है उनक गिरफ्तारी से 90 दिवस की अवधि शीघ्र ही पूर्ण होने जा रही है एवं अपराध में अभी अन्य कोई आरोपीयो का गिरफ्तार किया जाना शेष है अतः गिरफ्तारशुदा उपरोक्त आरोपीगणो के विरुद्ध धारा 193 (9) बीएनएसएस मे अनुंसधान जार रखते हुये चालान कता करने की अनुमति श्रीमान सहायक पुलिस आयुक्त महोदय अपराध शाखा इंदौर, श्रमान अति. पुलिस उपायुक्त महोदय अपराध शाखा इंदौर, श्रीमान पुलिस उपायुक्त महोदय अपराध शाखा इंदौर से प्राप्त की गई एवं प्रकरण की विवेचना में अधिक समय लगने की संभावना होने से माननीय न्यायालय को विवेचना हेतु अतिरिक्त समय प्रदान करने हेतु प्रतिवेदन प्रेषित किया गया है। अतः प्रकरण में अभियुक्तगण विनय यादव, राहुल यादव, हीरालाल अहीर के विरुद्ध धारा 193(9) बीएनएसएस के तहत विवेचना जारी रखते हुये चालान क्रमांक 04/2025 दिनांक 16/01/2025 का कता किया जाकर वास्ते न्यायार्थ आरोपपत्र माननीय न्यायालय के समक्ष सादर प्रेषित है

14. Vide order dated 01.12.2025, the State was directed to address the Court that "how the explanation under Section 111(1) of BNS, 2023, applies in this case and thereafter vide order dated 12.01.2026, a notice was also issued to the victim to address this Court. The victim was provided with legal assistance. There was no substantial inputs on behalf of the victim regarding the applicability of Section 111 of BNS, 2023 in this case and the State has justified the applicability of Section 111 of BNS, 2023 with the explanation as below:-

> प्रकरण सदर की विवेचना के दौरान एसबीआई बैंक के खाता क्र.43068664307 (SBIN003051) के ट्रांजेक्शन के आईप एड्रेस क जानकारी प्राप्त की गई जिसमे पाया गया कि उक्त एसबीआई बैंक को मो.नं. 6262239088, 6378264078, 7024327935, 9079267010, 6376216620 एवं अन्य वीपीएन एड्रेस के द्वारा इंटरनेट के माध्यम से लागिन करना पाया गया जिसकी विवेचना करते मो.नं. 6232239088 प्रकरण में गिरफ्तारशुदा आरोप विनय यादव एवं मो.नं. 6378263408 प्रकरण में गिरफ्तारशुदा आरोपी राहुल यादव का पाया गया, अन्य मो.नं. 7024327935, 9079267010, 6376216620 एवं बीपीएन एड्रेस के लागिनकर्ता धारको कि विवेचना में आए तथ्यो के अनुसार तलाशी के हरसंभव प्रयास किए जा रहे है।
>
> उक्त फ्रॉड में उपयोग बैंक खाते/मोबाईल नंबर/लिंक के खिलाफ एनसीआरपी पोर्टल के माध्यम से चेक

करने पर।। राज्यो में 28 शिकायत दर्ज होना पाया गया है, जिनके आवेदको एंव संबंधित पुलिस अधिकारी से चर्चा करते 01. थाना डायघर जिला ठाणे महाराष्ट्र में अप, क्रं.1588/24 धारा 318(4) बीएनएस, धारा 66(सी), धारा 66(डी) आई.टी. एक्ट 2000, 02. थाना सायबराबाद जिला सायबराबाद राज्य तेलगांना मे अपराध क्रं 4896/24 धारा 318 (4) बीएनएस, धारा 66 (डी) आई.टी. एक्ट 2000-2008, 03, थाना टीएससीएसबी जिला सायबर क्राइम पुलिस स्टेशन राज्य तेलगांना में अपराध क्रं.26/24 धारा 318(4), 319, 338 बीएनएस, धारा 66 (डी) आई.टी.एक्ट 2008, 04, थाना सायबर क्राईम पुलिस स्टेशन जालघर सिटी जिला जालंधर राज्य पंजाब मे अपराध क्रं.3/24 धारा 420 भादवि 1860, धारा 66(डी) आई.टी. एक्ट 2008 का पंजीबद्ध होकर विवेचना मे है।

