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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

115

CRR-2839-2025 (O&M)
Date of decision : 12.01.2026

Vijay

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Armaan Singh Brar, Advocate
for the petitioner.

Mr. Apoorv Garg, Addl. A.G., Haryana.

Mr. L. K. Gollen, Advocate
for the complainant.

MANISHA BATRA, J.(Oral)

1. CRM-45185-2025

Prayer in this application is for condoning the delay of 04 days
in filing the accompanying revision petition.

For the reasons stated in the application, the delay of 04 days in
filing the present revision petition is hereby condoned.

2. CRR-2839-2025 (O&M)

The instant revision petition has been filed by the petitioner
against the order dated 07.08.2025, passed by the Court of learned

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Additional Sessions Judge, Rohtak in case bearing FIR No. 04 dated 08.01.2025, registered under Sections 109(1), 115(2), 118(2) and 351(3) of Bharatiya Nyaya Sanhita, 2023 (*for short* 'BNS'), whereby an application filed by him under Section 250 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short* 'BNSS') seeking discharge from commission of offence punishable under Section 109(1) of BNS, had been dismissed and charges under Sections 118(2), 351(3) and 109(1) of BNS were framed against him.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint filed by complainant Suresh alleging that on 08.01.2025, the petitioner along with co-accused Jackie, Manoj, Dinesh and Ganga Ram had opened an attack upon him, when he was standing at the gate of his house. The petitioner had struck blow with a *gandassi*, whereas the remaining assailants had given kicks and fist blows to him. He was injured and was rushed to the hospital. After registration of the FIR, investigation proceedings were initiated. The petitioner and co-accused were arrested. Investigation now stands completed. Challan has been presented. The petitioner moved an application seeking discharge from offence punishable under Section 109(1) of BNS, which has been dismissed by the learned trial Court by passing the impugned order. Aggrieved from the same, the petitioner has filed the present petition.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. In fact, on the fateful day i.e. 08.01.2025, he had started renovation of his house, when the complainant,

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accompanied by his family members, had reached there armed with weapons and had opened an attack upon him. Arvind, a companion of the complainant, had struck *Farsa* blow upon the petitioner, thereby injuring his hand. A false case had been registered against him. The only injury sustained by the complainant/victim Suresh was on his right forearm. There was no damage to the ulna and radius bones. The nerves, which had been affected, were repaired by the doctors. The victim had been discharged. A false version as to the injury sustained by the complainant, being dangerous to life, had been procured by the complainant from the doctor concerned as his own sister is posted in the same hospital, wherein the complainant was provided treatment. In fact, no case for commission of offence punishable under Section 109(1) of BNS has been made out. The members of the complainant party were the aggressors. The learned trial Court did not take all these points into consideration at the time of deciding the aforementioned application, moved by the petitioner seeking discharge from the said offence. With these broad submissions, it is urged that the petition deserves to be allowed, the impugned order is liable to be quashed and the application moved by the petitioner seeking his discharge from offence punishable under Section 109(1) of BNS deserves to be allowed.

5. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has argued that no case for allowing the petition is made out. There are serious and specific allegations against the petitioner. He had struck a blow with a *gandassi* on the person of the complainant, thereby literally chopping off his right forearm. As per the medical opinion,

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the injury sustained by the complainant was dangerous to life as it was a deep cut injury on his right wrist. The complainant has suffered heavy blood loss. This injury was obviously caused with an intent to cause death of the complainant. The learned trial Court was not required to look into the probative value of the material on record and to record reasons or to discuss the evidence in detail. The evidence collected during the course of investigation was not required to be gone into meticulously. The allegations made out a *prima facie* case for commission of offences punishable under Sections 118(2), 109(1) and 351(3) of BNS and no illegality has been committed by the learned trial Court in framing charges as against the petitioner and in rejecting his prayer for discharge from offence under Section 109(1) of BNS. Learned counsel for the complainant has shown a photograph of the victim which reflects that his right wrist was practically chopped off to the extent of 95% due to the impact of the injury sustained at the hands of the petitioner. It is argued that a well reasoned order has been passed by the learned trial Court, which does not warrant any interference. Hence, it is urged that the petition has no merit and is liable to be dismissed. Learned State counsel has placed reliance upon the authority cited as ***Tarun Jit Tejpai vs. State of Goa and another, 2019 SCC Online SC 1053*** to fortify his arguments.

6. This Court has heard the rival submissions.

7. Before proceeding further, it would be proper to have a look at the provisions of Section 250 of BNSS (*which is pari materia with Section 227 of Cr.P.C.*), which read as under:



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“Section 250.

(1) The accused may prefer an application for discharge within a period of sixty days from the date of committal 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.

8. The first and the foremost question that has arisen before this Court for consideration is as to whether the petitioner was entitled to be discharged? In the considered opinion of this Court, the answer to this question is in negative for the reasons to be recorded in the coming paragraphs.

9. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before the trial Court at the time of framing of charge is well settled. At this stage, the trial Court is only required to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the alleged offences. At the stage of formation of opinion with regard to framing of charge, the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as gospel truth. Hon’ble Supreme Court has laid down the principles for the purpose of framing of charges in ***P. Vijayan vs. State of Kerala : (2010) 2 SCC 398***. Reference can further be made to the authority cited as



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Union of India Vs. Prafulla K Samal : (1979) 3 SCC 4, wherein Hon'ble Supreme Court has held that the Court while considering the question of framing charges under Section 227 of Cr.P.C. 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. It was further observed that 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 charge and proceeding with the trial and the Court should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if it was conducting a trial. Reference can also be made to ***Vishnu Kumar Shukla and another vs. State of Uttar Pradesh and another : 2024 AIR Supreme Court 90***, wherein Hon'ble Supreme Court, while referring to ***Rumi Dhar vs. State of West Bengal, (2009) 6 SCC 364*** and ***State of Tamil Nadu vs. N. Suresh Rajan, (2014) 11 SCC 709***, has made similar observations.

10. Reliance can also be placed upon the authority cited as ***State of Gujarat vs. Dilipsinh Kishorsinh Rao : 2023 SCC OnLine SC 1294***, wherein Hon'ble Supreme Court, while relying upon its judgments rendered in ***State of Maharashtra vs. Som Nath Thapa : (1996) 4 SCC 659*** and ***State of M. P. vs. Mohan Lal Soni (2000) 6 SCC 338***, has held that the defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression "the record of the case" used in Section 227 of Cr.P.C. is to be understood as the documents and articles, if any, produced by the prosecution. The Code does not give any right to the



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accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency. The primary consideration at the stage of framing of charge is the test of existence of a prima facie case and at this stage, the probative value of materials on record need not be gone into. The nature of evaluation to be made by the Court at the stage of framing of the charge is to test the existence of prima facie case. It was also held that at the stage of framing of charge, the Court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.

11. Reliance can also be placed upon ***Bhawna Bai vs. Ghanshyam and others : AIR 2020 Supreme Court 554***, wherein it was observed by the Hon'ble Apex Court that for framing of charges, a trial Judge is not required to record the detailed reasons and to hold an elaborate inquiry. Only a *prima facie* case is to be seen. In ***State of Rajasthan vs. Ashok Kumar Kashyap : AIR Online 2021 SC 210***, it was observed by the Hon'ble Apex Court that the merit of the case is not to be considered at the stage of framing of charge and/or at the stage of deciding an application for discharge. In ***Umesh Kumar vs. State of Andhra Pradesh : (2013) 10 SCC 591***, it was held by Hon'ble Supreme Court that while framing charges, the Court has to evaluate as to whether on the basis of material and documents on record, there is a *prima facie* case to proceed against the accused. At this stage, the



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Court is not required to appreciate whether the material produced is sufficient or not for convicting the accused. Reliance can also be placed upon ***Sajjan Kumar vs. CBI : 2010 (9) SCC 368***, wherein the Hon'ble Supreme Court had observed that while framing charge, the Court has 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 and the test to determine a *prima case* would depend upon the facts of each case. Reference can also be made to ***Jitendra Singh vs. State of Rajasthan : 2023 LiveLaw (Raj) 37***, the High Court of Rajasthan had observed that framing of charge by the trial Court is a determinative factor and an important exercise of power. However, a detailed discussion of the evidence is not required during the course of framing of charge but an application of mind by the trial court to see the sufficiency of the material on record is required, so as to put the accused to face the rigors of trial.

12. Keeping in view the above discussed position of law, let us advert to the peculiar facts of the present case. The petitioner had been arraigned as accused in the aforementioned FIR on the allegations that he had struck a blow with a *gandassi*, thereby injuring the right wrist of the complainant/victim. As revealed from the material placed on record, the complainant had been medically examined and as per the opinion given by the treating doctor, the injury that had been sustained by him was dangerous to life. He had lost a lot of blood. His wrist was almost chopped off, though subsequently, surgery was performed upon the same. The allegations as levelled against the petitioner make out a *prima facie* case for commission of



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offence punishable under Section 109(1) of BNS against him. The learned trial Court rejected the prayer made by the petitioner seeking discharge from the aforesaid offence by passing a detailed order and by observing that a *prima facie* case made out against him. On a plain reading of the allegations in the FIR and contents of challan report, supported by the statements of the material witnesses, it cannot be stated at all that necessary ingredients for commission of aforementioned offence are not made out and that any error had been committed by the learned trial Court in rejecting the claim of the petitioner for discharge. Rather, the order passed by the learned trial Court is a well reasoned and speaking order, which in the considered opinion of this Court does not warrant any interference. Accordingly, in view of the discussion as made above, the present revision petition is dismissed.

13. However, it is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion of this Court on the merits of the case.

12.01.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No