



CRM-M-13729-2026 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(142)****CRM-M-13729-2026 (O&M)****Date of decision: 05.05.2026****PRASHANT KISHORE MEHTA****...Petitioner****V/S****PARAM BIR SINGH****...Respondent****CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA**

Present: Mr. Amit Jhanjhi, Senior Advocate with
Mr. Ankur Saigal, Advocate
Mr. Nilesh Bhardwaj, Advocate with
Mr. Shashank Sharma, Advocate
Mr. Shrenik Jain, Advocate
Mr. Dushyant Singh, Advocate
Mr. Ameet Naik, Advocate, (Through VC)
Ms. Madhu Gadodia, Advocate (Through VC)
Mr. Vivek Dwivedi, Advocate (Through VC)
Mr. Tarun Mehta, Advocate (Through VC)
for the petitioner.

Mr. Gautam Dutt, Senior Advocate with
Ms. Prachi Gupta, Advocate and
Mr. Arjun S. Rai, Advocate
for the respondent.

SUBHAS MEHLA, J. (ORAL)

1. The present petition has been filed under Section 528 of BNSS for quashing of criminal complaint no. COMI-99-2026 titled as '*Paramvir Singh Vs. Prashant Kishor Mehta*' and all subsequent proceedings arising therefrom, in particular summoning order dated 05.03.2026 (*wrongly mentioned as 06.03.2026 in the petition*), passed by Judicial Magistrate First Class, Faridabad.



CRM-M-13729-2026 (O&M)

2. Learned senior counsel for the petitioner has placed on record a copy of impugned order dated 05.03.2026 which is taken on record, subject to all just exceptions.

3. On the last date of hearing i.e. on 12.03.2026, the following order was passed by this Court which reads as under:

“Learned counsel for the petitioner contended that in the present petition, the complainant is a resident of Mumbai & the incident pertains to Mumbai, even the proposed accused is also from Mumbai; however, the present complaint was filed before the learned Judicial Magistrate, Faridabad and no jurisdiction lies at Faridabad. It is further contended that there is non-compliance of Sections 223 and 225 of BNSS, and the order dated 05.03.2026 passed by the trial Court whereby the petitioner has been summoned to appear before the trial Court on 13.03.2026, has not been uploaded yet on the Case Information System (CIS) and as such, prayed for stay of operation of impugned order i.e. 05.03.3036 as the said order is not available.

Notice of motion.

Mr. Gautam Dutt, Senior Advocate assisted by Ms. Rubina Virmani, Advocate has put in appearance and accepts notice on behalf of respondent and submitted that summons have been issued at pre-cognizance stage under Section 223 of BNSS which allows the petitioner to either appear himself or through a counsel.

*Adjourned to **01.04.2026** so as to enable learned counsel for the petitioner to place on record the copy of impugned order dated 05.03.2026, which has not been uploaded so far.*

In the meantime, the trial Court is directed to adjourn the hearing of the case beyond the date fixed by this Court.”

4. The impugned summoning order dated 05.03.2025, which is placed on record today, reads as under:

“One witness namely Sh. Parambir Singh is present and examined as CW-1.



CRM-M-13729-2026 (O&M)

Learned counsel for complainant has stated at bar that he does not want to lead evidence in his preliminary evidence.

Therefore, in view of said submission, the preliminary evidence of complainant stands closed by Court Order.

In Section 223 of BNSS, 2023 the Proviso has been inserted which states that "no cognizance of offence shall be taken by the Magistrate without giving the accused an opportunity of being heard. It means, before proceedings further with the present criminal complaint, a notice or an opportunity to the proposed accused is required to be given. Accordingly, case is listed for 13.03.2026 for issuance of notice to proposed accused with direction to appear before the court and to avail the opportunity of being heard. Notice shall be issued upon filing of copy of complaint and related documents."

