



2026:CGHC:4281



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 137 of 2026

Durga Prasad Tandon, S/o Pyare Lal Tandon, Aged About 37 Years R/o Gayatri Nagar, Rajgamarg, Chowki Rajgamarg, P.S. Balconagar, District : Korba, Chhattisgarh
... **Applicant(s)**

versus

1 - State Of Chhattisgarh Through Station House Officer, Police Station Bhakhara, District : Dhamtari, Chhattisgarh

2 - Sangeeta Yadav W/o Late Anil Yadav Aged About 37 Years R/o House No. G-1, Housing Board Colony, Kharmora, P.S. Civil Line Rampur, Korba, District : Korba, Chhattisgarh (Complainant)
... **Respondent (s)**

(Cause title is taken from the CIS)

For Applicant	: Shri Anshul Tiwari, Advocate
For Respondent/State	: Shri Sumit Singh, Dy GA

Hon'ble Shri Justice Ravindra Kumar Agrawal

Order on Board

23.01.2026

1. The applicant has filed the present Criminal Revision under Section 438 r/w Section 442 of the BNSS 2023 against the impugned order dated 18.11.2025, passed by the learned Additional Sessions Judge FTC Korba, district-Korba, CG in ST-76 of 2025, whereby the charge for the offence under Sections 61(2)(a), 103(1)/190, 238/190 and 191(2) of the Bharatiya Nyay Sanhita, 2023 (BNS) have been framed against the applicant.



2. Brief facts of the case are that applicant is an accused in Crime No. 202 of 2025 registered at Police Station, Rajgamar, District-Korba. The allegation in the case filed against the applicant and other co-accused persons is that on 14.03.2025 deceased-Anil Yadav had gone to village-Rajgamar to enjoy the holy festival and at that time, some hot talk took place with one Arpit Agarwal and then he along with his friends committed *marpit* with the deceased, to which he become unconscious. The accused persons took the deceased near the lane, and set his position in sitting condition and fled away. One Tarun Sharma has made a telephonic call to the police and then police took the deceased to the hospital, where he was declared brought dead. Merg was recorded by the police and in the postmortem report, some antemortem injuries were found on the body of the deceased. Cause of death was opined as acute Myocardial infarction in a case of pre-existing coronary artery disease and its consequences, a natural cause. Nature of injuries is antemortem, and nature of force/weapon was hard, blunt, trauma/force/surface impact. After completion of investigation, earlier, charge-sheet was filed against five accused persons, out of which three were arrested and two were absconded. Subsequent to filing of charge-sheet against five accused persons, police has carried further investigation, and after recording of statement of witnesses under Section 164 CRPC, further collected evidence of CCTV footage etc., and arrested four other accused persons, including one juvenile in conflict with law and supplementary charge-sheet has been filed before the learned Judicial Magistrate First Class,



Korba, in which the present applicant is also impleaded as an accused for commission of murder of the deceased-Anil Yadav. Case was committed to the learned trial court where charge has been framed on 18.12.2025 against the present applicant also, which is under challenge in the present revision.

3. Learned counsel appearing for the applicant would submit that in the earlier charge-sheet, there was no allegation against the present applicant. Even in the statement of alleged eye witnesses, there is no mention that present applicant was also there with other accused persons, and he too assaulted the deceased by any means. Even in the memorandum statement of the other accused persons, recorded on the earlier occasion, there was no allegation against the present applicant. He would also submit that from the statement of the complainant itself and other witnesses, there is absolutely no evidence against the present applicant. Even his presence is not disclosed by the witnesses at the place of incident. On earlier execution of CCTV footage, there was no identification of the applicant that his presence was there on the spot, however, in the subsequent execution of CCTV footage, his presence has been identified by the witnesses, which is an after thought, only to implicate him in the offence in question. There is substantial execution in the statement of the witnesses with that of previous statement which clearly demonstrate that only to implicate the applicant in the offence in question, supplementary statement was recorded. It is also submitted that there is no offence of murder against the present applicant, as the



deceased natural death looking to reasons of postmortem report i.e. myocardio failure, etc. From the postmortem report of the deceased doctor has clearly opined that death of the deceased is due to 'acute Myocardial infarction in a case of pre-existing coronary after disease and its consequences a natural cause. Nature of injury Antemortem Nature of force Hard, Blunt, Trauma/Force/Surface impact.'. He would further submit that when the *prima-facie* evidence itself is not sufficient and the same is contradictory, and apparently shows that it has been introduced only to implicate present applicant in the offence in question, no charges can be framed against him. Had it been the case where present applicant has also committed the offence, there was no reason for the witnesses to leave him or to save him. He would further submit that there are two sets of charge-sheets and in the first set, absolutely there was no evidence against the applicant. Therefore, the order passed by the learned trial court framing charge against the applicant holding that there is sufficient material against him to frame charge and to proceed with the trial is erroneous and the same is liable to be set aside and the applicant may be discharged.

4. On the other hand, learned counsel appearing for the state opposes the submissions made by the learned counsel for the applicant and submitted that on the first occasion, when the charge-sheet was filed against five accused persons including the absconded accused persons, it has been clearly mentioned that identification of the accused persons, who were seen in the CCTV footage is yet to be conducted and further



investigation with respect to call details, CDR and allegation of the suspected accused persons, Section 183 BNSS statements of the witnesses are required to be recorded and other evidences to be collected against absconding accused persons. Therefore, after obtaining permission from the Superintendent of Police, required under section 193 (9) of the BNSS 2023 reserving the right to file the supplementary charge-sheet, the first charge sheet was filed against the three arrested accused persons and two absconded accused persons. He would further submit that in furtherance thereby, when identification of the accused persons, whose appearance was found in the CCTV footage was conducted, one of them is identified as the present applicant. In 183 BNSS Statement of the witnesses the presence of present applicant is also stated by the witnesses which is sufficient to proceed against them in filing of the supplementary charge-sheet. From 183 BNSS statement of Yogesh Kumar Yadav, and Sangeeta Yadav, presence of the present applicant is stated and his active participation in the alleged offence is also disclosed.

5. From the applicant, motor cycle has been seized which is alleged to be used. However, from the place of incident, along with other accused persons, there is identification memo of CCTV footage, in which applicant has been identified as one of the accused persons. There is sufficient *prima-facie* evidence against the applicant to frame charge against him for commission of murder of the deceased. Whether or not his death is homicidal or natural, which is to be decided during the course of time.



However, the fact remains that doctor has found certain antemortem injuries on the body of the deceased. Had the deceased been died by natural cause, injuries must have not been caused on his body. Therefore, the order passed by the learned trial court framing of charge against the present applicant does not suffer from any infirmity or illegality, and the revision is liable to be dismissed.

6. Heard learned counsel for the parties and perused the material annexed with the revision petition.

7. Present petition is filed against the order of framing of charge. Law with respect to consideration of material available in the charge sheet at the time of framing of charge is well settled by a catena of decisions of the Hon'ble Supreme Court and some of them are referred here under.

8. Hon'ble Supreme Court has laid down the principles in the case of **State of M.P. vs. Deepak 2019 (13) SCC 62**, wherein the Hon'ble Supreme Court has held that at the stage of framing of charge, the court has to consider the material only to find out if there is a ground for presuming that the accused had committed the offence. It is also held that the court is required to evaluate the material and documents on record to find out if facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence and at the stage of framing charge, the court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded is likely to be



convicted or not. In the matter of **Deepak** (Supra), in its judgment, the Hon'ble Supreme Court has held that:

“16. It was also noted that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence : (*Chitresh Kumar Chopra case* [*Chitresh Kumar Chopra v. State (NCT of Delhi)*, (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] , SCC p. 613, para 25)

“25. 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, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for “presuming” that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.”

17. A two-judge Bench of this Court, in *Rajbir Singh v State of U.P.* [(2006) 4 SCC 51: (2006) 2 SCC (Cri) 209] noted that in accordance with Section 227, the High Court must ascertain whether there is “sufficient ground for proceeding against the accused” or there is ground for “presuming” that the offence has been committed. G.P. Mathur, J. held thus: (SCC p. 56, paras 9-10)

“9. In *Stree Atyachar Viodhi Parishad v. Dilip Nathumal Chordia* [(1989) 1 SCC 715 : 1989 SCC (Cri) 285] the Court while examining the scope of Section 227 held as under:-



‘14. Section 227 itself contains enough guidelines as to the scope of inquiry for the purpose of discharging an accused. It provides that “the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused”. The “ground” in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate inquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects. All that the court has to consider is whether the evidentiary material on record, if generally accepted, would reasonably connect the accused with the crime.’

10. The High Court did not at all apply the relevant test, namely, whether there is sufficient ground for proceeding against the accused or whether there is ground for presuming that the accused has committed an offence. If the answer is in the affirmative an order of discharge cannot be passed and the accused has to face the trial. The High Court after merely observing that ‘as the firing was aimed at the other persons and accidentally the deceased Pooja Balmiki was passing through that way and she was hit’ and further observing that ‘the applicant neither intended to kill the deceased nor was she aimed at because of the reason that she was a Scheduled Caste’ set aside the order by which he charges had been framed against Respondent 2. There can be no manner of doubt that the



provisions of Section 301 IPC have been completely ignored and the relevant criteria for judging the validity of the order passed by the learned Special Judge directing framing of charges have not been applied. The impugned order is, therefore, clearly erroneous in law and is liable to be set aside.”

