



**ORDER ON DISCHARGE APPLICATION (EXH.91)**

**IN**

**C.R. NO.440/2023 OF P. S. DHANTOLI**

(U/SEC. 420, 406, 419, 467, 468, 471, 171, and 120-B of the  
Indian Penal Code)

1. Accused **Karan Rajora** has filed this discharge application for discharging him, in connection with C.R. No.440/2023, registered with Dhantoli Police Station for offences punishable U/sec.420, 406, 419, 467, 468, 471, 171, and 120-B of the Indian Penal Code,1860.
2. Learned Advocate for the Accused submitted that Karan Rajora has been arrayed as co-Accused and co-conspirator in the present crime of cheating. It is submitted that the prosecution arises from a fraudulent transaction occurred between 7<sup>th</sup> December 2022 to 3<sup>rd</sup> February 2023. The applicant was arrested on 15.04.2025 and released on bail thereafter. Subsequently, Investigating Officer has filed charge sheet on



28.06.2025. A bare reading of the charge-sheet and accompanied documents demonstrate that the prosecution has failed to disclose any specific role, overt act or material evidence against the Applicant/Accused. The FIR only mentions first name Karan without father's name or identifying particulars. No documentary or oral evidence connects the applicant with alleged transactions. Further, there is no recovery or seizure from his possession. The statements of the witnesses are silent as to any inducement, misrepresentation or active participation by the accused. There is absence of mens rea and dishonest inducement against the Accused. Further, there is no evidence of conspiracy in which the accused was shown to be involved in. It is further submitted that, in view of the ratio laid down by Hon'ble Apex Court in the case of *State of Karnataka Vs. L Munni Swami (1977) 2 SCC 699*, *P. Vijayan Vs. State of Kerala (2010) 2 SCC 398* and *M. E. Shivling Murti Vs. CBI (2020) 2 SCC 768* the accused deserves to be discharged.

3. The learned APP filed her say below Exhibit 98 and relied



upon case laws submitted along with pursis at Exh.99. She has strongly objected to the present application on the ground that the offences for which present Accused is arrayed are serious in nature. The amount in question is amounting to Rs. 5,39,50,000/-. The name of the Karan is mentioned in the FIR. The statement of Satish Chaudhari at page no.35 to 37 discloses the name of Karan Rajora and his involvement. Further, seizure Panchnama so also bogus AADHAR card, his bank account statement maintained with ICICI and Yes Bank, clearly shows that he was involved in the present crime. She has placed her reliance on the ratio laid down in the following cases :-

- i. Rajan Vs. State of Kerala,*
- ii. S.K. Sinha Vs. State of Maharashtra,*
- iii. Sajjan Kumar Vs. State,*
- iv. Sunil Kumar Vs. State of Bihar and P. Chidambaram Vs. Directorate of Enforcement*



It is lastly submitted that taking into a consideration the entire evidence, there is strong evidence collected against the present Accused, which prima facie establishes the offences alleged. Therefore, the present application deserves to be rejected.

4. I have heard learned APP and Counsel for Accused. Perusal of the entire Charge Sheet would reveal that the Accused has been booked for the present offences upon the statement of the Informant, made in his First Information Report so also on the basis of the statement of one of the witnesses viz. Satish Chaudhari. The only role attributed to the present Accused is, his presence in the meeting, which was attended by the informant and other witness. It is further seen that as per the informant, Accused Rahul Gaikwad was instrumental in enticing the Informant to investment of money, on the pretext that Rs.1,00,00,000/- should be arrange by the Informant and rest Rs. 4,00,00,000/- would be invested by the partner of the accused Rahul Gaikwad viz. the present Accused Karan Rajora.



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5. The charge-sheet further shows that, by test identification parade involving Informant and other witness viz. Satish Chaudhari, they both have identified the accused, the report to that effect is placed at page no.70 to 73 of the supplementary charge-sheet. The supplementary charge sheet further places on record KYC documents pertaining to Rajora Entertainment which shows that the present accused is one of the partners therein. Further, the bank statement of account bearing no.344605000682 maintained with ICICI Bank, shows the holder to be the present accused. The period under investigation shows various amounts, through cash, came to be deposited in this account. The statement of bank account bearing no.920047451790 maintained with AXIS Bank in the name of Meghna Arts (Proprietor Raju Mandal) shows deposit of amount from the Informant. The charge-sheet further reveal that on 27.01.2023, amount of Rs.3,75,000/- was deposited in present accused's bank account maintained with ICICI Bank the statement to that effect is placed at page no.154 of the supplementary charge-sheet.



6. Before proceeding further, it would be apposite to take a note of considerations for deciding discharge application, as laid down by Hon'ble Apex Court from time to time. The Hon'ble Apex Court in the case of *Union of India Vs. Prafulla Kumar Samal and another*<sup>1</sup> has summarized the principles as regards decision on discharge application. The proposition is reproduced below:-

*"10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:*

*(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift 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.*

*(2) 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.*

*(3) 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*

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<sup>1</sup> AIR 1979 SC 366



*be fully within his right to discharge the accused.*

*(4) That in exercising his jurisdiction under Section 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.*

7. The Hon'ble Apex Court later in the case of ***State of Tamil Nadu by Inspector of Police Vigilance and Anti-corruption Vs. N. Suresh Rajan and others***<sup>2</sup> has further opined as follows: -

*"30. Reference in this connection can be made to a recent decision of this Court in Sheoraj Singh Ahlawat v. State of U.P (2013) 11 SCC 476 , AIR 2013 SC 52 , in which, after analysing various decisions on the point, this Court endorsed the following view taken in Onkar Nath Mishra v. State (NCT of Delhi) (2008) 2 SCC 561: (Sheoraj Singh Ahlawat case (2013) 11 SCC 476, AIR 2013 SC 52)*

*"15 '11. It is trite that at the stage of framing of charge the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the*

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<sup>2</sup> AIR 2014 SC 942



*court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.'*

8. While dealing with the present application, though under Section 239 Cr.P.C. the propositions laid down by the Hon'ble Apex Court are squarely applicable. In the present case the present accused has been named by the informant in FIR. It is to be borne in mind his name appears there and his further corroborated by the testimony of other eye witness both of whom have identified him in TI Parade. The trail of the money, received from the Informant reaches up to the present accused. The fact can be verified from statement of bank account placed at page no.154 of the supplementary charge-sheet. There is enough material placed on record, which suggests the complicity of the accused in the present crime. It is said that there is no smoke without fire. Once the name of the Accused



comes to fore front and there is some material to support the allegation levelled by the prosecution, then in such a scenario the accused doesn't deserve to be discharged at this stage. There is enough material presented by the prosecution, which requires sending the accused to face trial. At this juncture, taking into account voluminous documents and the statement of the Informant, it Prima-facie showcases the Involvement of the present Accused. There is sufficient material to support the offences alleged against the present Accused. Considering the complexity of the offence, trial is must. Hence, I proceed to pass the following order: -

**-: O R D E R :-**

Application is rejected.

Place : Nagpur.  
Date : 23/12/2025

(Kaustubh Nagesh Marathe)  
Judicial Magistrate, F.C. Nagpur.  
Court No.1