



\$~77

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 406/2026 and CRL.M.A. 20743/2026

CENTERL BUREAU OF INVESTIGATION Petitioner

Through: Mr. Vikrant Pachnanda, SPP with Mr.
Mukul Katyal, Advocate.

versus

KUMAR PUNIT AND ORS Respondents

Through: Mr. Abhay Gupta, Advocate for R-1
and 2.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **17.07.2026**

1. The petitioner seeks setting aside of the order dated 18.03.2026 (“impugned order”) passed by the Special Judge, PC Act, CBI-20, Rouse Avenue District Court, New Delhi, in *CBI v. Uday Singh & Ors.* (CBI No. 47/2022), whereby respondent nos. 1 to 15 have been discharged for the offences under Section 120-B, 409, 420, 467, 468, 471 of the Indian Penal Code, 1860 (“IPC”) read with Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (“P.C. Act”) (unamended) and Section 66 of the Information Technology Act, 2000.

2. The case has its origin in a fraud committed against the Employees Provident Fund Organisation (“EPFO”). Between October 2017 and March 2018, provident fund and pension claims worth more than Rs. 13.18 crores were allegedly fraudulently settled online. FIR No. 81/2018 was registered at PS: Sector-23, Dwarka. It was first investigated by the Economic



Offences Wing. On 16.01.2019, the Ministry of Home Affairs directed that the investigation be transferred to the CBI. The CBI re-registered the case as RC No. 218-2019-A0002/AC-III/New Delhi.

3. The CBI's case is that two officials of the Centre for Development of Advanced Computing, namely, Uday Singh (A-1) and Dewendra Chaudhary (A-3), both Project Engineers posted at the EPFO's National Data Centre, manipulated the EPFO's Unified Portal. They created fictitious member identities and Universal Account Numbers copying the KYC details of real subscribers. This allowed money to be fraudulently paid out into 57 bank accounts.

4. The CBI filed its first supplementary chargesheet on 25.07.2022. This chargesheet named nineteen accused persons, A-1 to A-19. Charges against them were framed on 31.08.2023, and their trial is still going on. The CBI kept the investigation open under Section 173(8) Cr.P.C. to find out whether any EPFO field officials, who had processed these claims, also had a role to play. Further investigation led to the second supplementary chargesheet, filed on 27.01.2025. This chargesheet named the fifteen present respondents as accused nos. 20 to 34. They are all officials of EPFO's Delhi Regional Offices, holding posts such as Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner, Accounts Officer, Section Supervisor and Senior Social Security Assistant.

5. The case against these fifteen respondents stands on a different footing from the case against A-1 to A-19. It is not the CBI's case that any of the fifteen respondents created a fake identity, or accessed the EPFO's computer systems, or personally received any money. The allegation against them is narrower and more specific. Of the 57 fraudulent claims, 13



concerned EPFO members who had joined before 01.10.2017. For these 13 members, a physical register called “Form-9” already had an entry recording an earlier, genuine settlement. The CBI’s case is that if the respondents had checked these 13 claims against the Form-9 register while processing or approving them, the fraud would have been caught.

6. During the discharge proceedings, the respondents placed three documents on record. The first was a notification dated 19.01.2018. The second was an office note dated 09.03.2018. Both of these were issued by the EPFO itself, and both directed that the physical Form-9 register be discontinued once records were digitised, with effect from 01.10.2017. The third document was a report of the Vigilance Directorate dated 18.07.2022.

7. The CBI objected to these documents being taken on record. It argued that none of the three documents formed part of the chargesheet, and that they had been produced too late in the proceedings. By a separate order dated 18.03.2026, the Special Judge rejected this objection and allowed the documents to be placed on record. The Special Judge then examined these three documents together with the statements of two prosecution witnesses, PW-2, Jay Prakash Chauhan, and PW-4, Shashank Dinkar, both former Regional Provident Fund Commissioners.

8. On this basis, the Special Judge held that there was no material connecting any of the fifteen respondents to Uday Singh, Dewendra Chaudhary, or the conspiracy alleged against them. The Special Judge also held that, in any case, the EPFO’s own circular of 18.09.2017 had already discontinued the very register the respondents were being blamed for not consulting. All fifteen respondents were accordingly discharged.

9. It bears mention that of the 34 persons named as accused in this



investigation, charges against nineteen of them (A-1 to A-19) already stand framed and their trial is proceeding. The present fifteen respondents are the only accused persons who have been discharged.

10. Learned Counsel for CBI points out that sanction to prosecute each of the respondents was granted under Section 19 of the PC Act. He submits that the sanctioning authority, at the time of granting sanction, had already applied its mind to the material against each respondent. He also points out that no higher departmental authority has since exonerated the respondents of the underlying lapse. He submits the Special Judge should have weighed both these facts against discharge.

11. He additionally submits that statements of PW-2 and PW-4 recorded under Section 161 Cr.P.C these statements show a clear breach of a Standard Operating Procedure dated 24.08.2017, which required online claims to be checked against the Form-9 register. He submits that this is the very omission the chargesheet accuses the respondents of, and that the Special Judge did not give this material sufficient weight. For this submission, he relies on ***P. Krishna Mohan Reddy v. State of Andhra Pradesh***¹. He has specifically pressed upon paragraph nos. 44 and 45 of the said decision, which are extracted as under:

“44. We are conscious of a handful of decisions of this Court wherein it has been held that statements under Section 161 of the Cr. P.C. ought to be looked into by the courts in deciding the question of grant of bail. Indresh Kumar v. State of Uttar Pradesh, 2022 SCC OnLine SC 2411 observed that “statements under Section 161 of Cr. P.C. may not be admissible in evidence, but are relevant in considering the prima facie case against an accused in an application for grant of bail in case of grave offence”. Similarly, in Salim Khan v. Sanjai Singh reported in (2002) 9 SCC 670, it was held that the court is “duty-bound to consider all the statements recorded under Section 161 CrPC, examine the gravity of the

¹ 2025 SCC OnLine SC 1157.



offence and also examine the question of possibility of the accused tampering with the evidence and possibility of getting the attendance of the accused during trial and then would be entitled to grant bail to an accused”.

45. However, the aforesaid observations cannot be singled out and construed devoid of its context. While it is permissible for the courts to examine the statements recorded under Section 161 of the Cr. P.C. for the purpose of ascertaining whether a prima-facie case has been made out against the accused and the nature or gravity of the allegations, the same applies only insofar as such police statements are of witnesses and not accused persons.”

12. I have considered the submissions made by Learned counsel for the petitioner and have perused the record. The prosecution case has arisen out of an Employees Provident Fund Organisation (“EPFO”) fraud involving fraudulent online settlement of provident fund and pension claims amounting to over Rs. 13.18 crores, effected between October 2017 and March 2018.

13. The trial in this case proceeds under the PC Act, 1988. Section 5(1) of that Act says that a Special Judge must follow the procedure laid down for the trial of warrant cases. This means the applicable provision for discharge is Section 239 Cr.P.C. (corresponding to Section 262 of the Bhartiya Nagarik Suraksha Sanhita, 2023), and not Section 227 Cr.P.C. The Special Judge correctly noted this distinction. It does not, however, change the substance of what the Special Judge was required to examine.

14. The Supreme Court in ***Union of India v. Prafulla Kumar Samal***² has noted down the following principles and held that:-

“1. That the judge while considering the question of framing the charges under Section 227 of the Code 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.

² (1979) 3 SCC 4.



2. *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;*
3. *... if two views are equally possible and the judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*
4. *That in exercising his jurisdiction under Section 227 of the Code the judge 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. This, however, does not mean that the judge would make a roving inquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*

15. The task before the Special Judge was accordingly a narrow one. He had to ask whether the record disclosed grave suspicion against the respondents, nothing more. He was not required to ask whether the evidence was strong enough to convict them. Nor could he treat mere suspicion as sufficient, the kind of suspicion that could arise simply from the respondents having worked at EPFO, without pointing to anything more.

