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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO. 129 OF 2026**

Mohammad Ahsan Mohammad

Safaat Khan

V/s.

... Petitioner

Union Of India And Ors.

... Respondents

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Mr. Gopal Singh H. Rajpurohit, Advocate for the Petitioner.

Mr. Sukanta Karmakar, APP for Respondent – State.

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**CORAM : ASHWIN D. BHOBE, J.**

**DATE : 19<sup>th</sup> JANUARY, 2026.**

**P.C. :**

1. Heard Mr. Gopal Singh H. Rajpurohit, Advocate for the Petitioner and Mr. Sukanta Karmakar, APP for Respondent – State.

2. By this Petition filed under Article 226 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the Petitioner assails the Prosecution Report bearing No.119/SW-2019; the Order taking cognizance dated 04.11.2019; the consequential recording of plea and charge

dated 04.01.2025 in proceedings bearing C.C. No. 119 -/SW/2019.

3. Material facts relevant for adjudication of this Petition are that Respondent No. 3 filed complaint (Prosecution Report) against the Petitioner alleging the Petitioner of carrying on unauthorized business of procuring and supplying Railway tickets. In short, case of the prosecution was that different User IDs were used by the Petitioner for booking e-tickets of Railway, all of which were linked to the same mobile number. Said activity / business of booking e-tickets through the IRCTC website for sale of the same to the general public, as conducted by the Petitioner was without any authority. Petitioner was charged of the offence punishable under Section 143 of the Railways Act, 1989.

4. Court of the Metropolitan Magistrate, 36<sup>th</sup> Court, Mumbai Central, Mumbai ("Magistrate"), took cognizance of the complaint on 04.11.2019 and registered the same as C.C. No.119/SW/2019.

5. On 04.01.2025, charge was ordered to be framed

against the Petitioner. Order passed below Exh- 01 on the file of C.C. No.119/SW/2019 reads as under:-

ORDER BELOW EXH-01

*“This is inquiry for the offence P U.S. 143 of Railways Act. Before framing charge prosecution adduced evidence of (PW.1) Jayprakash Meena. I have gone through the evidence of the said witness. He deposes as per the case of the prosecution and thus supports to the case of the prosecution. I have also gone through documents filed on record. There are sufficient material to disclose a prima-facie case against accused. If the said evidence remains un-rebutted, it would warrant conviction. Hence, I am of the opinion that there is sufficient ground for presuming that accused has committed offence P.U.S. 143 of the Act. Hence, charge be framed against the accused for above said offence.”*

6. On 04.01.2025, plea of the Petitioner was recorded and charge under Section 143 of the Railways Act, 1989 was framed.

7. Mr. Gopal Singh Rajpurohit, learned Advocate for the Petitioner, has canvassed the following arguments :- *firstly*, that the provisions of Section 143 of the Railways Act, 1989 are not attracted in the present case, as the Petitioner is an authorized agent of IRCTC, thus entitled to procure and supply railway tickets to general public. Reliance is placed on the decisions of the

Hon'ble Supreme Court in the case of *Inspector, Railway Protection Force, Kottayam vs. Mathew K Cherian & Anr. (and Connected Case)*<sup>1</sup>; *secondly*, the Respondent No. 3 does not have territorial jurisdiction to initiate proceedings under Section 143 of the Railways Act, 1989. He relies on the decision of the High Court of Judicature at Patna in the case of *Puja Travels Hotel Paradise Basement vs. The Union of India*<sup>2</sup>; and *thirdly* that the Petitioner has documents in his possession to prove his innocence. He refers to the documents marked as Exhibit-B (at page Nos. 164 and 165 of the petition paper book). He submits that though the said two documents do not form a part of the charge- sheet, Petitioner can rely on said documents before this Court in the present proceeding filed under Section 528 of the BNSS and under Article 226 of the Constitution of India. He relies on the decision of the Hon'ble Supreme Court in the case of *Mukesh & Ors. vs. The State of Uttar Pradesh & Ors.*<sup>3</sup>.

8. Mr. Sukanta Karmakar, APP for Respondent submits

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<sup>1</sup>. (2025) 4 SCC 245.

<sup>2</sup>. 2024 SCC OnLine Pat 716.

<sup>3</sup>. SLP (CRL) NO. 12354 of 2024.

that the business of procurement and sale of tickets carried on by the Petitioner is unauthorized as such offence under Section 143 of the Railways Act, 1989 is made out against the Petitioner. He submits that documents marked as Exhibit-B produced before this Court for the first time, on the face of it are doubtful and apparently documents fabricated by the Petitioner as an after thought, as such cannot be looked into. He raises serious questions with reference to the signatory and the authority of an Executive/IT to issue the purported certificates.

