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2026:CGHC:28808-DB

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HIGH COURT OF CHHATTISGARH AT BILASPURBABLU
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BABLU RAJENDRA
BHANARKAR
Date: 2026.07.13
10:12:14 +0530**CRMP No. 1780 of 2026**

Babla Khaparde S/o Late Shekhuram Aged About 47 Years Cast Mahar,
R/o Ward No. 24, Chandeni Bhata, Dallirajhara, Tahsil Doundi, District-
Balod (C.G.)

... Petitioner(s)**versus**

State Of Chhattisgarh Through S.H.O. Of Police Station Rajhara,
District- Balod Chhattisgarh

... Respondent(s)

For Petitioner(s) : Mr.Hemant Gupta, Advocate

For Respondent(s) : Mr.Saumya Rai, Deputy Government
Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board**Per Ramesh Sinha, Chief Justice****10.07.2026**

1. Heard Mr.Hemant Gupta, learned counsel for the petitioner as well as Mr.Saumya Rai, learned Deputy Government Advocate appearing for the respondent/State.
2. The present petition has been filed by the petitioner under Section

528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'B.N.S.S.') with the following relief(s):-

"It is therefore, prayed that this Hon'ble court may kindly be allow the instant Cr. M. P. petition & quash the F.I.R. no 130/2026, Registered U/s 34 (2) of Excise act, dated 10-06-2026, at Police Station Rajhara, District - Balod, Chhattisgarh, in the larger interest of justice."

3. As per the prosecution case, on 09.06.2026, the police party was on routine town patrolling in Rajhara Town in the official vehicle bearing Registration No. CG-03-A-1094, accompanied by Constable No. 186, Yogendra Sinha. During the patrol, while they were near Atal Chowk, Chikhlakasa, they received confidential information from an informant that an individual was transporting an illicit and excessive quantity of liquor on a motorcycle bearing Registration No. CG-24-S-5329 from Kusumkasa towards Rajhara via the Chikhlakasa Electricity Office Road. Acting upon the said information, the police conducted a raid. During the raid, action was initiated against the accused, Parasmani Kaushal (S/o Anand Kaushal, aged about 30 years, R/o Ward No. 24, Rajhara), under Section 34(2) of the Excise Act, and a *Dehati Nalishi* (preliminary complaint) was recorded on the spot. Thereafter, Crime No. 00/2026 was registered against the accused for the offence punishable under Section 34(2) of the Excise Act.

4. It is further the prosecution case that Police Station Rajhara, District Balod, seized 58 quarter bottles of "Sholay" country-made

liquor, each containing 180 ml, kept in a brown-coloured bag, having a total quantity of 10.440 bulk litres and valued at Rs. 4,640/-. The police also seized one Hero Splendor motorcycle bearing Registration No. CG-24-S-5329, valued at Rs. 40,000/-. Thus, the total value of the seized property was assessed at Rs. 44,640/-. The seizure was carried out by Inspector Pradeep Kumar Kanwar.

5. Thereafter, the police served a notice under Section 179 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) upon the accused and, after obtaining his consent to remain present during the proceedings, prepared the informant information memorandum on the spot. As there was an apprehension that the accused might remove, conceal, or dispose of the illicit liquor, the police prepared a Panchnama under Section 185 of the BNSS. Thereafter, a search notice was served upon the accused, and after obtaining his consent, a spot Panchnama was prepared. Subsequently, the police party, in the presence of independent witnesses, conducted the personal search of the accused, Parasmani Kaushal. Nothing incriminating was found during his personal search. Thereafter, the motorcycle and the brown-coloured bag in his possession were searched, during which 58 quarter bottles of "Sholay" country-made liquor, each containing 180 ml, totalling 10.440 bulk litres and valued at Rs. 4,640/-, along with one Hero Splendor motorcycle bearing Registration No. CG-24-S-5329, valued at Rs. 40,000/-, were allegedly recovered.

6. According to the prosecution, the illicit liquor was recovered from

the brown-coloured bag in the possession of the accused in the presence of the witnesses, and a seizure (recovery) Panchnama was prepared. The seized articles were identified by the witnesses, and an identification Panchnama was also drawn. Thereafter, a notice under Section 94 of the BNSS was served upon the accused directing him to produce valid documents authorising the transportation of the liquor. However, the accused failed to produce any such document.