16. The Supreme Court explained this further in **Sajjan Kumar v. CBI**³ by holding that the trial court “*cannot act merely as a post office or a mouthpiece of the prosecution,*” and must instead look at the broad probabilities of the case and any basic weaknesses in it. Though without conducting a “roving enquiry” of the kind that belongs to a trial, not to the discharge stage.

17. The Supreme Court also made it clear that even at this early stage, the Court cannot be expected to accept everything the prosecution says as if it were beyond question, if it goes against common sense or the broad probabilities of the case. Relevant paragraph no. 17 is reproduced as under:-

³ (2010) 9 SCC 368.



21) Exercise of jurisdiction under Sections 227 & 228 of Cr.P.C.

On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:-

i) The Judge while considering the question of framing the charges under Section 227 of the 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. 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 Section 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 discloses 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.



18. This position was more recently confirmed in ***State of Gujarat v. Dilipsinh Kishorsinh Rao***⁴. The Supreme Court held that, at the discharge stage, a trial judge does not need to weigh the defence of the accused in detail. The Court's task is limited to checking whether the prosecution's own material, taken at face value, is enough to raise a suspicion that justifies a trial. The Court also confirmed that the "probative value" of the material, that is, how strong or convincing it would be at a full trial, is not something the judge needs to assess at this stage. Relevant paragraph no. 7 and 12 is reproduced as under:-

"7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

....

12. 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. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held 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 is also held at the stage of framing of charge, the court has to form a presumptive

⁴ (2023) 17 SCC 688.



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.”

19. Taken together, these decisions leave no room for doubt about the task before the Special Judge. His enquiry was confined to the material the CBI itself had placed on record. He had to ask only whether that material disclosed grave suspicion against the respondents, not whether it was strong enough to convict them. Once he had answered that narrower question, his enquiry was at an end.

20. An accused person does not, as a rule, have the right to produce his own evidence at the discharge stage. This was held in ***State of Orissa v. Debendra Nath Padhi***⁵. The court, at this stage, is only meant to test whether the prosecution’s own material is sufficient. There is a limited exception to this rule. In ***Rukmini Narvekar v. Vijaya Satardekar***⁶, the Supreme Court held that a court may look at material “of sterling quality” if it bears directly on the charge and is official or public in character, so that it does not need formal proof.

21. This Court in ***Vijay Partap Singh v. State (Govt. of NCT of Delhi) & Anr.***⁷ while dealing with the issue of how this Court should approach a revision against a discharge order, held that:-

“16) The scope of interference by High Courts while exercising revisional jurisdiction in a challenge to order framing charge/discharge is well settled. The power ought to be exercised sparingly, in the interest of justice. It is not open to the Court to misconstrue the revisional proceedings as an appeal and reappraise the evidence unless any glaring perversity is brought to its notice”.

⁵ (2005) 1 SCC 568.

⁶ (2008) 14 SCC 1.

⁷ CRL.REV.P. 1105/2023, decided on 24.11.2025.



22. This restraint is not new to **Vijay Partap Singh** (supra). It goes back at least to **Krishnan v. Krishnaveni**⁸, where the Supreme Court cautioned that the revisional power, though wide, “*must be exercised sparingly and cautiously*,” and that its purpose is to prevent needless multiplicity of proceedings and unnecessary delay in trial, not to give a dissatisfied party a second opportunity to argue its case on facts.

23. The same caution has now been expressed by the Supreme Court itself, in the specific context of the State challenging a discharge in revision. In **State v. G. Easwaran**⁹, a discharge application had been dismissed by a trial court, and that dismissal was upheld in revision. The same High Court then entertained a petition under Section 482 Cr.P.C., which was set aside by Supreme Court holding that:-

“It is clear that the High Court jumped to the probable conclusion of trial by not appreciating the limited scope of Section 482 Cr.P.C. Instead of determining ‘whether or not there is sufficient ground for proceeding against the accused’ based on the material, it asked the wrong question as to, ‘whether that would warrant a conviction’.”

24. A court examining a discharge in revision is not deciding whether it would convict the accused on this material. It is deciding only whether the material discloses enough to justify a trial at all. Asking the first question, when only the second question is open to the court, is itself the error. The Supreme Court went a step further in **Sudershan Singh Wazir v. State (NCT of Delhi)**¹⁰. That case concerned a High Court’s power to stay a discharge order while a revision against it was pending. In explaining why such a stay

⁸ (1997) 4 SCC 241.

⁹ 2025 INSC 397.

¹⁰ 2025 INSC 281.



should rarely be granted, the Supreme Court described what a discharge order actually does to a person's legal status and held that:-

“When a discharge order is passed, the person discharged ceases to be an accused. The position of a discharged accused is on a higher pedestal than that of an accused who is acquitted after a full trial... It is only in rare and exceptional cases where the order of discharge is ex-facie perverse that the revisional Court can take the extreme step of [interfering with] that order.”

25. This means a discharged person is not simply someone who has won an early round in a long fight. In the eyes of the law, he has stopped being an accused altogether, because the record was found insufficient even to put him on trial. Undoing that finding is therefore a serious step, not a routine one. That is why the Supreme Court has said such interference should be confined to orders that are “*ex-facie perverse*”, that is, wrong on the face of the record, without needing any deeper inquiry to see it.

26. Taking **Vijay Partap Singh, Krishnan v. Krishnaveni, Easwaran, and Sudershan Singh Wazir** (supra) together, the standard for this Court is clear. It is not enough for the CBI to show that the material could support a different view. The CBI must show that the discharge order suffers from a glaring error, or rests on no material at all, or is otherwise so plainly wrong that no judge applying the correct test could have passed it.

27. Measured against this standard, neither of the CBI's two submissions gets it anywhere close to a ground for interference. A sanction order authorises the prosecution to proceed against a public servant. It does not, and cannot, take the place of the evidence that the chargesheet itself must show. Even if the sanctioning authority believed, at the time of granting sanction, that a case existed, that belief cannot substitute for actual material



connecting the respondents to the fraud. The absence of a departmental exoneration is equally beside the point, it shows only that no one has cleared the respondents, not that anyone has found evidence against them.

28. The CBI's reliance on **Krishna Mohan Reddy** (supra) does not help its case, and this is so for two separate reasons. First, that decision does not expand what a court may look at; it restricts it. It holds only that a co-accused's Section 161 statement cannot be used against another accused at the bail stage. PW-2 and PW-4 are witnesses, not co-accused persons, so that decision has nothing to say about their statements at all.

29. Second, and more importantly, the impugned order itself shows that the Special Judge did consider the statements of PW-2 and PW-4. He examined them while deciding whether Form-9 verification remained relevant, and whose duty it was to carry it out. What the CBI is really arguing is that a different conclusion should have been drawn from the same statements. That is exactly the kind of argument **Easwaran** (supra), and, before it, **Vijay Partap Singh** (supra), say is not open to a court sitting in revision.

30. What remains, then, is the actual reasoning of the impugned order, and that reasoning holds up on its own terms. The chargesheet's theory is that the respondents should have checked 13 claims against the Form-9 register. But the EPFO's own circular, issued on 18.09.2017, had already told its officials to stop using that very register. It is not fair, and it is not logical, to blame an official for not following a procedure that his own department had withdrawn before the claims in question were even processed.

31. Nothing on the record fills this gap. None of this shows that the



respondents knew about the fraud, benefited from it, or had any connection with Uday Singh or Dewendra Chaudhary. Suspicion that arises only because someone worked in the organisation that was defrauded is not the same as suspicion of wrongdoing by that person. This gap in the evidence, and not any mistake by the Special Judge, is why the impugned order does not come close to being “*ex-facie perverse*.”

32. For these reasons, this Court finds no patent illegality, no jurisdictional error, and no perversity in the impugned order dated 18.03.2026. There is accordingly no ground to interfere with it under Section 442 BNSS (corresponding to Section 401 Cr.P.C.).

33. The revision petition, along with the pending application, is dismissed.

34. It is clarified that nothing said in this order expresses any opinion on the pending trial of accused nos. 1 to 19. That trial will continue on its own merits, without being influenced by anything said here.

PURUSHAINDRA KUMAR KAURAV, J

JULY 17, 2026

Aks/nk