9. Perused the records with the assistance of the learned Advocates.

10. Section 143 of the Railways Act, 1989 reads as follows :-

*143. Penalty for unauthorized carrying on of business of procuring and supplying of railway ticket-*

*(1) if any person, not being a railway servant or an agent authorised in this behalf,-*

*(a) carries on the business of procuring and supplying tickets for travel on a railway or from reserved accommodation for journey in a train; or*

*(b) purchases or sells or attempts to purchase or sell tickets with a view to carrying on any such business either by himself or by any other person, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees, o Section 143 of the Railways Act, 1989 reads as follows :-*

*Provided that in the absence of special and adequate reasons to the contrary to be mentioned in judgment of the court, such punishment shall not be less than imprisonment for a term-of one month or a fine of five thousand rupees.*

*(2) Whoever abets any offence punishable under this section shall, whether or not such offence is committed, be punishable with the same punishment as is provided for the offence.*

(emphasis supplied).

11. Entire thrust of the arguments canvassed by Mr. Gopal Singh Rajpurohit, is that the Petitioner is an authorized agent of IRCTC, thus entitled to procure and supply railway tickets to general public. Said contention is premised on the documents marked as Exhibit-B, referred and relied for the first time in this Petition. Mr. Gopal Singh Rajpurohit insisted for consideration of the said two documents. Said two documents are extracted herein below:-

(Document at page No. 164)

इंडियन रेलवे कैंटरिंग एंड टूरिज्म कोरपोरेशन लिमिटेड  
(भारत सरकार का उद्यम)  
INDIAN RAILWAY CATERING AND TOURISM CORPORATION LTD.  
(A Govt. of India Enterprise)

Dtd-13.03.2010

**“TO WHOM SO EVER IT MAY CONCERN**

This is to certify that M/s ARZOO TOURS & TRAVELS, ITZ CASH CARD member (itzc14315) at KAMLA RAMAN NAGAR, GHATKOPAR MANKHURD LINK ROAD BAIGANWADI GOVANDI, MUMBAI - 400043, (MAHARASHTRA) is hereby authorized to book E-Tickets thro' IRCTC website [www.irctc.co.in](http://www.irctc.co.in) for the general public.

Sd/-  
N. K. Dubey  
(Executive/IT)

पंजीकृत एव कोरपोरेट कार्यालय: 9 वी मंजिल, बैंक ऑफ बड़ोदा भवन, 16, संसद मार्ग, नई दिल्ली-110001 - दूर भाष: 23311263 44168 (रेलवे), फैक्स 23311259

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Regd. & Corp. Office : 9<sup>th</sup> Floor, Bank of Baroda Bldg, 16, Parliament Street, New Delhi – 11001. Tel. 23311263, 44168 (Rly). Fax : 23311259  
IT Deptt. - Internet Ticketing Centre, IRCA Building, State Entry Road, New Delhi – 110055 Tel-23345804, 23345805 Fax - 23741117

(Document at page No. 165)

Date: 05<sup>th</sup> Dec, 2025

EBIXCASH

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Aehsaan Khan having Agent ID D000017802 conducting business in the name of ARZOO TOURS AND TRAVELS GOVANDI IBP having address at Kamla raman nagar, Ghatkopar, mankhurd link road, Baiganwadi Govandi Maharashtra Mumbai 400043 has been our ICW since May, 2013 and continuing the Business till date.

Sd/-  
Authorized Signatory”

Interactive Financial & Trading Services Private Limited

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5<sup>th</sup> Floor, Mane K Plaza, Kalina, CST Road Kole Kalyan, Santacruz (East) – 400098

Tel : + 91-22-6112 5656 Website ebixcash.com Email :  
hello@ebicash.com

12. The Hon’ble Supreme Court in the case of *Mukesh & Ors. (supra)* in Paragraph No. 8 has held as under :-

*“8. It is true that the appellants can apply for discharge. However, the scope of application for discharge is completely different from the scope of a petition for quashing the criminal proceedings. While arguing a case for discharge, the appellants will not be in a position to rely upon any document which is not the part of charge sheet. The ground of abuse of process of law will not be available while arguing discharge application. However, in a petition for quashing either under Section 482 of the Code of Criminal Procedure, 1973 or under Article 226 of the Constitution of India, a wider challenge is available*

*including a challenge on the ground of abuse of process of law. In such proceedings, the accused can rely upon documents which are not the part of the charge-sheet. Therefore, we reject the submission made by learned counsel appearing for the State. Though the submissions made on behalf of the State have no basis, we have dealt with the same elaborately to ensure that the same are not urged in a similar case.*

13. Useful reference can be made to the pronouncement of the Hon'ble Supreme Court in the case of **Rajiv Thapar & ors v. Madan Lal Kapoor**<sup>4</sup> paragraph nos. 28 to 30 has observed as under:-

*"28. The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same. The converse is, however, not true, because even if trial is proceeded with, the accused is not subjected to any irreparable consequences. The accused would still be in a position to succeed by establishing his defences by producing evidence in accordance with law. There is an endless list of judgments rendered by this Court declaring the legal position that in a case where the prosecution/complainant has levelled allegations bringing out all ingredients of the charge(s) levelled, and have placed material before the Court, prima facie evidencing the truthfulness of the allegations levelled, trial must be held.*

