

MHND010004662025 	<u>IN THE COURT OF ADDITIONAL SESSIONS</u> <u>JUDGE-1, NANDED</u> SESSIONS CASE NO. 28/2025 State -Vs- Amer Khan
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ORDER BELOW EXH.3

Applicant has filed this application for discharge under Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred as ‘BNSS’).

2. The APP has contested this application by filing say vide Exh.4. She has contended that, from the charge-sheet it can be seen that, there is *prima facie* case against the applicant. Moreover from the report and statement of witnesses it can be seen that, the applicant has assaulted victim with screw driver and informant with Batai. The informant has sustained fracture injury in the same. There are eye witnesses of the incident. The application is filed only with intention to delay the trial. So, it is prayed that application be rejected.

3. Heard Ld. advocate Mr. Sk. Shakil Md. Ibrahim, Deputy Nyaya Rakshak for accused and Smt. Battula for State. They have argued as per the line of their contentions in the application and say respectively.

4. The Ld. advocate for applicant has sought his discharge under Section 118(2) of B.N.S. He has contended that in the medical papers the medical officer has not clearly opined that informant has sustained fracture and in I.P.D. papers there is mentioned of one ‘?’ in front of fracture. Also, there is no x-ray on record. So, it is argued that, applicant be discharged under Section 118 (2) of B.N.S.

5. Gone through the charge-sheet. In the report the informant Syed Husen has alleged that on 14.11.2024 at 10.00 p.m. he and his brother Majid had been to the house of their sister Sultana to settle quarrel between her and her husband i.e. applicant. At that time applicant had assaulted his brother Majid and stabbed him with screw driver near his neck and he also assaulted him with Batai on his right hand etc. Thereafter, his brother was declared dead. So, from the allegations in the report it can be seen that the informant is injured as well as eye witness of the present incident.

6. The charge-sheet also shows that besides informant there are several other eye witnesses namely Imran Khan, Sultana Begum, Sarvar Khan, Mohd. Samad and Zubeda Begum. In view of their statements *prima facie* it has come on record that applicant has assaulted informant with Batai on his right hand. So, *prima facie* the oral evidence on record is sufficient to show that the applicant has assaulted the informant.

7. The medical evidence on record i.e. MLC *prima facie* shows that informant has sustained fracture of right closed undisplaced mid shaft nuckle mid end of 2nd digit and nature of injury is shown as grievous. In the I.P.D. papers the detail medical history of informant is narrated alongwith mode of treatment in the same there is '?' mentioned. However, it is further made clear that there is fracture of mid shaft nuckle mid end of 2nd digit. So, *prima facie* from the medical evidence on record *prima facie* offence under Section 118(2) of B.N.S is made out.

8. The present application is filed under Section 250 of B.N.S.S. seeking discharge of the accused. However, it is pertinent to note that, as per this provision application for discharge is required to be filed within a period of 60 days from date of commitment of the case under Section 232. In the present case the case is committed to this Court on 15.02.2025 and

the present application is filed on 20.05.2025 which is not within the prescribed period of limitation as provided in the Section. Even otherwise in this case upon consideration of the record and documents I held that, there are sufficient grounds for proceeding further against applicant under Sections 118 (2) of B.N.S. Therefore, I held that, present application is not tenable. Hence, I proceed to pass following order.

ORDER

Application is rejected.

sd/-

(R.M. Shinde)

Additional Sessions Judge-1
Nanded.

Date : 01.01.2026