5. Learned senior counsel for the petitioner contended that petitioner has been summoned by the Learned Trial Court in violation of the mandatory provisions of 225 of BNSS. Section 225 of BNSS mandatorily requires the Court to postpone the issue of process in cases where the accused is residing beyond the jurisdiction of the court. Learned senior counsel contended that although the impugned order is styled as issuance of notice, in substance, it amounts to a summoning order. Although the order dated appears to be a notice issued to the accused, however, it is in the nature of a summoning order as an opportunity was given to the complainant to lead evidence; once preliminary evidence of the complainant is recorded, it automatically means that the court has taken cognizance of the complaint, and there is no question of issuing notice, thus, in effect, petitioner has been summoned by the Learned Trial Court without considering the provisions of Section 225 BNSS. It is further contended that the learned trial Court lacks territorial jurisdiction, as both the complainant and the petitioner are residents of Mumbai, and the alleged cause of action has also arisen there. It is submitted that despite lacking jurisdiction, the trial



CRM-M-13729-2026 (O&M)

Court proceeded to record preliminary evidence, thereby taking cognizance in contravention of settled legal principles. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Rajeev Mehta @ Rajiv Kishor Kirtilal Mehta v. Param Bir Singh, Criminal Appeal No. 1886 of 2026.***

6. Learned senior counsel for the respondent opposed the contentions of the Learned senior counsel for the petitioner, and contended that the challenge to the impugned order dated 05.05.2026 is premature at this stage. Vide impugned order dated 05.05.2026, a pre-cognizance notice has been issued to the accused, and the same is not in nature of a summoning order; process of issuing summons would come at a later stage, once cognizance of the impugned complaint is taken, and the same is yet to be decided. Learned senior counsel further contended that all the pleas taken in this petition by the petitioner, would be available to him, if and when process is issued by the learned trial Court. Hence, learned senior counsel for the respondent prayed that the present petition be dismissed, as the present petition is premature and all these pleas may be taken before the trial court.

7. This Court has heard learned senior counsel for the parties and has perused the record with their able assistance.

8. At the outset, the primary question which arises for consideration before this Court is whether the impugned order dated 05.03.2026, passed by the learned Judicial Magistrate First Class, Faridabad, is in the nature of a summoning order, as contended by the petitioner, or merely a pre-cognizance notice affording an opportunity of hearing to the proposed accused in terms of the proviso to Section 223 of the BNSS.



CRM-M-13729-2026 (O&M)

9. A perusal of the impugned order reveals that the learned Magistrate has recorded the statement of the complainant as CW-1 and thereafter closed the preliminary evidence on the statement made by the learned counsel for the complainant. The order further records that in view of the proviso to Section 223 of BNSS, which requires that an opportunity of hearing be given to the accused before taking cognizance of an offence, the case has been listed for issuance of notice to the proposed accused.

10. The contention raised on behalf of the petitioner is that once preliminary evidence has been recorded, the Magistrate is deemed to have taken cognizance of the offence, and therefore, issuance of a 'notice' at this stage is merely a disguised summoning order. However, this Court is unable to accept the said contention in its entirety.

11. The scheme of the BNSS, particularly in light of the proviso to Section 223, introduces a material departure from the earlier position under the Code of Criminal Procedure, 1973, inasmuch as it mandates that before taking cognizance, the Magistrate must afford an opportunity of hearing to the proposed accused. Thus, the stage prior to taking cognizance now contemplates a limited participation of the proposed accused, which cannot ipso facto be equated with issuance of process.

12. In the present case, the learned Magistrate has consciously refrained from taking cognizance and has instead issued notice to the proposed accused to afford an opportunity of hearing. The language employed in the impugned order does not indicate issuance of process under law, but rather reflects compliance with the statutory mandate of granting a pre-cognizance hearing.



CRM-M-13729-2026 (O&M)

13. The mere fact that preliminary evidence has been recorded would not, by itself, lead to an inescapable conclusion that cognizance has already been taken. Recording of such evidence is one of the steps enabling the Magistrate to form an opinion; however, the act of taking cognizance is a distinct judicial act which must be reflected from the order itself. In the absence of any such indication, the impugned order cannot be construed as a summoning order.