7. The prosecution further states that the seized liquor and other articles were sealed in the presence of the witnesses, and a sample seal Panchnama was prepared. As the accused was allegedly found to have committed an offence punishable under Section 34(2) of the Excise Act, he was informed of the grounds of his arrest and was formally arrested on 09.06.2026 at 23:50 hours. His family members were also informed about his arrest. Since the alleged offence under Section 34(2) of the Excise Act is non-bailable, the accused and the seized property were brought to the Police Station for safe custody. Thereafter, the investigating officer prepared the spot map of the place of occurrence, recorded the statements of the witnesses, and videographed the search and seizure proceedings through e-evidence. A *Dehati Nalishi* was prepared at the spot, and the information relating to the investigation was separately forwarded to the jurisdictional Magistrate. Thereafter, during the course of investigation, the police recorded the memorandum statement of accused Parasmani Kaushal under Section 23 of the Bharatiya Sakshya Adhiniyam (Evidence Act) at the Police Station. In the said memorandum statement, the accused

allegedly named the present petitioner. It is the case of the petitioner that his name was disclosed by the accused under police pressure.

8. Learned counsel for the petitioner submits that the impugned FIR, to the extent it implicates the present petitioner, is liable to be quashed as the same amounts to an abuse of the process of law. It is submitted that the petitioner is an elected Ward Councillor (Parshad) with a clean antecedent and enjoys a good reputation in society. Owing to political rivalry, he has been falsely implicated in the present case despite having no connection with the alleged offence. It is further submitted that the petitioner was neither present at the spot nor arrested from the place of occurrence. No illicit liquor, motorcycle, or any other incriminating article has been recovered or seized from his possession. The entire recovery was made from the co-accused, Parasmani Kaushal, and none of the seized articles belonged to the petitioner. The petitioner is presently running a chicken shop, and the relevant documents have been filed on record.

9. Learned counsel further submits that the implication of the petitioner rests solely upon the memorandum statement of the co-accused recorded under Section 23 of the Bharatiya Sakshya Adhiniyam. Such a memorandum statement is admissible only to the limited extent of discovery or recovery of a fact and cannot, by itself, constitute substantive evidence to implicate another person when no recovery has been effected from him. It is also submitted that the petitioner has been undergoing treatment for severe burn injuries for the

last more than three years and is suffering from several medical complications. In view of his physical condition and the absence of any independent incriminating material, his false implication appears to be motivated by political animosity. It is further argued that the prosecution has failed to collect any independent evidence connecting the petitioner with the alleged offence. There are no call detail records, financial transactions, independent witness statements, or any other material indicating his involvement in the alleged transportation or possession of illicit liquor or in any criminal conspiracy with the co-accused. Therefore, it is submitted that continuation of criminal proceedings against the petitioner solely on the basis of the memorandum statement of the co-accused, without any independent corroborative evidence or recovery, is arbitrary, illegal, and amounts to an abuse of the process of law. Accordingly, the FIR and all consequential proceedings deserve to be quashed to the extent they relate to the present petitioner. He relied upon the orders passed by the High Court of Madhya Pradesh, Bench at Indore in **MCRC. No.19835/2018 (Dharmendra v. State of M.P.)** and **MCRC No.61295 of 2022 (Pradhansingh v. the State of Madhya Pradesh)** and the order passed by this Court in **CRMP No.669 of 2026 (Rajnarayan Sahu @ Raju Sahu v. State of Chhattisgarh and another)**.

10. On the other hand, learned State Counsel opposed the petition and submitted that the FIR and the material collected during the investigation disclose the commission of a cognizable offence against the petitioner. It is contended that during the investigation, the co-

accused, in his memorandum statement, disclosed the involvement of the present petitioner, and the investigation has revealed sufficient material to proceed against him. It is further submitted that the truthfulness, admissibility, and evidentiary value of the material collected during the investigation are matters to be examined during trial and cannot be adjudicated in proceedings for quashing the FIR. At this stage, the Court is only required to examine whether a prima facie case is made out, and not to appreciate the evidence in detail. Learned State Counsel therefore submitted that the petitioner has failed to make out any exceptional case warranting interference in the exercise of inherent jurisdiction, and accordingly, the petition deserves to be dismissed.

11. We have heard learned counsel for the parties and perused the material available on record with utmost circumspection.

12. The legal position on the issue of quashing of FIR is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C. (now 528 of the B.N.S.S.).

13. The Hon'ble Supreme Court in the matters of ***Rupan Deol Bajaj***

v. K.P.S. Gill reported in **(1995) SCC (Cri) 1059**, **Rajesh Bajaj v. State of NCT of Delhi** reported in **(1999) 3 SCC 259** and **Medchl Chemicals & Pharma (P) Ltd. v. Biological E Ltd. & Ors** reported in **2000 SCC (Cri) 615**, the Supreme Court clearly held that if a prima facie case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there is no controversy about the legal proposition that in case a prima facie case is made out, the FIR or the proceedings in consequence thereof cannot be quashed.

