



In the High Court for the States of Punjab and Haryana at Chandigarh

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CRM-M-25716-2026 (O&M)
Date of Decision:- 07.05.2026

Dr. Rajeev Raghuvanshi	... Petitioner
Versus	
Deepak Sandhu	... Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present:- Mr. Promila Nain, Senior Advocate with
Mr. Ish Karan Singh Chhabra, Advocate,
for the petitioner.

SUBHAS MEHLA, J. (Oral)

1. Present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 seeking quashing of complaint bearing No. COMA/90/2024 dated 05.11.2024 registered under Sections 318(1)(4), 335(B), 336(1)(3), 337, 338, 339, 340, 343, 344, 61 read with Section 3(5) of Bharatiya Nyaya Sanhita, 2023, Section 9 A, B & C, 25A, 29, 38, 80 of NDPS Act, Sections 33-B, 33-E, 33EE, 33EEB, 33EEC, 33EED, 33-1, 33-J, 33-M, 33-N etc. of Drugs and Cosmetics Act and Rule 161 of Drug Rules, 1945, and Sections 79(3)(a) and (b) Information Technology Act, along with all the consequential proceedings including the order dated 05.01.2026 passed by learned Chief Judicial Magistrate, Ambala, whereby pre-cognizance notice has been issued to the petitioner.



2. Learned Senior Counsel for the petitioner contended that the only allegation against the petitioner is that he failed to provide a copy of Form 25D and Form 26E1 etc. to the respondent under the Right to Information Act (hereinafter 'RTI Act'), and has fraudulently issued WHO-GMP-COPP Certificate to one Divya Pharmacy, Uttarakhand, Haridwar. Learned senior counsel further contended that no malafide or prejudicial conduct can be attributed to the petitioner as all applications for issuance of WHO-GMP-COPP Certificate are approved by Drug Inspector, Assistant Drugs Controller, Deputy Drugs Controller and Joint Drugs Controller, and only after compliance of all requirements in accordance with law, the application is sent for final approval before the Drug Controller General of India, i.e. the present petitioner. Hence, WHO-GMP-COPP Certificate was issued by the petitioner in discharge of his official duties in accordance with the relevant norms and only on the basis of the documents and undertakings by the said Divya Pharmacy, and after the approval was granted by Drug Inspector, Assistant Drugs Inspector, Deputy Drugs Inspector and Joint Drugs Controller. In case such documents/undertaking or the approvals granted by the other officers are found to be false/incorrectly granted, no blame can be attributed to the present petitioner. hence, such an elaborate system of checking and approval ensures that there is no scope for any malafide or prejudicial conduct by any of the authorities. Learned senior counsel further contended that the in case the respondent had any grievance over the lack of documents provided to him, the appropriate remedy for the respondent would be to file an appeal under Section 19 of Right To Information Act, 2005, or, to seeks cancellation of the Certificate in question by means of a departmental representation. There are no



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specific allegations of malafide against the petitioner, and in absence of the same, the impugned complaint is a sheer abuse of process of law, only on account of personal vendetta of the respondent, especially in light of the fact none of the officers involved in the process of the application, i.e. Drug Inspector, Assistant drugs Controller, Deputy Drugs Controller, and Joint Drugs Controller, have been implicated in the present case. Learned senior counsel further submitted that no sanction has been taken under Section 218 of BNSS (erstwhile Section 197, CrPC) from the appropriate authority. That the present complaint is a misuse of the judicial machinery, and abuse of process of law, only to exert pressure on the petitioner to decide the file of Divya Pharmacy in a particular manner, and to prevent the petitioner from discharging the official functions honestly. Hence, learned senior counsel prayed that the present complaint ought to be quashed at the nascent stage itself, as no offence, on the face of the complaint, can be attributed to the petitioner. Learned counsel placed reliance upon judgment of Hon'ble Supreme Court in '**Imran Pratapgadhi Vs. State of Gujarat and another**', **Criminal Appeal No.1545 of 2025 decided on 28.03.2025**, judgment of Delhi High Court in '**Brand Protectors India Pvt. Ltd. Vs. Anil Kumar**', **Crl. M.C.1495 of 2025, decided on 25.07.2025** and judgment of Allahabad High Court in '**Rakesh Kumar Chaturvedi Vs. State of U.P. and another**', **decided on 29.07.2025, 2025 SCC Online ALL 4884**.

3. There is no representation on behalf of the complainant.

4. Heard.



5. The petitioner has approached this Court seeking quashing of complaint seeking quashing of complaint bearing No. COMA/90/2024 dated 05.11.2024, along with all the consequential proceedings including the order dated 05.01.2026 passed by learned Chief Judicial Magistrate, Ambala, whereby pre-cognizance notice has been issued to the petitioner. Having heard learned Senior Counsel for the petitioner and considering the nature of the impugned order as well as the stage of the proceedings, this Court does not deem it appropriate to exercise its inherent jurisdiction at this juncture.

6. The order dated 05.01.2026 passed by learned CJM, Ambala, reads as under:

“Today the case was fixed for consideration of point if summoning and for arguments on application moved by the complainant on 13.11.2025. Arguments heard. At this stage, it is appropriate and in the interest of justice to issue the pre-cognizance notice to respondents. Let pre-cognizance notice to respondents be for **13.04.2026 on filing of copy of complaint, etc.** Long adjournment is given due to pendency of old cases.”

7. A perusal of the aforesaid order demonstrates that the learned trial Court has merely issued a pre-cognizance notice to the petitioner under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 200 Cr.P.C.). Significantly, by virtue of the proviso incorporated under Section 223 BNSS, an opportunity of hearing is contemplated before cognizance is taken

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in a complaint case. Thus, the impugned order neither records satisfaction regarding commission of any offence nor reflects application of mind for summoning the petitioner. Cognizance has admittedly not yet been taken.

8. At this stage, therefore, no adjudication affecting the substantive rights of the petitioner has taken place. Rather, the petitioner has merely been afforded an opportunity to appear before the learned trial Court and raise all such objections as are sought to be canvassed before this Court, including the pleas regarding absence of mala fide, want of sanction under Section 218 BNSS, discharge of official duties, maintainability of the complaint, and alleged abuse of process.

9. The contention of learned Senior Counsel that the complaint deserves to be quashed at the threshold on account of absence of specific allegations against the petitioner or on account of availability of alternative remedies under the RTI Act, would necessarily require consideration by the Court seized of the complaint at the appropriate stage. The petitioner cannot be permitted to bypass the statutory procedure and invoke the extraordinary jurisdiction of this Court at a stage where even cognizance has not been taken by the learned Magistrate.

10. Judicial discipline and procedural propriety require that parties ordinarily adhere to the hierarchy of forums while availing legal remedies. The statutory framework contemplates that questions touching upon jurisdiction, maintainability, and issuance of process are first to be considered by the 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. 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.

11. The judgments relied upon by learned Senior Counsel for the petitioner also do not advance the case of the petitioner in the peculiar facts and circumstances of the present matter:

- i. In *Imran Pratapgadhi (supra)*, coercive criminal process had already been set in motion against the accused, and the issue before the Hon'ble Supreme Court pertained to the legality of continuation of criminal proceedings where it was alleged that the allegations, even if taken at face value, did not disclose commission of any cognizable offence. The said judgment was rendered in the context of examining the legality of continuation of criminal prosecution after substantive proceedings had already commenced. In the present case, however, the proceedings are still at a pre-cognizance stage and the learned Magistrate has merely issued notice under Section 223 BNSS so as to afford an opportunity of hearing to the petitioner before taking a decision on cognizance. No summoning order has yet been passed, nor has the learned trial Court recorded any prima facie satisfaction regarding commission of an offence. Thus, the ratio of the aforesaid



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judgment is distinguishable on facts as well as on the procedural stage of the proceedings.

ii. Similarly, reliance upon the judgment of the Delhi High Court in ***Brand Protectors India Pvt. Ltd. (supra)***, is misplaced. The said case dealt with exercise of inherent jurisdiction in circumstances where the Court was examining the continuance of criminal proceedings after the Magistrate had already proceeded against the accused on the basis of the material available before it. The controversy therein did not arise from issuance of a mere pre-cognizance notice intended to provide an opportunity of hearing under the newly introduced framework of Section 223 BNSS. Consequently, the factual and procedural matrix of the said case is materially distinct from the present one.

iii. Likewise, the judgment of the Allahabad High Court in ***Rakesh Kumar Chaturvedi (supra)*** does not come to the aid of the petitioner. In the aforesaid case, the Court was dealing with a situation where criminal proceedings had already substantially progressed and the challenge before the High Court arose after the competent Court had applied its mind to the allegations and proceeded further in the matter. the High Court was persuaded to examine whether continuation of the criminal proceedings themselves would amount to abuse of process. In the present matter, however, the proceedings have not even crossed the threshold stage where the learned Magistrate has decided whether cognizance ought to be taken.



12. 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.

13. It is well settled that the inherent powers of the High Court under Section 528 BNSS, though wide in amplitude, are to be exercised sparingly, with circumspection, and only in exceptional cases where continuation of proceedings would amount to manifest abuse of process of law. Interference at a pre-cognizance stage, particularly when the learned Magistrate has merely issued notice to afford an opportunity of hearing to the proposed accused, would amount to stifling the statutory procedure itself.

14. The Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, (2021) 19 SCC 401***, the Hon'ble Supreme Court has cautioned that criminal proceedings ought not to be interdicted at a premature stage and that the High Courts should refrain from scuttling proceedings at the threshold except in the rarest of cases.

15. Hierarchy of remedies prescribed under criminal procedure must ordinarily be respected. Since the petitioner has yet to avail the opportunity granted by the learned trial Court pursuant to the pre-cognizance notice, the present petition is premature and does not warrant interference in exercise of inherent jurisdiction.

16. The impugned order dated 05.01.2026 merely directs issuance of pre-cognizance notice under Section 223 BNSS so as to afford an opportunity of hearing to the petitioner before any judicial determination is made regarding



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cognizance or summoning. At this stage, the learned trial Court has neither returned any finding regarding existence of a prima facie case nor formed any opinion as to the culpability of the petitioner. The proviso appended to Section 223 BNSS contemplates a pre-cognizance hearing, thereby introducing an additional procedural safeguard in favour of the proposed accused. Thus, unlike cases where cognizance has already been taken or summons have been issued, the petitioner herein is yet to avail the statutory opportunity specifically provided to him under law. Interference by this Court at such an incipient stage would effectively amount to pre-empting the jurisdiction of the Magistrate and rendering the statutory procedure under Section 223 BNSS otiose.

17. Moreover, all the pleas sought to be raised before this Court, including the alleged absence of mala fide, want of sanction under Section 218 BNSS, discharge of official functions, and absence of specific allegations, are matters which can very well be urged by the petitioner before the learned Magistrate in response to the pre-cognizance notice. The petitioner, therefore, has an adequate and efficacious remedy before the trial Court itself.

18. Accordingly, this Court does not find it to be a fit case for exercising powers under Section 528 BNSS for quashing of complaint No. COMA/90/2024 dated 05.11.2024 or the consequential proceedings arising therefrom, including the pre-cognizance notice dated 05.01.2026. The present petition is, therefore, **dismissed**.

07.05.2026
Geeta

(SUBHAS MEHLA)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No