अलग-अलग राज्यों से एनसीआरपी पोर्टल पर दर्ज 28 शिकायत निम्नलिखित है -

क्र.	एनसीआरपी पोर्टल पर शिकायत क्र.	आवेदक का नाम/निवासी	फ्रॉड राशि
1.	20207240028782	यश्विनी रेड्डी निवासी-अन्ध्रप्रदेश	
2.	21307240029324	प्रदीप कुमार निवासी-हरियाणा	2510428/-
3.	21607240035585	तिलकराज निवासी-कर्नाटका	213000/-
4.	21907240071018	फरहान खान निवासी-महाराष्ट्र	18,50,000/-
5.	22108240019241	प्रकाश कुमार निवास-मध्यप्रदेश	2600000/-
6.	22507240011099	सलोनी निवासी-पंजाब	7,20,0000/-
7.	22507240011821	आशीष निवासी-पंजाब	550100/-
8.	2290240055690	कल्याण कुमारी निवासी-तमिलनाडू	181727/-
9.	22909240068450	कृष्णकुमारी निवासी-तमिलनाडू	26,00,000/-
10.	23108240086000	पवन कुमार निवासी-यूपी	
11.	23108240086124	ज्योति निवासी-यूपी	10,00,000/-
12.	23707240036466	श्रीहरी निवासी-तेलंगाना	
13.	30209240021212	के यल्पा निवासी-अन्ध्रप्रदेश	95,00,000/-
14.	30209240021232	के यल्पा निवासी-अन्ध्रप्रदेश	
15.	30608240002786	मनदीप कौर निवासी-चंडीगड	
16.	31507240017176	मोहम्मद सफी निवासी-केरल	
17.	3160724005746	श्रीधर बाबू निवासी-कर्नाटका	3800000/-
18.	31608240057437	नीरमोहम्मद निवासी-कर्नाटका	35,000/-
19.	31608240058575	रमेश बाबू निवासी-कर्नाटका	7,00,000/-
20.	31608240058694	विजयलक्ष्मी निवासी-कर्नाटका	8,75,50,000/-
21.	31608240060533	शसीकला निवासी-कर्नाटका	
22.	31907240107965	मायरा महेश निवासी-महाराष्ट्र	
23.	32708240040629	धीरज पुरोहित निवासी-राजस्थान	50,000/-
24.	32708240040649	धीरज निवासी-राजस्थान	50,000/-
25.	32708240040659	धीरज निवासी-राजस्थान	50,000/-
26.	33708240040753	संशाक निवासी-तेलगाना	
27.	33708240042386	श्रीप्रकाश निवासी-तेलगाना	
28.	33708240042706	के धानूजय निवासी-तेलगाना	8,41,969/-

सायबर फ्रॉड मे उपयोग स्टेट बैंक आफ इंडिया मे खाता क्र. 43068664307 मे 6,54,58,77/- रुपये (छः करोड चोपन लाख अट्ठावन हजार सत्त रुपये), Axis Bank के खाता क्रं. 923020004041317 में 1,26,69,688/- रुपये (एक करोड छब्बीस लाख छः सौ अट्यासी रुपये) , Indusind Bank के खाता क्रं. 201029732800 में 40,61,1092/- (चालीस लाख इक्सट हजार बानव्वे रुपये) रुपय की फ्रॉड राशि जमा होना पायी गयी है।

15. The State has also scrutinized the applicability of Section 111 (4) of BNS, 2023 on the present revision petitioner and submitted the same as under:-

1. यह है कि आरोपी हीरालाल एवं अन्य द्वारा इन्वेस्टमेंट पर अच्छा प्राफिट दिलाने के नाम पर आनलाईन एक लिंक https://apps.apple.com/hk/app/ubs/id6504154109 भेजकर USB सिक्योरिटी नामकएक एप्लीकेशन डाउनलोड करवाकर फरियादी को व्हाट्सअप नंबर 9558181539, 8309980909, 7358270952, 9558181539, 9791510234, 7587522318 के धारको के द्वारा लागिन आईडी, पासवर्ड बनाकर संगठीत होकर विभिन्न फ्रॉड बैंक खातों में कुल 26,55,000/-रुपये जमा करवाकर धोखाधडी कारित की गयी है।

2. यह है कि आरोपी हिरालाल एवं अन्य द्वारा फ्रॉड मे उपयोग बैंक खाते/मोबाईल नंबर/लिंक के खिलाफ एनसीआरसी पोर्टल के माध्यम से चेक करने पर 11 राज्यो में 28 शिकायत दर्ज होना पाया गया है, जिनके आवेदको एंव संबधित पुलिस अधिकारी से चर्चा करते

01. थाना डायघर जिला ठाणे महाराष्ट्र मे अप, क्रं. 1588/24 धारा 318 (4) बीएनएस, धारा 66 (सी), धारा 66 (डी) आई.टी.एक्ट 2000,

02. थाना सायबराबाद जिला सायबराबाद राज्य तेलगांना मे अपराध क्र. 4896/24 धारा धारा 318(4) बीएनएस, धारा 66 (डी) आई.टी. एक्ट 2000-2008,

03. थाना टीएससीएसबी जिला सायबर क्राईम पुलिस स्टेशन राज्य तेलगांना मे अपराध क्रं. 26/24 धारा धारा 3,18(4), 319, 338 बीएनएस, धारा 66 (डी) आई.टी. एक्ट 2008,

04. थाना सायबर क्राईम पुलिस स्टेशन जालघर सिटी जिला जालंधर राज्य पंजाब मे अपराध क्रं. 03/24 धारा 420 भादवि 1860, धारा 66 (डी) आई.टी. एक्ट 2008 का पंजीबध्द किया गया है।

3 . यह है कि फ्रॉड में उपयोग स्टेट बैंक आफ इंडिया में खाता क्र. 43068664307 में 6,54,58,77/-रुपये (छः करोड चोपन लाख अट्टावन हजार सत्तर रुपये) Axis Bank के खाता क्र. 923020004041317 मे 1,26,69,688/-रुपये (एक करोड छब्बीस लाख छः सौ अट्यासी रुपये), Indusind Bank के खाता क्रं. 201029732800 में 40,61,092/- (चालीस लाख इक्सट हजार बानव्वे रुपये) रुपये लोगो के साथ धोखाधडी कारित कर फ्रॉड राशि जमा होना पायी गयी है।

16. The reasons mentioned by prosecution referred in para nos.13 14 and 15 of this order for invoking Section 111(4) of BNS, 2023, at the most

reflects that the complaints or offence registered are under investigation. they does not satisfy the standard of Sub-para no.17 of Para no.12 of this order. Accordingly, the learned trial Court has committed error in framing charges against the revision petitioner under section 111(4) of BNS, 2023. If the prosecution collects the material sufficient to justify invocation of Section 111 of BNS, 2023 against the revision petitioner then the same may be submitted before the Court through further investigation and filing supplementary final report and may prayed for additional charge. At present, the charges under Section 111(4) of BNS, 2023 against the revision petitioner is not sustainable.

17. The learned trial Court may consider the applicability of charges under Section 112 of BNS, 2023 that provide for petty organized crime and the pre-conditions like section 111 of BNS, 2023 does not apply.

18. In view of the aforesaid, this revision petition is partly allowed to the extent that charges under Section 111(4) of BNS, 2023 framed against the present revision petitioner are set aside and the learned trial Court is directed to consider the applicability of charges under Section 112 of BNS, 2023 after giving opportunity of hearing to both the parties and may pass a reasoned order on its own merits of the record without being influenced with the finding of this Court.

19. Accordingly, the revision petition stands partly allowed and disposed off.

20. A copy of this order be sent to the learned trial Court concerned

for information and necessary action.

Certified copy, as per rules.

(GAJENDRA SINGH)
JUDGE

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