14. In **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 SCC OnLine SC 315**, the Hon'ble Supreme Court has authoritatively settled the scope of the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The Apex Court has held that the power to quash criminal proceedings is required to be exercised sparingly, with circumspection and only in the rarest of rare cases. It has been categorically observed that while considering a prayer for quashing an FIR or criminal proceedings, the High Court cannot embark upon an enquiry into the reliability, genuineness or otherwise of the allegations contained in the FIR, nor can it appreciate the evidence or conduct a mini trial. The Court is only

required to examine whether the allegations, if taken at their face value, disclose the commission of a cognizable offence. The Supreme Court further emphasized that criminal proceedings ought not to be scuttled at the threshold, that investigation into cognizable offences should ordinarily be permitted to proceed unhindered, and that the extraordinary jurisdiction under Section 482 Cr.P.C. must be exercised with great caution and self-restraint, save in exceptional cases where non-interference would result in manifest miscarriage of justice.

15. Very recently, in ***Pradeep Kumar Kesharwani v. State of Uttar Pradesh & Another (Criminal Appeal No. 3831 of 2025, decided on 02.09.2025)***, the Hon'ble Supreme Court reiterated the aforesaid principles and further held that while exercising jurisdiction under Section 482 Cr.P.C. (now Section 528 of the BNSS), the High Court cannot adjudicate disputed questions of fact or evaluate the evidentiary worth of the material collected during investigation. The Court reaffirmed the test laid down in *Rajiv Thapar v. Madan Lal Kapoor* and observed that criminal proceedings can be quashed at the threshold only when the material relied upon by the accused is of sterling and impeccable quality, completely demolishes the prosecution case, remains incapable of being refuted by the prosecution, and continuation of the criminal proceedings would amount to an abuse of the process of Court. Unless all these parameters are cumulatively satisfied, the High Court ought not to interfere in exercise of its inherent jurisdiction, leaving the parties to establish their respective cases before the trial Court in accordance with law.

16. Applying the aforesaid settled principles to the facts of the present case, this Court is of the considered view that no case is made out for exercise of the inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The contention of the petitioner that he has been implicated solely on the basis of the memorandum statement of the co-accused, that no recovery has been effected from him, and that he has been falsely implicated due to political rivalry, are all matters which involve disputed questions of fact. The defence sought to be raised by the petitioner requires appreciation of evidence and examination of the circumstances emerging during investigation, which cannot be undertaken while exercising jurisdiction for quashing the FIR or criminal proceedings.

17. At this stage, the Court is only required to examine whether the allegations contained in the FIR and the material collected during investigation, if taken at their face value, disclose the commission of a cognizable offence. It is not permissible for this Court to evaluate the admissibility or evidentiary value of the memorandum statement, to determine whether the same would ultimately be sufficient for conviction, or to examine the correctness of the prosecution case. Those issues fall squarely within the domain of the trial Court after the parties lead their evidence.

18. The plea of political vendetta, the petitioner's medical condition, his social standing as an elected Ward Councillor, and the absence of recovery from his possession are matters of defence which may be

urged before the competent Court at the appropriate stage. Likewise, the contention that the memorandum statement of the co-accused is inadmissible except to the limited extent permitted by law raises issues relating to appreciation of evidence, which cannot be conclusively adjudicated in proceedings under Section 528 of the BNSS. At this stage, this Court cannot conduct a mini trial or record findings on the evidentiary worth of the material collected by the investigating agency. As such, the orders relied upon by learned counsel for the petitioners are distinguishable to the facts of the present case.

19. Having regard to the allegations contained in the FIR, the material collected during investigation, and the law laid down by the Hon'ble Supreme Court in *Neeharika Infrastructure Pvt. Ltd. (supra)* and *Pradeep Kumar Kesharwani (supra)*, this Court is satisfied that the present case does not fall within any of the exceptional categories warranting exercise of inherent powers for quashing the FIR. It cannot be said, at this preliminary stage, that the allegations are so absurd or inherently improbable that no offence is made out, or that continuation of the proceedings would amount to an abuse of the process of law.

20. Consequently, this Court finds no ground to interfere with the impugned FIR in exercise of its inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The petition, being devoid of merit, is accordingly **dismissed**. It is, however, clarified that any observations made herein are confined solely to the adjudication of the present petition and shall not be construed as an expression on the

merits of the case, which shall be independently considered by the trial Court in accordance with law, uninfluenced by any observations contained in this order.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice