IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY SUBORDINATE COURT) NO. 3105 of 2026

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ADILKHAN SALIMKHAN BELIM
Versus
STATE OF GUJARAT

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Appearance:
MR. FAIZAN I SAMA(22021) for the Applicant(s) No. 1
MR. ROHAN RAVAL, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE R. T. VACHHANI**

Date : 28/10/2026
ORAL ORDER

Draft amendment stands allowed.

1. By way of this revision application under Section 438 read with Section 442 of the BNSS, 2023, the applicant has prayed to quash and set aside the order dated 04.08.2026 passed by the learned Sessions Judge, Valsad, below Exhibit-6 in Sessions Case No. 8 of 2026, rejecting the discharge application preferred by the applicant under Section 227 of the Code of Criminal Procedure, 1973, and has further prayed to discharge the applicant from the offence punishable under Section 304 of the IPC in connection with FIR No.11200019220956/2022, registered at Dungri Police Station, District Valsad, dated 13.07.2022.

2. Being aggrieved and dissatisfied with the order passed by the learned Sessions Judge, Valsad, in Sessions Case No. 8 of 2026, below Exhibit 6, wherein the application moved by the present applicant, invoking the provisions of Section 227 of the

Code of Criminal Procedure, corresponding to Section 250 of the BNSS, 2023, was rejected, the applicant has sought discharge from the array of accused in connection with FIR No. 11200019220956/ 2022 registered at Dungri Police Station, District Valsad, dated 13.07.2022.

3. Learned advocate for the applicant submitted that the FIR, the statements and allegations contained therein, and the material collected during the course of the investigation does not disclose the ingredients of the offence punishable under Section 304 of the IPC. It is further submitted that there was no intention on the part of the applicant in the incident in question and, therefore, the invocation of the provisions of Section 304 of the IPC is nothing but a mere assertion without any substance. It is further submitted that there was no enmity between the parties in connection with the present accusations and, therefore, the invocation of Section 304 of the IPC is nothing but a mere addition to establish the gravity and severity of the offence in question. Concluding his submissions, the learned advocate submitted that, at the most, the offence under Section 304A of the IPC can be said to have been made out.

4. *Per contra*, the learned APP, Mr. Rohan Raval, submitted and defended the impugned order, contending that the same had been passed after duly considering all the contentions raised by the applicant herein, which were based solely on assumptions and presumptions and were in the nature of a defence. He further submitted that the defence of the accused cannot be considered while dealing with an application seeking discharge

from the array of accused. He further submitted that, even upon considering the statements and allegations, as well as the panchnama drawn at the scene of the offence and the other material placed for consideration, there appears to be ample material to frame charges against the accused for the alleged offence. He further submitted that it is a case of sheer rashness and negligence, wherein the present applicant is alleged to have hit the motorcycle from behind, resulting in the deaths of three persons. Therefore, he submitted that there appears to be sufficient material to frame the charges and requested that the application be rejected.

5. Having heard the learned advocates for the parties and considered the conclusion arrived at by the learned Sessions Judge, this Court is required to consider and confine its reasoning to the invocation of the provisions of Section 227 of the Code of Criminal Procedure, which pertain to the discharge of the accused from the array of accused in respect of the statements and allegations made against them.

6. It is required to be placed on record that, while exercising jurisdiction and dealing with an application seeking discharge of the accused from the array of accused, only the material placed for consideration by the prosecution is to be looked into, and no defence is to be considered. Thus, the entire burden, even otherwise, lies on the applicant to seek and pray for discharge from the array of accused.

7. However, the learned advocate for the applicant is not in a

position to point out any such material, either from the charge-sheet or from the police investigation papers, that would constrain this Court to consider the request for discharge. On the contrary, the material collected by the Investigating Officer during the course of the investigation, which culminated in the submission of the charge-sheet and the registration of the case, apparently discloses sufficient material and grounds to proceed against the accused. It is pertinent to note, at this stage, the relevant portions of the reasoning assigned by the learned Sessions Judge while relying on the decision of the Hon'ble Apex Court with regard to the weight to be attached to the material on record and the circumstances under which the parameters for invoking the provisions of Section 227 are to be considered. At the stage of discharge, the Court is not required to weigh the evidence as if it were conducting a trial. The Hon'ble Supreme Court in **State of Bihar v. Ramesh Singh, (1977) 4 SCC 39, Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4, Sajjan Kumar v. CBI, (2010) 9 SCC 368** and **Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460** has consistently held that where the material placed before the Court gives rise to a strong suspicion regarding the involvement of the accused, the Court would be justified in framing charge. At the stage of discharge, the Court is not required to weigh the evidence as if it were conducting the trial.

8. Thus, in view of the aforesaid, having considered the sum and substance of the relevant propositions laid down in the aforesaid decided cases, the facts of the case at hand, and the submissions advanced by the learned advocate for the applicant,

as opposed by the learned APP, this Court is of the view that there appears to be sufficient material, at least to give rise to a strong suspicion regarding the involvement of the accused, and, therefore, there is proper justification, at least, for framing the charges. It is also pertinent to note that, while dealing with the issue of whether the applicant should be discharged from the array of accused, the Court is not required to weigh the evidence as if it were conducting a trial.

9. Thus, the submission advanced by the learned advocate for the applicant that there was no intention or knowledge on the part of the applicant while committing the alleged crime cannot be considered at this stage. There is no case of the prosecution, as urged, that the incident was intentional, rather, it is a case of rashness and negligence. Even otherwise, these allegations are required to be appreciated judicially by leading ocular evidence, during which the applicant would also have an opportunity to cross-examine the witnesses and put forth his own case.

