

State Vs. Arun Kumar & Anr.
CNR No.: DLCT01-013881-2025
SC No.: 655/2025
FIR No.: 300/2025
Under Section: 109(1)/61(2)(a) BNS
PS: Pahar Ganj

24.03.2026

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Ansh Malhotra, Ld. Counsel for the accused Arun Kumar.
Mr. Kapil Paliwal, Ld. Counsel for accused Lal Kunal @ Kunal Shrivastav. (*through video conferencing*)
Accused Lal Kunal @ Kunal Shrivastav is present on bail.
Accused, Arun Kumar has been produced from judicial custody.

ORDER ON CHARGE

1. By means of the present order, this Court would determine whether the accused persons, namely, Arun Kumar and Lal Kunal @ Kunal Shrivastav (*hereinafter collectively referred to as the 'accused persons'*) are to be charged for the offences alleged against them in the chargesheet or for any other offence or the accused persons are to be discharged.

2. Succinctly, the case of the prosecution is that on 29.05.2023, on receipt of PCR call *vide* DD No. 184A regarding and incident of injury by stabbing, the concerned police official(s) reached at Ghee Mandi chowk, Paharganj, where it was determined that the injured had already been shifted to LHMC Hospital. Consequently, the concerned police official(s) reached at the said Hospital and determined that the victim/injured, Suraj (*hereinafter referred to as the 'complainant'*) was under treatment *vide* MLC No. 1201/2025. Remarkably, as the MLC of the complainant, it was determined that he had *inter alia* sustained, "...linear laceration 4 cm * 1 cm on left lower part of neck...",

which injury was subsequently opined to be '*simple*' in nature. Subsequently, statement of the complainant was recorded by the concerned police official, wherein the complainant *inter alia* avowed that in the year 2022-23, a dispute had arisen in relation to construction work at his house between him/the complainant and accused Lal Kunal, which escalated into the registration of *kalandra* under Section 107/151 Cr.P.C. against the complainant. It was further asserted by the complainant that consequent to said dispute the relationship turned sour between the complainant and accused Lal Kunal. Concomitantly, the complainant proclaimed that on 29.05.2025, when he was present with his friend namely Jitender outside the gate of Agarwal Mandir Dharamshala, suddenly accused Arun Kumar, who was the employee of accused Lal Kunal, reached at the said spot. As per the complainant, accused Arun Kumar was carrying a sharp weapon in his hand, which he deployed to inflict injury at his/complainant's neck and fled from the spot. It was further avowed by the complainant due to said attack, blood started to ooze out from the injury, whereupon he/the complainant was shifted to the aforesaid Hospital. Remarkably, under the aforesaid facts and circumstances, the instant FIR came to be registered, and investigation ensued. Notably, during the course of investigation, accused persons were apprehended and the CCTV footage of the scene of crime was retrieved. Correspondingly, accused Lal Kunal is asserted to have got recovered the weapon as well as clothes of co-accused Arun Kumar, deployed/worn at the time of commission of the offence.

3. Ld. Addl. PP for the State submitted that the facts and circumstances specified under the chargesheet, including the documents/material placed on record, are sufficient to demonstrate a *prima facie* case against the accused persons for the commission

of offences/charges, levelled against them in the chargesheet and to consequently, proceed with the framing of charges.

4. *Per contra* Ld. Counsel for the accused persons submitted that no case against the accused persons for the offence(s)/charges alleged against them is even *prima facie* established, and the accused persons have been falsely implicated in the present case. Ld. Counsel further submitted that the material placed on record is grossly deficit, besides there have been serious infirmities in the investigation process, belying the case of the prosecution. Even otherwise, it has been submitted by the Ld. Counsel there has been a substantial unexplained delay in registration of FIR, not ruling out a possibility of manipulation/improvement. Even otherwise, as per the Ld. Counsel, there are material variations, contradictions and improvements in the various versions of the prosecution witnesses, entitling the accused persons to be discharged. In particular, Ld. Counsel for accused Lal Kunal submitted that the said has been falsely implicated as an afterthought, solely due to past relationships between complainant and the said accused. Even otherwise, it was submitted by Ld. Counsel that the recovery has been planted on the accused and no independent witnesses were joined by the concerned IO in the search/seizure proceedings. Correspondingly, Ld. Counsel for accused Lal Kunal submitted that the said accused is not visible in the CCTV footage, in fact, as per the Ld. Counsel the CCTV footage belies the case of put forth by the prosecution against the said accused. In support of the said contentions, reliance was placed upon the decisions in; ***Shivamani v. State, 2023 SCC Online SC 1581*** and ***Subhramanya v. State of Karnataka (2023) 11 SCC 255***.