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<sup>4</sup>. 2013 (3) SCC 330

29. *The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.*

30. *Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:*

30.1. *Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?*

30.2. *Step two: whether the material relied upon by the*

*accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*

*30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?*

*30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*

*30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused.”*

14. Afore-referred two documents (Exhibit-B at page nos. 164 and 165) are in the nature of Certificate. Details pertaining to the terms and conditions of procuring and supply of railway tickets, mode of payment, etc. are missing in the said documents. Said document do not create a principal – agent relationship between the Petitioner and IRCTC. Pertinently, document (at page 164) does not have any reference or outward number. Document (at page 164) is on a letterhead of *EBIXCASH*, again without any reference or outward number or even the name of the Authorized

Signatory. Mr. Sukanta Karmakar learned APP disputes the genuineness and veracity of the said two documents. Prima facie, said two documents relied by the Petitioner do not satisfy the test of the same being of sterling or impeccable quality. Said two documents are not sufficient to rule out or to displace the assertions contained in the charges leveled against the Petitioner.

15. In the case *Inspector, Railway Protection Force, Kottayam (supra)*, the Petitioners therein were authorized agents, who were alleged to be involved in creating multiple personal user IDs and issuing e-tickets procured through IRCTC website contrary to IRCTC rules. In the said context the Hon'ble Supreme Court in paragraph Nos. 38, 39 and 40 observed as under :-

*“38. In the connected appeals, Ramesh was an authorised agent of the Railways carrying on the business of procurement and supply of railway tickets. Section 143 only deals with the actions of unauthorised persons and does not mandate a procedure to be followed by the authorised agents for procuring or supplying tickets to its customers. The nature of allegations against Ramesh in the connected appeal, though serious, Section 143 would not be attracted insofar as he is concerned.*

*39. That apart, Section 143 does not criminalise creating multiple user IDs. Penal provisions have to be read strictly and narrowly as a general rule. Section 143, by being completely silent on creation of multiple user IDs, penalises the actions of only the unauthorised agents and not unauthorised actions of the authorised agents. Thus, even if the facts disclosed in the first information report are taken at face value, commission of an offence cannot be attributed to Ramesh. Any breach has to be*

*remedied by civil action and not criminal action.*

*40. To sum up, Mathew not being an authorised agent has to face the proceedings against him while Ramesh, being an authorised agent, cannot be proceeded against under Section 143 of the Act for alleged breach of any of the terms and conditions of the contract. If, at all, he would be liable to face civil action.”*

16. Records of the case in hand prima facie, do not indicate the Petitioner having authority from IRCTC to carrying on of business of procuring and supplying of railway ticket or the Petitioner being an authorized agent of IRCTC. Decision in the case of *Inspector, Railway Protection Force, Kottayam (supra)* would assist the case of the Respondent No. 1.

17. *Puja Travels Hotel Paradise Basement (supra)* before the High Court of Patna, was a case where the Petitioners therein were authorized rail e-tickets agents of IRCTC, working as Retail Service Providers by booking authorized railway e-tickets and manual tickets. In the said factual matrix the High Court of Patna examined the issue of “passenger area” contained in the Railway Act and the Railway Protection Act. Said decision does not assist the Petitioners.

18. The Hon'ble Supreme Court in the case of **Saranya vs. Bharathi and Anr.**<sup>5</sup> in paragraph No. 11 has held as under:-

“11. In *Deepak* [*State of M.P. v. Deepak*, (2019) 13 SCC 62 : (2019) 4 SCC (Cri) 521] , to which one of us (Dr D.Y. Chandrachud, J.) is the author, after considering the other binding decisions of this Court on the point, namely, *Amit Kapoor v. Ramesh Chander* [*Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986] , *State of Rajasthan v. Fatehkaran Mehdu* [*State of Rajasthan v. Fatehkaran Mehdu*, (2017) 3 SCC 198 : (2017) 2 SCC (Cri) 40 : (2017) 1 SCC (L&S) 545] , and *Chitresh Kumar Chopra v. State (NCT of Delhi)* [*Chitresh Kumar Chopra v. State (NCT of Delhi)*, (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] , it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “*presuming*” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused charge sheeted or against whom the charge is framed is likely to be convicted or not.”

19. Allegations and the material on record raises strong suspicious circumstances against the Petitioner for framing charge. Ingredients constituting the offence under Section 143 of the Railways Act, 1989 are made out against the Petitioner.

20. The Magistrate on the basis of records placed before

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<sup>5</sup>. 2021 (8) SCC 583.

him, concluded that there is sufficient material to disclose a prima-facie case to proceed against Petitioner. I do not find any infirmity or perversity in the Order taking cognizance dated 04.11.2019 passed by the Magistrate below Exh- 01 in proceedings bearing C.C. No.119/SW/2019. No case of interference is made out in this Petition.

21. In view of the above, Writ Petition is dismissed.

22. There shall be no order as to costs.

**(ASHWIN D. BHOBE, J.)**