10. The contention that Section 304 of the Indian Penal Code is not attracted and that the case would fall only under Section 304A IPC also cannot be accepted at this stage. The question whether the material collected during investigation discloses merely rash and negligent driving punishable under Section 304A IPC or whether it also discloses the requisite knowledge so as to attract Section 304 IPC is essentially a matter to be decided after the parties lead evidence during trial. At this stage, the Court is only required to ascertain whether there exists sufficient material to proceed against the accused. A detailed examination

of the ingredients of the offence and appreciation of evidence is beyond the permissible scope of an application under Section 227 of the Code.

11. More so, while dealing with the application filed under Section 227 and 239 of the Code which pertains to discharge, the scope to exercise such jurisdiction is very limited; wherein the Court has only to confine its reasoning in consonance with the material placed for consideration as to find out whether the case for trial has been made or not in such proceedings and the Court is not expected to hold a mini trial by evaluating the entire set of evidence. At the time of framing of the charge, the Court has only to consider the probative value of the evidence on record and is not expected to go into the merits of the case rather roots of the case while evaluating the same.

12. In context to the aforesaid legal aspect, the detailed application amalgamated in the number of contentions while weighing the value of the evidence on record; with the plausible defence set for by the applicant by way of filing the application, which runs in number of pages is a self- explanatory of the fact that the entire case requires to be appreciated judiciously; instead of expecting from the Court to conduct the mini trial, at the stage of deciding the application seeking discharge from the array of the accused, which otherwise is not permissible under the law as there are catena of decisions which restrains the Court to adhere to the very purpose and object behind provisions of Section 239 of the Code.

13. Thus, the Hon'ble Apex Court has held that the obligation

to discharge the accused under Section 239 of the Code arises when the Court concerned considers the charge against accused to be "groundless" and no detailed evaluation of materials or meticulous consideration of possible defences need be undertaken at this stage nor any exercise of weighing materials in golden scales is to be undertaken at this stage and only consideration at the stage of filing application seeking discharge under Section 239 of the Code is as to whether the allegation/charge is “groundless” or not and exercise at this stage is to be confined to considering police report and documents to decide whether allegations against accused can be said to be groundless. Here, In the present case, considering the police report in the form of charge-sheet, it pirma facie reveals that no such material is found to be “groundless” to discharge the petitioner from the alleged offence. Nothing sort of any material seems to have been shown by the petitioner – accused from material to show “groundless” charge alleged against him.

14. It is pertinent to note that very purpose and object of discharge as enumerated in provisions of Section 239 of the Code wherein the “mini trial” at the stage of framing of charge is not permissible; nor the Court is expected to go into the merits of the case. The Court is only to confined as to whether a prima facie case is made out or not. As the word enumerated “groundless” requires a careful and objective consideration of the question whether a charge against the accused is “groundless” or whether there is a ground for presuming that he has committed an offence. Thus, the sum and substance of the word “groundless” means there must be no grounds for presuming

that the accused has committed an offence. However, by invoking the provisions of Section 239 of the Code, pertains to discharge, which otherwise may very from case to case, is being used as an instrument rather a shield to stall the smooth proceedings of the trial and thereby to create an obstructions so that the trial could not met with its legitimate fate in time, which is not permissible in the eye of law.

15. Thus, in view of the aforesaid law laid down by the Hon'ble Apex Court, the Court is required to see as to whether a prima facie case is made out or not and whether the accused is required to be put to trial or not at the stage of framing of the charge and / or while deciding discharge application and it is not permissible to hold a "mini trial". No defence on merits is to be considered at the time of framing the charge and / or at the stage of deciding the discharge application.

16. Insofar as the scope to exercise the revisional power is concerned, it cannot be exercised in a routine or casual manner as the High Court has no authority to appreciate the evidence by holding a "mini trial" as has been held by the Hon'ble Apex Court in State Through Deputy Superintendent Of Police (supra) where the Hon'ble Apex Court after considering the decision in case of **Munna Devi v. State of Rajasthan & Anr.**, **(2001) 9 SCC 631** has held in paragraph No.75 and 76 as under:

> *"75. In Munna Devi v. State of Rajasthan & Anr., (2001) 9 SCC 631,this Court held as under:-*
> *"3.....The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised*

> *only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."*
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> *76. Thus, the revisional power cannot be exercised in a casual or mechanical manner. It can only be exercised to correct manifest error of law or procedure which would occasion injustice, if it is not corrected. The revisional power cannot be equated with appellate power. A revisional court cannot undertake meticulous examination of the material on record as it is undertaken by the trial court or the appellate court. This power can only be exercised if there is any legal bar to the continuance of the proceedings or if the facts as stated in the charge- sheet are taken to be true on their face value and accepted in their entirety do not constitute the offence for which the accused has been charged. It is conferred to check grave error of law or procedure."*

17. The learned Court below has succinctly dealt with all the aspect as agitated by the petitioner-accused while refusing the discharge application considering the factual as well as the legal position and this Court is in complete agreement with the said findings arrived at by the learned Court below denying the discharge application.

18. For the foregoing reasons and the reasons recorded by the learned Court below, therefore, sum and substance is that defence raised herein seeking discharge, as discussed in preceding paragraphs cannot be looked upon and in view of the aforesaid, the present Revision Application stands dismissed.

(R. T. VACHHANI, J)

CDP

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHIRAG DESHRAJ PAL(HCD0072), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 02/11/2026 15:18:48