14. Learned senior counsel for the petitioner has placed reliance upon the recent judgment of the Hon'ble Supreme Court in *Rajeev Mehta (supra)*, to contend that compliance of Section 225 of the BNSS is mandatory where the accused resides beyond the territorial jurisdiction of the Magistrate. This Court has carefully considered the aforesaid judgment. However, the same does not advance the case of the petitioner in the facts of the present matter. In the said case, the Hon'ble Supreme Court was dealing with a situation where the matter had progressed to a stage warranting examination of compliance with Section 225 BNSS prior to exercise of jurisdiction under Section 223. The Hon'ble Supreme Court, in that context, emphasized the necessity of applying Section 225 where the accused resides beyond jurisdiction. In the present case, however, the proceedings are still at a pre-cognizance stage, and the learned Magistrate has merely issued a notice to the proposed accused to afford an opportunity of hearing. The stage of issuance of process, which would attract stricter scrutiny under Section 225 BNSS, has not yet arisen. Thus, the ratio of the aforesaid judgment cannot be applied in a straightjacket manner to the present case.

15. That apart, a conjoint reading of Sections 223 and 225 of the BNSS would indicate that both provisions are intended to safeguard the rights of the proposed accused at the threshold stage— by affording an opportunity of hearing



CRM-M-13729-2026 (O&M)

before cognizance is taken, and, by requiring additional judicial scrutiny where the accused resides beyond territorial jurisdiction. These provisions, therefore, operate in the same procedural continuum and are required to be interpreted harmoniously.

16. There is nothing in the statutory framework of the BNSS which mandates that the procedural compliances under Sections 223 and 225 must necessarily be undertaken in watertight isolation or through separate proceedings. On the contrary, a purposive interpretation would warrant that the learned Magistrate, upon securing the presence (physical or through counsel) of the proposed accused pursuant to a pre-cognizance notice, may simultaneously satisfy himself with regard to jurisdictional aspects as well as the sufficiency of grounds to proceed further.

17. Insisting upon multiple stages of appearance for the accused—first for compliance under Section 225 and thereafter again under Section 223—would not only lead to unnecessary procedural duplication but may also result in avoidable delay and hardship, which cannot be said to be the legislative intent. It is a settled principle of interpretation that procedural laws are handmaids of justice and ought not to be construed in a manner that defeats substantive fairness or leads to multiplicity of proceedings.

18. At this stage, it would also be apposite to note that Section 225 of the BNSS, in substance, mandates **postponement of issuance of process** in cases where the accused is residing beyond the territorial jurisdiction of the Magistrate, so as to enable the Court to apply a higher degree of judicial scrutiny before compelling appearance. In the present case, the learned Magistrate has, instead of issuing process, consciously issued a pre-cognizance notice affording an opportunity of



CRM-M-13729-2026 (O&M)

hearing to the proposed accused. Such a course of action, by its very nature, results in **deferral of issuance of process**, thereby satisfying the underlying object of Section 225 BNSS at this stage.

19. Thus, the requirement of postponement, as contemplated under Section 225 BNSS, stands inherently fulfilled where the Magistrate refrains from issuing process and instead proceeds to hear the proposed accused prior to taking cognizance. Viewed in this light, the procedure adopted by the learned trial Court cannot be said to be in derogation of Section 225 BNSS, but rather in consonance with its legislative intent of preventing mechanical issuance of process, particularly in cases involving accused residing outside the territorial jurisdiction.

20. Insofar as the objection regarding territorial jurisdiction is concerned, the same remains open to be urged before the learned trial Court, which shall consider and decide the same at the appropriate stage in accordance with law.

21. In view of the foregoing discussion and the reasons recorded hereinabove, this Court is of the considered opinion that the impugned order dated 05.03.2026 does not amount to issuance of process or a summoning order, but is merely a pre-cognizance notice issued in compliance with the proviso to Section 223 of the BNSS. Consequently, the challenge laid to the said order, is premature and not amenable to interference at this stage.

22. As far as challenge to the impugned complaint is concerned, it is a settled principle that the inherent jurisdiction of the High Court for quashing of criminal proceedings is to be exercised sparingly and in exceptional circumstances.