9. In the matter of **Manjit Singh Viridi vs. Hussain Mohammad Shattaf 2023 (7) SCC 633**, the Hon’ble Supreme Court has held in para 12 of its judgment that:

“12. The law on the point has been summarised in a recent judgment of this Court in *State of Rajasthan v. Ashok Kumar Kashyap* [*State of Rajasthan v. Ashok Kumar Kashyap*, (2021) 11 SCC 191 : (2022) 1 SCC (Cri) 286] . Relevant paras are extracted below : (SCC pp. 197-98, para 11)

“11. ... 11.1. In *P. Vijayan v. State of Kerala* [*P. Vijayan v. State of Kerala*, (2010) 2 SCC 398 : (2010) 1 SCC (Cri) 1488] , this Court had an occasion to consider Section 227CrPC. What is required to be considered at the time of framing of the charge and/or considering the discharge application has been considered elaborately in the said decision. It is observed and held that 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. It is observed that in other words, the sufficiency of grounds 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. It is further observed that if the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228CrPC, if not, he will discharge



the accused. It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, 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 the function of the court, after the trial starts.

11.2. In the recent decision of this Court in *State of Karnataka v. M.R. Hiremath* [*State of Karnataka v. M.R. Hiremath*, (2019) 7 SCC 515 : (2019) 3 SCC (Cri) 109 : (2019) 2 SCC (L&S) 380] , one of us (D.Y. Chandrachud, J.) speaking for the Bench has observed and held in para 25 as under : (SCC p. 526)

“25. The High Court [*Hiremath v. State of Karnataka*, 2017 SCC OnLine Kar 4970] ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In *State of T.N. v. N. Suresh Rajan* [*State of T.N. v. N. Suresh Rajan*, (2014) 11 SCC 709 : (2014) 3 SCC (Cri) 529 : (2014) 2 SCC (L&S) 721] , advertent to the earlier decisions on the subject, this Court held : (N. Suresh Rajan case [*State of T.N. v. N. Suresh Rajan*,



(2014) 11 SCC 709 : (2014) 3 SCC (Cri) 529 : (2014) 2 SCC (L&S) 721] , SCC pp. 721-22, para 29)

“29. ... At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

10. Further, in the matter of **State by SP through the SPE, CBI vs. Uttamchand Bohra, 2022 (16) SCC 663**, the Hon'ble Supreme Court has held in para 21 of its judgment that:

“21. In CBI v. K. Narayana Rao [CBI v. K. Narayana Rao, (2012) 9 SCC 512 : (2012) 4 SCC (Civ) 737 : (2012) 3 SCC (Cri) 1183] this Court, after reviewing the previous decisions that dealt with the question of the applicable standard relating to discharge of accused in a criminal case, summarised the principles in the following terms : (SCC pp. 520-23, paras 12-14)

“12. The first decision in Ramesh Singh [State of Bihar v. Ramesh Singh, (1977) 4 SCC 39 : 1977 SCC (Cri) 533] relates to interpretation of Sections 227 and 228 of the Code for the considerations as to discharge the accused or to proceed with trial.



Para 4 of the said judgment is pressed into service which reads as under : (SCC pp. 41-42)

‘4. Under Section 226 of the Code while opening the case for the prosecution the Prosecutor has got to describe the charge against the accused and state by what evidence he proposes to prove the guilt of the accused. Thereafter comes at the initial stage the duty of the Court to consider the record of the case and the documents submitted therewith and to hear the submissions of the accused and the prosecution in that behalf. The Judge has to pass thereafter an order either under Section 227 or Section 228 of the Code. If “the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing”, as enjoined by Section 227. If, on the other hand, “the Judge is of opinion that there is ground for presuming that the accused has committed an offence which — ... (b) is exclusively triable by the court, he shall frame in writing a charge against the accused”, as provided in Section 228. Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and



judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. 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. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We may just illustrate the difference of the law by one more example. If the scales of



pan as to the guilt or innocence of the accused are something like even, at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under Section 228 and not under Section 227.'

13. Discharge of the accused under Section 227 of the Code was extensively considered by this Court in P. Vijayan [P. Vijayan v. State of Kerala, (2010) 2 SCC 398 : (2010) 1 SCC (Cri) 1488] wherein it was held as under : (SCC pp. 401-402, paras 10-11)

'10. ... If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal. Further, 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 the function of the court, after the trial starts.

