

SC No. 387/2026
State vs. Omkar & Ors.
FIR No. 101/2026
PS Palam Village
U/s 103(1)/3(5) BNS
CNR No. DLSW01-008478-2026

24.07.2026

Order on Charge

Present: Sh. Vijender Singh Kharb, Ld. Addl.PP for the State.
Accused Omkar, Shubham and Dharmender
produced from CJ-04, Tihar.
Sh. Vinay Kumar Sharma, Ld. counsel for accused
Shubham Yadav.
Sh. Rajnikant Mishra, Ld. counsel for accused
Omkar and Dharmender.
Ms. Aastha Chaturvedi and Ms. Pooja, Ld. counsels
for complainant.
IO/Insp. Rajesh Meena is present.

Matter is taken up for arguments on the point of
charge.

Ld. Counsel for accused Omkar and Dharmender
has argued that both the accused persons have not inflicted knife
blow upon the chest of Puneet which is the cause of his death. He
has further argued that no charge under Section 103(1)/3(5) BNS
is made out against them as prosecution has failed to indicate any
common intention amongst them in order to commit murder of
Puneet.

Ld. counsel for accused Shubham Yadav has argued
that accused Shubham Yadav has not been named in the FIR. He

has further argued that the prosecution is relying on the CCTV footage in the present case, as per which, accused Shubham Yadav can be seen speaking to the mother of Puneet (since deceased) with folding hands. He has further argued that he can be simply seen standing at the spot and all of a sudden from behind, someone had inflicted knife blow upon the chest of Puneet (since deceased). He has further argued that he did not share any common intention with other co-accused persons to commit offence of murder of Puneet. Ld. counsel has further submitted that accused Shubham Yadav had also taken Puneet to the hospital showing that he stayed at the spot and was trying to help the family, therefore, no charge under Section 103(1)/3(5) BNS is made out against him and he is liable to be discharged in this case.

On the other hand, Ld. Addl. PP for State accompanied by the IO has vehemently opposed the same and has submitted that the reading of the statements of witnesses recorded by IO would show the intention of the accused persons. He has further submitted that since all the accused persons had come with the dandas in their hands, therefore, common intention is made out and charge is liable to be framed against all the accused persons.

I have considered the submissions of both parties and have gone through the charge-sheet.

Before proceeding on merits, it is imperative to know the provisions of law and the pronouncements of the higher courts, which acts as a guiding factor for framing a charge

against the accused persons or discharging them.

Section 250 BNSS (corresponding Section 227 Cr.PC) provides for discharging an accused and Section 251 BNSS (corresponding Section 228 Cr.PC) talks about framing of charge against the accused. In ***Union of India vs. Prafulla Kumar Samal & Anr. 1979 AIR 366/ 1979 SCR (2) 229*** passed under the old law (Cr.PC), it was held that –

“Section 227 of the Code runs thus:-

"If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."

The words 'not sufficient ground for proceeding against the accused' clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.:

The scope of section 227 of the Code was considered by a recent decision of this Court in the case of State of Bihar v. Ramesh Singh(1) where Untwalia, J. speaking for the Court observed as follows:-

"Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law

governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence; if any, cannot show that the accused committed the offence then there will be no sufficient ground for proceeding with the trial".”

As per the case of prosecution, complainant Ram Avtar, who is father of deceased Puneet, stated that on 04.03.2026 at about 4:00 PM, while he was present at home, he heard noise of a quarrel outside. On coming out, he saw that Sandeep @ Lambu and his nephew Akash were fighting with accused Omkar, Jitender, accused Dharmender, Dheeraj, and others from the same colony. At that time, his son Puneet (since deceased) was at Gola Dairy. He intervened and told all of them not to fight there, after which they left. He then went back inside his house. At about 6:00 PM, his son Puneet (since deceased) returned home. Later, at about 9:00 PM, he again heard loud noise. His wife Premvati opened the main gate and stepped outside and Puneet also came out. He saw accused Omkar, accused Dharmender and their associates had returned. Some of them were holding sticks (danda). He again asked them to stop fighting. During this, his son Puneet (since deceased) objected to them returning again to fight. One of the boys said Puneet was speaking too much and then took out a sharp knife from his pant and stabbed his son Puneet (since deceased) on the right side of his chest. Puneet caught the knife but it was pulled out, and he

fell down. The accused persons, including accused Omkar, accused Dharmender and the boy who stabbed, fled from the spot. After the incident, he tried to stop the bleeding of his son. His elder son Abhishek, who runs a glass disposal shop in Gali No. 5, also arrived. With the help of a boy named Rahul from the locality, his son Puneet was taken on a motorcycle to Bhagat Chandra Hospital. Due to his serious condition, he was referred to Manipal Hospital, where the doctor declared him (Puneet) dead. Later, he came to know that the boy who stabbed his son is CCL 'G'.

The statements of several public witnesses including family members of deceased have been recorded in the present case. As per the statement of mother of deceased namely Premwati, at about 9:00 pm, she was present along with her husband and son Puneet (since deceased) and domestic helper Rubi at her house and they heard loud noises in the gali. She came out of the house and her husband and her son Puneet (since deceased) also came from behind. She found that 7-8 boys had come out of whom accused Shubham Yadav, Dharmender, Omkar and Pratham were present. Accused Shubham Yadav came to her and tried to touch her legs and stated that *“aaj kuch karke jaunga”*. In the meantime, other accused Omkar asked to take out the knife stating that his elder brother had been beaten, on which one of the boy out of those 7-8 boys took out the knife and inflicted knife blow upon the chest of Puneet. The domestic helper Rubi took Puneet inside the house and accused Shubham Yadav, Omkar and Dharmender came inside the house and took

Puneet outside the gali towards the chowk where he got unconscious and they ran away from the spot.

Ld. counsel for accused Shubham Yadav had emphasized on the fact that accused Shubham Yadav was folding his hands before the mother of Puneet (since deceased) and he had not come to cause any harm to Puneet or any other family members of the complainant. He has also stated that he did not run away from the spot and had taken Puneet (since deceased) to the hospital.

CCTV footage has been perused apart from perusing the case file carefully.

In so far as submissions of folding hands by accused Shubham Yadav is concerned, mother of deceased namely Premwati herself has told as to what accused Shubham Yadav said to her. The veracity of the statement of the mother of deceased can only be checked after her evidence is recorded.

In so far as the other submission of Ld. counsel regarding taking Puneet to the hospital by accused Shubham Yadav is concerned, it is noted from the statements of witnesses that accused Shubham Yadav along with other co-accused Omkar and Dharmender had taken Puneet from his house after he was stabbed. Accused Omkar was the one, who had made out a call to take out the knife. Merely from the fact that all these three accused persons had taken Puneet from the house, it cannot be assumed that they were shifting Puneet to hospital. As per the statements of witnesses present at the spot, all accused persons left him (Puneet) on the middle of the road and ran away from

the spot.

The CCTV footage shows that all accused persons were carrying dandas in their hands. All the public persons, who have been examined under Section 180 BNSS, also stated that some of them were carrying dandas and some were carrying rods in their hands. Undoubtedly, accused persons herein is not the one who had inflicted knife blow upon the chest of Puneet, however, mere absence of an overt act on their part would not by itself negate the allegations of sharing common intention amongst them to commit murder of Puneet. The call made by accused Omkar for bringing a knife speaks all about it.

Thus, the Court finds that there is sufficient material to frame charges against all accused persons at this stage for the offences punishable u/s Section 103(1)/3(5) BNS. Charges framed accordingly, to which accused persons pleaded not guilty and claimed trial.

Summons be issued to witness mentioned at serial No.1 for NDOH. MHC(M) with case property be also summoned for NDOH.

Put up for PE on 05.09.2026.

At request of Ld. Addl. PP for the State, issue notice to IO/IO/Insp. Rajesh Meena for NDOH.

Vide separate order, the bail application moved on behalf of accused Shubham Yadav is also dismissed.

(Vandana Jain)

ASJ-03 & Special Judge (Companies Act)
Dwarka Courts (SW)/ND/24.07.2026