5. The arguments of Ld. Addl. PP for the State and that of Ld. Counsel for the accused persons have been heard as well as record(s)/material placed on record, written submissions filed as well as the case laws relied upon by the party(ies), thoroughly perused.

6. Before proceeding further, this Court deems it pertinent to note that it is wary of the settled¹ that at the stage of framing of charges, neither can the truth, veracity and effect of the prosecution case, be meticulously judged nor, any weight to be attached to accused's probable defence. On the contrary, law is trite that only the existence of sufficient grounds for proceeding further against the accused, on a general consideration of materials placed on record by the investigating officer is the requirement. As a matter of fact, the superior courts have persistently avowed that the probative value² of the material on record cannot be gone into at such a stage and that the material brought forth on record by the prosecution has to be accepted as correct/true. Correspondingly, at the stage of framing of charge, only the police report³ is required to be considered and the defence of the accused⁴ cannot be looked into. Further, though, sifting of evidence is permissible⁵, however, scanning of evidence in detail is not. Concomitantly, it is trite law⁶ that the inconsistency in the material produced by the prosecution or defect in investigation⁷, cannot be looked into for discharge of an accused, in the absence of full-fledged trial.

¹ *State of Bihar v. Ramesh Singh*, AIR 1977 SC 2018

² *Soma Chakravarty v. State*, (2007) 5 SCC 403

³ *State Anti-Corruption Bureau, Hyderabad & Anr. v. P. Suryaprakasam*, (1999) SCC (Crl.) 373 and *State of Orissa v. Debendra Nath Padhi*, 2005 (1) SCC 568

⁴ *State of Gujarat v. Dilipsinh Kishorsinh Rao*, 2023 SCC OnLine SC 1294

⁵ *State of Maharashtra v. Priya Sharan Maharaj & Ors.*, (1997) 4 SCC 393

⁶ *Sheoraj Singh Ahlawat v. State of U.P.*, (2013) 11 SCC 476

⁷ *State of Tamil Nadu by Inspector of Police v. N. Suresh Ranjan & Ors.*, (2014) 11 SCC 709

Appositely the Hon'ble Supreme Court⁸ in ***State of Maharashtra v. Salman Salim Khan, (2004) 1 SCC 525***, unambiguously asserted in this regard, as under;

“12. We are of the opinion that though it is open to a High Court entertaining a petition under Section 482 of the Code to quash charges framed by the trial court, same cannot be done by weighing the correctness or sufficiency of evidence. In a case praying for quashing of the charge, the principle to be adopted by the High Court should be that if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. The truthfulness, the sufficiency and acceptability of the material produced at the time of framing of charge can be done only at the stage of trial...”

(Emphasis supplied)

7. Needless to further emphasize⁹ at the stage of charge, court is not even required to record detailed reasons as to why charge is framed, rather¹⁰, a very strong suspicion founded upon materials placed before the Court, which leads it to form a presumptive opinion as to the existence of factual ingredients constituting the offence alleged, may justify the framing of charges. In fact, it is a settled law¹¹ that at the stage of framing of charge, the sufficiency of materials for the purpose of conviction is not the requirement. In fact¹², it is only when no case is made out even after presuming entire prosecution evidence, only then can an accused be discharged. Notably, the Hon'ble Supreme Court in ***Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia, (1989) 1 SCC 715***, while *inter alia* explicating the

⁸ *Umesh Kumar v. State of A.P., (2013) 10 SCC 591; State (NCT of Delhi) v. Laxmi Narayan, 2023 SCC OnLine Del 5064; and Mandeep Gandhi v. State (NCT of Delhi), 2021 SCC OnLine Del 2756.*

⁹ *Bhawna Bai v. Dhanshyam & Ors., (2020) 2 SCC 217*

¹⁰ *Supdt. and Remembrance of Legal Affairs, West Bengal v. Anil Kumar Bhunja, AIR 1980 SC 52 and Sajjan Kumar v. CBI, (2010) 9 SCC 368*

¹¹ *Sonu Gupta Vs. Deepak Gupta & Ors., (2015) 3 SCC 424*

¹² *Manjit Singh Viridi v. Hussain Mohammed Shattaf, (2023) 7 SCC 633*

principles as well as the scope of enquiry for the purpose of discharging an accused observed as under;

*“14. These two decisions do not lay down different principles. Prafulla Kumar case [(1979) 3 SCC 4 : 1979 SCC (Cri) 609 : (1979) 2 SCR 229] has only reiterated what has been stated in Ramesh Singh case [(1977) 4 SCC 39 : 1977 SCC (Cri) 533 : (1978) 1 SCR 257] . In fact, Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that “the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused”. **The “ground” in the context is not a ground for conviction, but a ground for putting the accused on trial.** It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects. All that the court has to consider is whether the evidentiary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into.”*

(Emphasis supplied)

8. Ergo, being cognizant of the aforesaid principles, in light of the arguments addressed by the Ld. Counsel for the accused persons as well as that by the Ld. Addl. PP for the State, this Court outrightly observes that the from the facts and circumstances of the case, material and the documents placed on record, including the contents of the chargesheet, statements of witnesses, CCTV footage, seizure and recovery memo(s) and other material placed on record, *prima facie* case under Section 61(2)¹³ Bharatiya Nyaya Sanhita, 2023/BNS and Section 109(1)¹⁴ BNS read with Section 61(2) BNS stands established against the accused persons, namely, Arun Kumar and Lal Kunal @ Kunal Shrivastav. Further, from the perusal of case records, it is revealed

¹³ *Nadir v. State (NCT of Delhi)*, 2021 SCC OnLine Del 4123 (provisions under Section 61(2) BNS is *pari materia* to Section 120B IPC).

¹⁴ *Pari materia* with Section 307 IPC.

that there is strong suspicion and sufficient material/ground(s) to proceed against the said accused persons, besides there are witnesses who can depose against them. In so far, as the contention of the Ld. Counsel for the accused persons pertaining to alleged defect in investigation is concerned, this Court unambiguously observes that it is a settled law¹⁵ that mere defect in investigation cannot be a ground for discharge. Correspondingly, this Court is further cognizant that from the facts and material placed on record and in light of settled judicial precedents¹⁶, nature of injury¹⁷ or lack of injury on vital part body part¹⁸, cannot be sufficient to belie the charges/allegations levelled against the accused persons at this stage. Lastly, the submissions of Ld. Counsel for the accused persons pertaining to their false implication or that regarding delayed registration of FIR or that of recovery being planted on the accused or pertaining to the accused Lal Kunal's false implication owing to past rivalry are concerned, same, in the considered opinion of this Court, are all subject matters of the trial which cannot be considered at this stage. Apposite to further note at this stage that, though, this Court though holds highest regard for the judgments cited by the Ld. Counsel for the accused persons, however, the same would not come to the aid and/or rescue of the accused persons, as the facts and circumstances as well as the stage of the present proceedings are clearly distinguishable

9. Accordingly, in view of the foregoing, charge(s) under **Section 61(2) BNS** and **Section 109(1) BNS read with Section 61(2) BNS** are framed against the accused persons,

¹⁵ *State of Tamil Nadu by Inspector of Police v. N. Suresh Ranjan & Ors.*, (2014) 11 SCC 709.

¹⁶ *S.K. Khaja v. State of Maharashtra*, 2023 SCC OnLine SC 1093; *Veer Bahadur Singh v. State*, 2015 SCC OnLine Del 8223; *State of M.P. v. Kanha*, (2019) 3 SCC 605; and *Surinder Singh v. State (UT of Chandigarh)*, 2021 SCC OnLine SC 1135.

¹⁷ *Ratan Singh v. State of M.P.*, (2009) 12 SCC 585

¹⁸ *State of M.P. v. Harjeet Singh*, (2019) 20 SCC 524

namely, **Arun Kumar** and **Lal Kunal @ Kunal Shrivastav**. The said charge is read out to the accused persons in vernacular language and upon them comprehending the same, the accused persons have pleaded not guilty and claimed trial.

10. List for PE on **28.05.2026**.

11. **Issue summons against PW Suraj (at Sl. No.1), PW Jitender Kumar (Sr. No. 2), PW Ct. Pintu (Sr. No. 6), PW HC Sandeep (Sr. No. 12), PW ASI Shambhu Dayal (Sr. No. 16) and MHC(M) with entire case property along with the concerned IO/ASI Mahipal Singh for the next date of hearing.**

(Abhishek Goyal)
ASJ-03, Central District,
Tis Hazari Courts, Delhi
24.03.2026