11. 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. In other



words, 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.'

14. While considering the very same provisions i.e. framing of charges and discharge of the accused, again in Sajjan Kumar [Sajjan Kumar v. CBI, (2010) 9 SCC 368 : (2010) 3 SCC (Cri) 1371] , this Court held thus : (SCC pp. 375-77, paras 19-21)

'19. It is clear that 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 only for the purpose of deciding prima facie whether the court should proceed with the trial or not. If the evidence which the prosecution proposes to adduce proves 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.

20. A Magistrate enquiring into a case under Section 209CrPC is not to act as a mere post office and has to come to a conclusion whether the case before him is fit for commitment of the accused to the Court of Session. He is entitled to sift and weigh the materials on record, but only for seeing whether there is sufficient evidence for commitment, and not whether



there is sufficient evidence for conviction. If there is no prima facie evidence or the evidence is totally unworthy of credit, it is the duty of the Magistrate to discharge the accused, on the other hand, if there is some evidence on which the conviction may reasonably be based, he must commit the case. It is also clear that in exercising jurisdiction under Section 227CrPC, the Magistrate should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

Exercise of jurisdiction under Sections 227 and 228CrPC

21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227CrPC 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. The test to determine prima facie case would depend upon the facts of each case.

(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 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, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.' "



11. The Hon'ble Supreme Court has further held in its judgment in the case of **State of Gujarat vs. Dilipsinh Kishorsinh Rao, 2023 SCC Online SC 1294**, that:-

“10. It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged.

11. This Court in State of T.N. v. N. Suresh Rajan [State of T.N. v. N. Suresh Rajan, (2014) 11 SCC 709 : (2014) 3 SCC (Cri) 529 : (2014) 2 SCC (L&S) 721] adverting to the earlier propositions of law laid down on this subject has held : (SCC pp. 721-22, para 29)

“29. We have bestowed our consideration to the rival submissions and the submissions made by Mr Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the



materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

12. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression “the record of the case” used in Section 227CrPC is to be understood as the documents and articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency.

13. The primary consideration at the stage of framing of charge is the test of existence of a prima facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in *State of Maharashtra v. Som Nath Thapa* [*State of Maharashtra v. Som Nath Thapa*, (1996) 4 SCC 659 : 1996 SCC (Cri) 820] and *State of M.P. v. Mohanlal Soni* [*State of M.P. v. Mohanlal Soni*, (2000) 6 SCC 338 : 2000 SCC (Cri) 1110] has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check



whether the material on record would certainly lead to conviction at the conclusion of trial.”

12. In the matter of **State (NCT of Delhi) vs. Shiv Charan Bansal and Others, 2020 (2) SCC 290**, the Hon’ble Supreme Court has held that at the stage of framing of charge, the trial court is not required to conduct a meticulous appreciation of evidence or a roving inquiry into the same and has the power to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case is made out against the accused to proceed with the trial.

13. Referring to the facts of the present case, from perusal of statement available in the case with the charge-sheet, recorded under Section 183 of the BNSS 2023, the witnesses Yogesh Kumar Yadav and Sangeeta Yadav have clearly stated about the presence of the applicant along with other accused persons and his active participation in the assault made by them to the deceased is also described. Further, there is material of identification in the CCTV footage and the witness Yogesh Yadav had identified the person who had seen in the CCTV footage as Durga Prasad Tondon, present applicant. Whether or not the applicant was present on the spot and committed the offence or his identification in the CCTV footage is suffered from proper identification are the disputed questions of the fact which are to be decided after prosecution witnesses but at this stage it cannot be said that there is absolutely no evidence against the applicant to frame charge or to proceed with the trial of the case. Like wise the injuries have been found of the body of the deceased



at the time of his postmortem. The deceased may suffer from Myocardial infarction in a case of pre-existing coronary artery disease and its consequences but the injuries are relevant factors to decide the actual death cause of his death which has to be decided after evidence of the doctor who conducted the postmortem.

14. Keeping in view the observation made by the police authorities in the main charge-sheet that the identification of the persons seen in the CCTV footage, statement under section 183 BNSS are yet to be recorded and the call details, and the location of the accused persons are required to be examined, earlier charge-sheet was filed and in such conditions it cannot be said that only to implicate the present applicant, further evidence was created by the police.

15. From the entire material annexed with the charge sheet this court finds that there is sufficient evidence against the applicant in the case to frame charge and to proceed with the trial of the case in which this court does not find any infirmity or perversity. Accordingly, I don't find any scope for interference in the revision and the same is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE