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

+ CRL.M.C. 2282/2025, CRL.M.A. 10255/2025 & CRL.M.A. 15756/2025

MOHIT JUNEJA

.....Petitioner

Through: Mr. Puneet Jaiswal and Mr. Sandeep Sehrawat, Advs.

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Satish Kumar, APP for State.
Mrs. Prem Lata Bansal, Sr. Adv. with Mr. Shivang Bansal, Adv. for R-2.

+ CRL.M.C. 2289/2025, CRL.M.A. 10337/2025 & CRL.M.A. 15649/2025

MOHIT JUNEJA

.....Petitioner

Through: Mr. Puneet Jaiswal and Mr. Sandeep Sehrawat, Advs.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Satish Kumar, APP for State.
Mrs. Prem Lata Bansal, Sr. Adv. with Mr. Shivang Bansal, Adv. for R-2.

+ CRL.M.C. 1777/2025, CRL.M.A. 8016/2025 & CRL.M.A. 15651/2025

MOHIT JUNEJA

.....Petitioner

Through: Mr. Puneet Jaiswal and Mr. Sandeep Sehrawat, Advs.

versus



STATE GOVT. OF NCT OF DELHI AND ANR.Respondents
Through: Mr. Satish Kumar, APP for State.
Mrs. Prem Lata Bansal, Sr. Adv. with Mr. Shivang
Bansal, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER
11.11.2025

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1. The petitioner has assailed the order dated 30.01.2025, whereby notice was issued to the petitioner under the first proviso to Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with a complaint filed under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act'), wherein the petitioner has been arrayed as accused no. 6.

2. The impugned order reads as under:

“Matter is at the stage of consideration on present complaint.
Ld. Counsel for the complainant submits that case was filed on 20.12.2024. Since date of filing is on or after 01.07.2024, the present case shall be considered under Bharatiya Nagarik Suraksha Sanhita, 2023.

Section 233 First Proviso BNSS, 2023 provides that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard.

Let court notice be issued to proposed accused **at all the addresses** for NDOH, on filing of PF/RC/speed post, within two weeks,
Put up for consideration on **22.03.2025.**”

3. Learned counsel for both the parties are *ad idem* that the impugned order dated 30.01.2025 is liable to be set aside in view of the judgment of the Hon'ble Supreme Court in *Sanjabij Tari v. Kishore S. Borcar & Anr. (Crl.A. 1755/2010)*, wherein it was held that as proceedings under the NI Act arise from a special enactment, the Magistrate is not required to issue summons prior to taking cognizance. The relevant portion of the said judgment is reproduced hereinbelow:



“E. Recently, the High Court of Karnataka in **Ashok Vs. Fayaz Aahmad, 2025 SCC OnLine Kar490** has taken the view that since NI Act is a special enactment, there is no need for the Magistrate to issue summons to the accused before taking cognizance (under Section 223 of BNSS) of complaints filed under Section 138 of NI Act. This Court is in agreement with the view taken by the High Court of Karnataka. Consequently, this Court directs that there shall be no requirement to issue summons to the accused in terms of Section 223 of BNSS i.e., at the pre-cognizance stage.”

4. A Coordinate Bench of this Court in Crl.M.C.2202/2025 titled as **Neeti Sharma vs. Saranjit Singh** decided on 02.04.2025, has reiterated the aforesaid legal position while examining the applicability of the provisions of the BNSS to complaints under the NI Act. The Court observed as under:

“21. Therefore, in cases under Section 138 of the NI Act, the Magistrate is not bound to examine the complainant and witnesses on oath before issuing notice under the first proviso to Section 223(1) of the BNSS. The requirement of a pre-cognizance hearing now statutorily introduced under the BNSS is a distinct and additional procedural step, but it does not alter the established position that, for offences under the NI Act, reliance on affidavits and documentary material suffices for taking cognizance. In this light, the Petitioner’s contention, that the Magistrate erred in issuing notice under Section 223 without first examining the complainant and witnesses on oath, does not merit acceptance. The challenge to the Impugned notice is, therefore, misconceived and without legal basis.”

5. In view of the foregoing, the impugned order dated 30.01.2025 is set aside. The petitions stand allowed and disposed of, along with pending application(s), if any.

6. Needless to state, this order shall in no manner have any bearing on the merits of the case before the learned Trial Court.

AJAY DIGPAUL, J

NOVEMBER 11, 2025/AS/dd