

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

136

2026.PHHC.073422



**CRM-M-26227-2026 (O&M)
Date of decision : 11.05.2026**

Navnath Tanaji Misal @ Rotan**...Petitioner**

Versus

State of Punjab and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Abhishek Khullar, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J.(Oral)

1. The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking quashing of FIR No. 24 dated 09.04.2025 registered under Sections 305 and 331(3) of the Bharatiya Nyaya Sanhita, 2023 and Section 317(2) BNS added later on at Police Station Division No. 4, District Ludhiana along with all consequential proceedings arising therefrom including the challan presented under Section 193 BNSS.

2. Brief facts of the prosecution case are that the aforementioned FIR was registered on the basis of the statement recorded by complainant S. K. Nasim Uddin on 09.04.2025 with the allegations that he was running a

jewelry business at Ludhiana and was having a shop therein, where around 15 workers were employed. On 05.04.2025, he had brought gold jewelries of 200 grams from Sirhind for the purpose of designing. On 06.04.2025, his brother had also brought 300 grams of gold from another jeweler for designing purposes. The complainant alleged that on 06.04.2025, one person came to their shop and introduced himself as S. K. Rajesh. He told the complainant that he had come from Kolkata for the purpose of crafting jewelry as called by them. He stayed at their shop and worked with them and crafted the jewelries. However, in the intervening night of 8/9.04.2025, by stealing gold jewelries weighing 500 grams, he left their shop. This fact was confirmed by them after watching the CCTV footage of the shop. By alleging that the above said S. K. Rajesh had stolen gold jewelries from his shop, the complainant prayed for taking action in the matter. After registration of the FIR, investigation proceedings were initiated. During investigation, it was revealed that the jewelry had been stolen by Jinnat Sheikh, who had told his name as S. K. Rajesh. The said Jinnat Sheikh, who was in custody in connection with some other case, was joined into investigation by securing his presence by way of production warrants. On interrogation, he suffered disclosure statement admitting his involvement in the crime and further disclosed that he had sold 300 grams of stolen gold to one Ziyaul Haque Halder @ Bapi and 100 grams of gold to Rijul Islam Khandkar and could get the same recovered. Accused Ziyaul Haque Halder @ Bapi, after arrest, suffered disclosure statement, on the basis of which, the present petitioner was nominated as an accused on the allegations that he had purchased 300 grams of stolen gold from him. The petitioner was arrested on

27.10.2025. 1717 grams of gold-silver mixture and 29 grams of gold ornaments were recovered from his custody. He was subsequently granted concession of bail by this Court. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner, who is a resident of West Bengal, that he has been falsely implicated in this case. He was neither named in the FIR nor any overt act was attributed to him by the complainant. The entire case against the petitioner rests only upon disclosure statements of co-accused, which are inadmissible in evidence. It is argued that although the police allegedly recovered gold and silver mixture weighing around 1.717 kilograms along with certain ornaments from the petitioner, there is no material to show that the recovered articles matched the stolen property allegedly taken from the complainant's shop. Even, the same has not been identified by the complainant as the stolen articles from his shop. It is thus submitted that no offence under Section 317(2) BNS is made out against the petitioner. The prosecution of the petitioner would be nothing but misuse of process of law. Therefore, it is argued that the FIR in question and the subsequent proceedings arising therefrom are liable to be quashed qua the petitioner.

4. Per contra, learned State counsel, who has advance notice of the petition and is ready to argue the matter, has submitted that after conducting a thorough investigation in the case, *challan* has been filed against the petitioner as well as co-accused for commission of aforementioned offences.

Although the petitioner was not named in the FIR, however, during investigation, his name has surfaced in the disclosure statement of the co-accused with the allegations that he had purchased the stolen articles from him. Not only this, the said disclosure statement was followed by the aforementioned recovery of stolen articles from the petitioner. The investigation discloses prima facie case for commission of subject offences against the petitioner. While submitting that the complicity of the petitioner in the commission of subject crime has been well established during the course of investigation and the pleas taken by the petitioner can be tested only during trial by way of leading evidence, learned State counsel has argued that the petition merits outright dismissal.

5. This Court has heard the rival submissions.

6. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 528 of BNSS (*which is pari materia with Section 482 of Cr.P.C.*) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 528 of BNSS, the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C.

to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as *State of Haryana vs. Bhajan Lal : (1992) SUPP 1 SCC 335*, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

- (i). Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (ii). Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (iii). Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (iv). Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (v). Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (vi). Where there is an express legal bar engrafted in any of

the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(vii). Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

7. Reference can further be made to ***Gian Singh vs. State of Punjab : (2012) 10 SCC 303***, wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can also be made to ***Padal Venkata Rama Reddy @ Ramu vs. Kovvuri Satyanarayana Reddy & Ors. : (2011) 12 SCC 437***, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. Reliance can further be placed upon ***State of Andhra Pradesh vs. Gourishetty Mahesh and others : 2010 Criminal Law Journal 3844***, wherein the Apex Court has propounded that while exercising jurisdiction

under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

8. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In ***Monika Kumar vs. State of U.P. : (2006) 8 SCC 781***, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice.