The Hon'ble Supreme Court in *State of Haryana vs. Bhajan Lal*, 1992 Supp (1)

SCC 335, has authoritatively laid down the parameters governing exercise of such



CRM-M-13729-2026 (O&M)

powers, cautioning that quashing at a nascent stage ought not to be undertaken unless the complaint, on the face of it, does not disclose any offence or is manifestly attended with mala fide. Similarly, in *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra*, (2021) 19 SCC 401, it has been reiterated that courts should refrain from stalling legitimate prosecution at the threshold and should not embark upon an enquiry into disputed questions of fact while exercising inherent jurisdiction.

23. In the present case, the proceedings are still at a preliminary stage where even cognizance is yet to be taken by the learned Magistrate. The statutory scheme under the BNSS itself contemplates an opportunity of hearing to the proposed accused prior to taking cognizance. Interference at this stage would not only be premature but would also defeat the legislative intent underlying the said provision.

24. The contentions raised by the petitioner, including those relating to territorial jurisdiction and alleged non-compliance of Section 225 of BNSS, are matters which can appropriately be urged before the learned trial Court at the relevant stage.

25. This Court is also of the considered view that judicial discipline and procedural propriety require that parties ordinarily adhere to the hierarchy of forums while availing legal remedies. The issue regarding territorial jurisdiction, as raised by the petitioner, is yet to be considered by the learned trial Court itself. Before such issue could be examined and adjudicated by the Court of first instance, the petitioner has directly invoked the inherent jurisdiction of this Court seeking quashing of the proceedings.

26. The statutory framework contemplates that questions touching upon jurisdiction, maintainability, and issuance of process are first to be considered by the



CRM-M-13729-2026 (O&M)

learned Magistrate, who is seized of the complaint proceedings. It is only thereafter, if any party remains aggrieved, that the superior courts are ordinarily called upon to exercise appellate, revisional, or inherent jurisdiction. Entertaining such objections directly at this premature stage would not only disturb the settled hierarchy of adjudicatory forums but may also deprive either party of the remedies otherwise available against an order passed by the learned trial Court on the issue of jurisdiction.

27. If this Court were to render a conclusive finding on the jurisdictional issue at the threshold, without the learned trial Court first applying its mind thereto, the parties may effectively lose an intermediate adjudicatory stage contemplated in law. The procedural hierarchy established under the criminal justice system is not an empty formality, but a substantive safeguard ensuring layered scrutiny, correction of errors, and orderly administration of justice.

28. The necessity of following the hierarchy of remedies may be understood akin to the functioning of a medical system. Ordinarily, a patient first approaches a primary physician for examination and diagnosis, and only thereafter, if required, proceeds to specialized or higher medical intervention. Directly bypassing the foundational stage may not only burden the higher forum unnecessarily but may also deprive the process of the benefit of an initial evaluation by the authority statutorily entrusted with such determination. Similarly, the learned Magistrate, being the Court of first instance, must first be afforded the opportunity to examine the issue of jurisdiction and compliance with statutory requirements before the extraordinary jurisdiction of this Court is invoked.



CRM-M-13729-2026 (O&M)

29. Therefore, this Court finds that the present petition is premature not merely because cognizance has yet not been taken, but also because the petitioner has approached this Court before inviting a determination from the learned trial Court on the very objections now sought to be urged herein.

30. Accordingly, finding no merit in the present petition, the same is hereby **dismissed**.

31. The petitioner shall have adequate opportunity to raise all permissible pleas in accordance with law, and the learned trial Court shall consider the same uninfluenced by any observations made herein.

32. However, it is clarified that nothing stated herein shall be construed as an expression on the merits of the case, and the learned trial Court shall proceed independently, in accordance with law.

33. Before parting, it is observed that in case the petitioner appears before the learned trial Court pursuant to the notice issued, it shall be open to him to raise all permissible objections, including those relating to territorial jurisdiction and applicability of Section 225 of the BNSS. In such an eventuality, the learned trial Court shall consider and decide the same, in accordance with law, before proceeding further in the matter.

34. Pending applications, if any, also stand disposed of.

(SUBHAS MEHLA)
JUDGE

05.05.2026
Sonia Puri

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO