

MHNS050013822025



R.C.C. No. 204/2025

State Vs Bilal Ali Hussain Shaikh

ORDER BELOW EXH. 11

This is an application filed by accused No.2 Taufik Abdul Hussain Khan seeking discharge from the offences punishable under Sections 118(1), 115(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023.

02. It is the contention of the applicant/accused No.2 that the informant has alleged that on 04/11/2024 at about 7:30 a.m., the accused persons, including co-accused No.1 and one unknown person, assaulted the informant by means of a tile and caused injury on his forehead. Initially, the offence was registered against three persons, namely Bilal Ali Hussain Shaikh, Taufik Abdul Hussain Khan, and one unknown person. However, the Investigating Officer has filed charge-sheet only against two accused and omitted the third unknown accused.

03. It is further contended that accused No.1 has made a confessional statement before the Court admitting his guilt and stating that the present applicant was not present at the spot at the time of the incident. It is also contended that there is no independent and credible eyewitness, the statements of

jail guards have not been recorded during investigation, and no recovery has been effected from the present applicant. Hence, according to the applicant, there is no material connecting him with the alleged offence, and therefore he is entitled to be discharged.

04. Notice was issued to the informant, and accordingly, on 02/04/2026, the informant was produced by the jail authority. The informant has strongly opposed the application and filed his say at Exh.13. He has categorically stated that the present applicant, along with other accused, assaulted him and caused injuries. He has further submitted that the contents of the First Information Report are true and correct.

05. The learned APP has also filed a reply at Exh.12 and opposed the application. It is submitted that the name and role of accused No.2 are specifically mentioned in the First Information Report. The FIR clearly attributes participation of the present applicant in the commission of the offence. The medical report corroborates the injuries sustained by the informant. The confessional statement of co-accused No.1 cannot be a ground to discharge accused No.2.

06. It is further submitted that there is sufficient prima facie material against the applicant to proceed with the trial.

07. Heard the learned Advocate for the applicant/accused No.2 and the learned APP at length. Perused the charge-sheet and documents placed on record.

08. At the stage of discharge, the Court is required to consider whether there exists sufficient ground to proceed against the accused. The Court is not expected to conduct a meticulous appreciation of evidence or hold a mini trial. If the material on record discloses a prima facie case or raises a strong suspicion regarding the involvement of the accused, the charge must be framed.

09. It is equally well settled that a confessional statement of a co-accused, by itself, is a weak piece of evidence and cannot be made the sole basis to discharge another accused at this stage.

10. In the present case, the First Information Report specifically names accused No.2 and attributes an active role in assaulting the informant. The informant has reiterated the same allegations in his say before the Court. The nature of injuries, as reflected in the medical report, is consistent with the prosecution case. The statements recorded during investigation also disclose the involvement of accused No.2.

11. The contention of the applicant that accused No.1 has admitted sole responsibility cannot be accepted at this

stage. Such a confessional statement is a matter of evidence and its evidentiary value can only be tested during trial.

12. Further, the absence of recovery or non-recording of certain witnesses does not, by itself, demolish the prosecution case at the stage of discharge, when there is otherwise material indicating the involvement of the accused.

13. Thus, upon consideration of the material on record, it cannot be said that the charge against accused No.2 is groundless. On the contrary, there exists sufficient material to form a prima facie opinion that the accused No.2 has participated in the alleged offence.

14. In view of the above discussion, I am of the opinion that there are sufficient grounds to proceed against accused No.2. Hence, the application for discharge is devoid of merit.

ORDER

The application filed by accused No.2 Taufik Abdul Hussain Khan for discharge from the offences punishable under Sections 118(1), 115(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 is hereby rejected.

(N.K.Meshram)

Date: 09.04.2026

Judicial Magistrate First Class,
(Court no.2) Nashik-Road