

22.04.2026

Present : Sh. Girish Giri, Ld. Addl. PP for the State.

Accused produced in JC.

Sh. Achal Sharma, Ld. Counsel for the applicant/accused.

IO/SI Harish Kadian is also present.

Vide separate order, the bail application moved on behalf of accused Abhishek stands dismissed.

Arguments heard on the point of charge. Record perused.

Ld. Counsel for the accused has argued that the accused has been falsely implicated in the instant case. It is accordingly prayed that the accused may be discharged as he is innocent.

Per contra, Ld. Addl. PP for the State has strongly argued that there is a sufficient material on record to frame charges against the accused u/s 309(4)/3(5) BNS and u/s 311 BNS.

It is a settled proposition of law that at the time of framing of charge, the Court is not required to marshal any evidence and only grave suspicion is to be seen and when grave suspicion arises, charge can be framed against the accused. Reliance can be placed upon ***Alpana Dass v. CBI 2006 (90) DRJ 441.***

In the case of ***Union of India v. Prafulla Kumar Samal*** 1979 SSC (3) 609, their lordship laid down the parameters

that must weigh in the mind of the Court while considering the issue on charge. It was observed as under:

*(i) That the Judge while considering the question of framing of charges under Section 227 of the Code has the undoubted power to shift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out;*

*(ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.*

*(iii) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*

*(iv) That in exercising his jurisdiction u/s.227 of the Code the Judge which under the present Code is a senior and experienced Court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however, does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*

Guided by the above Judgments, it can safely be observed that at the time of charge, the court does not have to weigh the evidence collected by the prosecution on the scale, which would be applicable after the prosecution has led its evidence.

From the scrutiny of the complaint/statement made by complainant namely Amit Sahni and the other prosecution evidence, the inference is against the accused, at least at this prima facie stage. As per the allegations, the accused along with

CCL namely 'IS', in furtherance of their common intention, committed robbery of mobile phone make OPPO (dark blue colour) from the possession of the aforesaid complainant on the point of knife. The pleas raised by the Ld. Counsel for the accused are pleas of defence which are matter of evidence/trial and cannot be considered at this stage.

In the considered opinion of this Court from the above said allegations and from material available on record, there are sufficient grounds *prima facie* to frame charge u/s 309(4)/3(5) BNS and u/s 311 BNS against the accused. However, the ingredients of Sec. 317(2) BNS are not attracted *prima facie* against accused Abhishek as the aforesaid robbed mobile phone was allegedly recovered from the possession of CCL 'IS' and not from accused Abhishek and ingredients of Section 25/27/54/59 Arms Act are also not attracted in the present case.

Accordingly, formal charges for offences punishable u/s 309(4)/3(5) BNS and u/s 311 BNS have been framed against accused Abhishek, to which he has pleaded not guilty and claimed trial.

Put up for PE on **09.07.2026**. PWs mentioned at serial no. 1, 2 & 5 in the list of witnesses be summoned for the next date of hearing. MHC(M) be also summoned.

(PREM KUMAR BARTHWAL)  
Principal District & Sessions Judge  
North District/Rohini Courts/Delhi  
22.04.2026 (dv)