9. Reference can also be made to the authority cited as ***M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and others : 2021 SCC OnLine SC 315***, wherein Hon'ble Apex Court, after analyzing and examining several judicial precedents, had observed that the Courts should not thwart any investigation into the cognizable offences; criminal proceedings ought not to be scuttled at the initial stage; the power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases' and while examining the FIR/complaint, quashing which is sought, the Court should not embark upon inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint. It was also observed that in cases where no cognizable offence or offence of

any kind is disclosed in the first information report, the Court should not permit an investigation to go on.

10. Reference can also be made to ***CBI v. Aryan Singh : 2023 SCC OnLine SC 379***, wherein Hon'ble Apex Court observed that while exercising powers under Section 482 of Cr.P.C., the Courts have a very limited jurisdiction and are only required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”. In ***Kaptan Singh vs. State of U.P. and others, 2021 SCC Online SC 580*** and ***Dhruvaram Murlidhar Sonar vs. State of Maharashtra, (2020) 3 SCC (Criminal) 672***, it was observed that the appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of Cr.P.C. as this power is an exception and not a rule. Inherent jurisdiction under Section 482 of Cr.P.C. though wide is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is also well settled proposition of law that the Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting the trial, at the stage of exercising powers under Section 482 of Cr.P.C. In order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate Court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof.

11. Coming to the facts of the present case, this Court finds no

merit in the contention raised on behalf of the petitioner for exercise of inherent jurisdiction under Section 528 BNSS. Though it is correct that the petitioner was not named in the FIR and his implication surfaced during the course of investigation, however, merely on that ground, the proceedings cannot be quashed at the threshold when the investigating agency has collected prima facie material connecting him with the commission of the alleged offence. A perusal of the record reveals that during investigation, co-accused Jinnat Sheikh disclosed that a substantial part of the stolen gold had been sold to accused Ziyaul Haque Halder @ Bapi, who in turn disclosed the involvement of the present petitioner. Significantly, the disclosure statement was not left unsupported, rather it was followed by recovery of gold-silver mixture weighing approximately 1717 grams along with 29 grams of gold ornaments from the possession of the petitioner. Whether the recovered articles are ultimately proved to be part of the stolen property and whether the prosecution succeeds in establishing the complete chain of circumstances are matters which fall within the exclusive domain of the trial Court after appreciation of evidence led by the parties. At this stage, this Court cannot enter into a meticulous examination of the evidentiary value of the recovery or adjudicate upon the reliability of the prosecution version.

12. The argument raised by learned counsel for the petitioner that the recovered articles have not yet been identified by the complainant and, therefore, no offence under Section 317(2) BNS is made out, also does not persuade this Court to invoke its inherent powers. The said plea essentially pertains to appreciation of evidence and disputed questions of fact, which cannot be conclusively determined in proceedings under Section 528 BNSS.

The scope of jurisdiction at this stage is confined to examining whether prima facie material exists requiring the accused to face trial and not whether the prosecution case is bound to culminate in conviction.

13. As discussed above, it is well settled proposition of law that while exercising powers under Section 528 BNSS, this Court does not function as a trial Court or an appellate Court to weigh the sufficiency or admissibility of evidence. The contentions sought to be raised by the petitioner regarding inadmissibility of disclosure statements, absence of identification of recovered articles and false implication are all matters of defence, which can effectively be raised before the learned trial Court during the course of trial. This Court cannot undertake a mini-trial while exercising inherent jurisdiction. From the material collected during investigation, it cannot be said that no cognizable offence is made out against the petitioner or that the prosecution launched against him is manifestly mala fide or an abuse of process of law so as to warrant interference by this Court. None of the parameters laid down by Hon'ble Supreme Court in *Bhajan Lal's case (supra)* for quashing of criminal proceedings are attracted to the facts of the present case. Rather, the allegations and the material collected during investigation disclose a prima facie case requiring adjudication upon evidence before the competent Court.

14. In view of the above discussion and keeping in view the settled principles governing exercise of inherent jurisdiction under Section 528 BNSS, this Court is of the considered opinion that no ground is made out for quashing of the FIR or the consequential proceedings arising therefrom qua the petitioner. The petition, being devoid of merit, is accordingly dismissed.

15. Nothing observed hereinabove shall be construed as an expression on the merits of the case and the learned trial Court shall proceed independently in accordance with law.

11.05.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>