

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



1. S.B. Criminal Miscellaneous (Petition) No. 1942/2026

Dr. Rakesh Kumar Son Of Shri Ranjeet Singh, Aged About 38 Years, Resident Of Village And Post Jheegar Chhoti Via- Katrathal Tehsil And District, Sikar.

----Petitioner

Versus

1. The State Of Raj., Through The Public Prosecutor.
2. Smt. Deepi Goyal W/o Shri Gaurav Garg, Joint Project Director, Rghs, Vitta Bhawan, Lal Kothi, Jaipur City (East), Jaipur, Rajasthan.

----Respondents

Connected With

2. S.B. Criminal Miscellaneous (Petition) No. 1420/2026

Dr. Sunil Dhaka S/o Harlal Singh Dhaka, Aged About 43 Years, R/o Basani, Bairas, Basna, Laxmangarh, Sikar, Rajasthan 332311 (Previously Associate Professor, Rajkiya Shri Kalyan Hospital, Sikar, Kotwali, Rajasthan).

----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Deepi Goyal W/o Gaurav Garg, R/o Plot No. 133, Patrakar Colony, Mansarovar, Vistaar, Jaipur (Presently Joint Project Director, Rghs, Jaipur).

----Respondents

3. S.B. Criminal Miscellaneous (Petition) No. 1494/2026

Dr. Kamal Kumar Agarwal S/o Late Sita Ram Agarwal, R/o Flat No. 201, Facutly Type-1, Doctors Quarter, Srikalyan Govt. Hospital, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Smt. Deepi Goyal W/o Shri Gaurav Garg, Joint Project Director, Rghs, Vitta Bhawan, Jaipur, Lal Kothi, Jaipur City (East), Rajasthan.

----Respondents

4. S.B. Criminal Miscellaneous (Petition) No. 1602/2026

Dr. Gajraj Singh Son Of Shri Kishore Singh, Aged About 40 Years, Resident Of Village Dhani Kripa Ram Ji Ki, Tehsil, Nechuwa, District Sikar.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Public Prosecutor.
2. Smt. Deepi Goyal W/o Shri Gaurav Garg, Joint Project Director, Rghs,vitta Bhawan, Lal Kothi, Jaipur City (East), Jaipur, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Swadeep Singh Hora with Mr. Sahajveer Singh Mr. Banwari Lal Sharma with Mr. Namu Narayan Sharma, Ms. Ruchika Nawal and Mr. Mohit Sharma Mr. Harsh Joshi with Mr. Chinmay Mudgal for Mr. Deepak Chauhan
For Respondent(s)	:	Mr. Rajesh Choudhary, GA-cum-AAG, assisted by Mr. Manvendra Singh Shekhawat, P.P. Mr. Vinod Kumar Sharma Mr. Suresh Verma Mr. Rishabh Kala Ms. Neha Goyal Mr. Lokendra Dadarwal (RPS), Additional S.P., SOG

HON'BLE MR. JUSTICE ANUROOP SINGHI

Order

07/05/2026

1. The present matters comes up for consideration of stay application filed in criminal miscellaneous petitions filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (**BNSS**), 2023, seeking quashing and setting aside of FIR No. 0011/2026 dated 19.02.2026 registered at Special Police Station-SOG, ATS & SOG, Jaipur for alleged offences punishable under Sections 318(4), 338,

336(3), 340(2) and 61(2) of the Bharatiya Nyaya Sanhita, 2023, along with all consequential proceedings arising therefrom.

2. As the same FIR has been challenged in all these petitions and as submitted by learned counsel for the petitioners, the petitioner(s) – accused therein who are doctors stand on a similar footing, these matters are heard together.

3. The facts leading to filing of the present criminal miscellaneous petitions are that the impugned FIR has been lodged alleging cheating, forgery, criminal conspiracy and fraudulent billing under the Rajasthan Government Health Scheme (**RGHS**) by various persons including the petitioners and the Empanelled Diagnostic Centres. The impugned FIR records that inflated invoices have been generated and unwarranted and needless diagnostic tests have been prescribed to patients, who are RGHS beneficiaries, so as to derive personal gains.

4. Several instances have been recorded in the impugned FIR to demonstrate that either the prescriptions issued by the concerned doctors fail to record the clinical symptoms and medical history of the patient, or that such prescriptions were allegedly issued on dates when the concerned doctor was not holding the Out-Patient Department (**OPD**), or instances where the concerned patient had allegedly never visited the said doctors, despite which prescriptions have been generated etc. The impugned FIR further records that diagnostic tests were prescribed to the patients without any medical necessity, solely to obtain unlawful benefits and to achieve wrongful gain. The impugned FIR further records that the petitioners have failed to comply with the guidelines issued by RGHS, the compliance of which is imperative.

5. After due consideration of the entire facts and events, the impugned FIR was lodged on 19.02.2026 and hence, the present petitions have been filed seeking quashing of the same.

6. Mr. Swadeep Singh Hora, learned counsel in S.B. Criminal Miscellaneous Petition No.1494/2026 appearing for the petitioner – Dr. Kamal Kumar Agrawal, submits that the impugned FIR fails to disclose any offence committed by the petitioner.

7. Learned counsel submits that the petitioner is a professional who has been rendering his services in Government Hospital with due diligence and efficiency and has been falsely implicated.

8. Learned counsel submits that role of the petitioner is confined to conducting clinical examination of the patients and the tests have been prescribed considering the medical history and condition of the concerned patient.

9. Learned counsel submits that the allegations levelled against the petitioner even if taken on the face of it, fail to make out that any tangible benefit has been derived by the petitioner, in absence of which, the petitioner cannot be prosecuted, much less held liable for the offences under which the impugned FIR has been registered.

In support of his submissions, learned counsel has placed reliance upon the following judgments/orders:

- I. ***CBI Vs. K Narayana Rao*** reported in ***(2012) 9 SCC 512;***
- II. ***Jacob Mathew Vs. State of Punjab*** reported in ***(2005) 6 SCC 1;***
- III. ***Mohammad Ibrahim and Ors. Vs. State of Bihar and Anr.*** reported in ***(2009) 8 SCC 751;*** and

IV. Order dated 30.03.2026 passed by Co-ordinate Bench of this Court at Principal Seat, Jodhpur in ***S.B. Criminal Writ Petition No. 1961/2026*** titled as ***Jagdish Vs. State of Rajasthan.***

10. Learned counsel further submits that the petitioner – Dr. Kamal Kumar Agrawal has been arrested by the respondents on 04.04.2026 and the said arrest has been made despite the fact that the respondents were duly communicated about the pendency of the present criminal miscellaneous petition and also ignoring the fact that the petitioner has always made himself available during the investigation. Hence, there was no occasion for the respondents to believe that the petitioner would not participate or duly co-operate in the investigation.

11. Learned counsel further submits that the arrest of the petitioner has been made in undue haste and the grounds of arrest as mentioned in the communication dated 04.05.2026 (Annexure-A/2) are absolutely vague, mechanical and devoid of any justification. Learned counsel also submits that the arrest has been made in complete disregard of the settled principles of law and directives as laid down by the Hon'ble Supreme Court and this Court in the following cases:-

- I. ***Arvind Kejriwal Vs. Directorate of Enforcement*** reported in ***(2025) 2 SCC 248;***
- II. ***Pankaj Bansal Vs. Union of India*** reported in ***(2024) 7 SCC 576;***
- III. ***Prabir Purkayastha Vs. State (NCT of Delhi)*** reported in ***(2024) 8 SCC 254;***

- IV. Order dated 25.11.2016 passed by Co-ordinate Bench of this Court in ***Dr. Sanjeev Gupta Vs. State of Rajasthan & Anr.*** In ***S.B. Criminal Misc. Petition No.5386/2016***; and
- V. Order dated 05.11.2020 passed by Co-ordinate Bench of this Court in ***Surendra Solanki Vs. State of Rajasthan & Ors.*** in ***S.B. Criminal Misc. Petition No.5345/2020*** and other connected matters.

12. Mr. Banwari Lal Sharma, learned counsel for the petitioner(s) – Dr. Rakesh Kumar in S.B. Criminal Miscellaneous Petition No.1942/2026 and Dr. Gajraj Singh in S.B. Criminal Miscellaneous Petition No.1602/2026, submits that the impugned FIR has been lodged with undue haste, which is evident from the fact that it refers to the guidelines under RGHS scheme which were issued on 28.11.2024, whereas the instances and incidences which has formed the basis for lodging the impugned FIR relate to the period prior to the issuance of said guidelines.

13. Learned counsel submits that the prescriptions mentioned in the impugned FIR were neither written nor signed by the petitioner(s) and forged scanned letterhead of petitioners' has been used.

14. Learned counsel further submits that if at all, there is any irregularity with respect to the claim lodged by the beneficiaries, the petitioner(s) cannot be held liable for the same as the registration of an RGHS beneficiary is done at the front desk and the petitioner(s) has no role in assessing as to whether a person is beneficiary of RGHS or not.

15. Learned counsel further submits that the entire FIR fails to make out any nexus of the petitioner(s) with the diagnostic labs and in absence of the same, it is only a presumption of the respondents that an unlawful gain has been derived by the petitioner(s), which cannot form the basis of registration of an FIR.

16. Learned counsel submits that no ground for conspiracy is made out in the impugned FIR and thus, the petitioner(s) deserves to be protected by granting interim relief.

17. Mr. Harsh Joshi along with Mr. Chinmay Mudgal, Advocate appearing for Mr. Deepak Chauhan, learned counsel for the petitioner – Dr. Sunil Dhaka in S.B. Criminal Miscellaneous Petition No.1420/2026, submits that none of the prescriptions as relied upon by the respondents record that the petitioner has ever directed or prescribed the tests to be conducted from a particular diagnostic lab, in absence of which, the petitioner cannot be alleged to be in a nexus with the diagnostic labs as mentioned in the impugned FIR.

18. Learned counsel submits that the professional expertise of the petitioner, on the basis of which, the medical tests have been prescribed cannot be a subject matter of evaluation in the impugned FIR.

19. Learned counsel submits that for rendering medical services in discharge of his professional duties, the petitioner cannot be made to suffer so as to cause an irreparable damage to his professional reputation, merely on the basis of frivolous and vague allegations levelled in the impugned FIR.

20. Learned counsel further submits that the petitioner has throughout co-operated in the investigation and is even willing to assist the authorities as and when required and thus, there is no necessity of any arrest being made.

21. In view of the aforesaid submissions, learned counsel for the petitioners submit that the stay application may kindly be allowed and the petitioners be granted benefit of interim relief.

22. In repudiation, Mr. Rajesh Choudhary, Government Advocate-cum-Additional Advocate General (**GA-cum-AAG**) along with Mr. Manvendra Singh Shekhawat, learned Public Prosecutor, submits that the impugned FIR duly discloses cognizable offences including cheating, forgery and criminal conspiracy and a detailed investigation is underway and thus, there is no occasion whatsoever for grant of any interim relief to the petitioners at this stage, much less any interference in the impugned FIR.

23. Learned GA-cum-AAG submits that bare perusal of the FIR reveals that specific instances have been recorded therein which make it manifest that petitioners are deeply involved in prescribing tests to RGHS beneficiaries for deriving personal benefits and gains and the role of the petitioners in all the alleged offences cannot be ruled out.

24. Learned GA-cum-AAG submits that the submissions made by learned counsel for the petitioners are misconceived as the present case is not a case of medical negligence or tortious liability but involves serious criminal allegations of forgery, cheating and conspiracy, which require thorough investigation and thus, the present case fails to fall within any of the criterias which

are *sine qua non* for invoking the inherent powers under Section 528 of BNSS, 2023.

25. Learned GA-cum-AAG further submits that the Rajasthan Social and Performance Audit Authority – Quality Control and Performance Audit (**RSPAA-QC and PA**) Cell has found grave violations in the RGHS claims after conducting a detailed inquiry.

26. Learned GA-cum-AAG has specifically relied upon the guidelines issued under RGHS dated 10.05.2023, which mandatorily require the concerned doctor to mention clinical symptoms along with the name of the disease on every prescription, which is undisputedly missing in all the prescriptions as mentioned on an illustrative basis in the impugned FIR.

27. Learned GA-cum-AAG specifically submits that bare perusal of the FIR reveals that the prescriptions issued by the petitioners fail to mention the vital and clinical symptoms and have been issued on days on which the petitioners were on leave and prescriptions have been issued for patients who have never visited and consulted the petitioners and even unwarranted and costly diagnostic tests have been prescribed and OPD slips have been generated for the patients who were admitted at any other place.

28. Learned GA-cum-AAG further submits that a detailed factual report was prepared by the competent authority of RGHS after considering the report of RSPAA-QC and PA Cell, which records that the petitioners have acted in a planned manner and have conspired with the diagnostics centres to achieve unlawful gains and only thereafter, the impugned FIR has been lodged.

29. Learned GA-cum-AAG, in support of his submissions has relied upon the following judgments of the Hon'ble Supreme Court:-

- I. ***Hamida v. Rashid @ Rasheed & Ors.*** reported in **(2008) 1 SCC 474**;
- II. ***State of Karnataka Vs. Sri Darshan*** reported in **2025 SCC OnLine SC 1702** and
- III. ***Abhishek Singh Vs. Ajay Kumar and Ors.*** reported in **2025 SCC Online SC 1313**.

30. With respect to the submissions made *qua* the arrest of the petitioner – Dr. Kamal Kumar Agarwal (petitioner in S.B. Criminal Miscellaneous (Petition) No. 1494/2026), learned GA-cum-AAG submits that the arrest has been made by following due procedure as prescribed under law and the grounds of arrest (**Annexure-A/2**) were duly communicated to the wife of the petitioner, bare perusal of which reveals that they are more than sufficient so as to justify the arrest of the petitioner.

31. Heard learned counsel for the parties and perused the record filed by the respective parties and also the case dairy submitted by the respondents.

Mr. Lokendra Dadarwal, Additional Superintendent, SOG Unit, Ratangarh, Churu, was also heard.

This Court is conscious that the submissions have been advanced by learned counsel for the parties with respect to the interim relief and thus, consideration of the submissions has been restricted to the said extent.

32. It is more than established that while considering a challenge made to an FIR by invoking the provisions of Section 528 BNSS,

2023, the golden principles laid down by Hon'ble Supreme Court in the case of ***State of Haryana Vs. Bhajan Lal*** reported in **1992 Supp (1) SCC 335** have to be strictly adhered to. The said principles read as under:-

"102. *In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever

reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice. "*

33. Thus, prima-facie this Court is required to consider as to whether the allegations levelled in the impugned FIR, if taken on their face value and accepted in their entirety, prima-facie constitute any offence or make out a case against the accused or not.

34. Though, the investigation in the present case is at a nascent stage, however, the case of the petitioners so as to seek an interim relief fails on this very count itself as a bare perusal of the contents of the impugned FIR discloses a set of allegations and factual assertions which require a thorough and proper investigation by the investigating agency with respect to the offences alleged against the accused – petitioners.

35. The allegations with respect to the non-mentioning of clinical history or clinical symptoms in the prescriptions as also the prescriptions being issued on days when the petitioners were not holding the OPD etc., are such which require a detailed investigation.

36. At this stage, on a prima facie reading of the said allegations in the impugned FIR, it cannot be said that the allegations are so inherently improbable that no prudent person could arrive at a conclusion that sufficient grounds exist for proceeding against the petitioners. Furthermore, considering that the petitioners were working in a Government Hospital, there is no material at this stage for this Court to consider that the impugned FIR has been maliciously lodged or is actuated by malafides.

37. The judgments as relied upon by the learned counsel for the petitioners pertain to cases involving medical negligence or tortious liability, whereas the allegations in the impugned FIR relates to offences of cheating, forgery and criminal conspiracy and thus, the said judgments fail to advance the case of the petitioners.

38. The Hon'ble Supreme Court in the case of ***Neeharika Infrastructure Private Limited Vs. State of Maharashtra & Ors.*** reported in **(2021) 19 SCC 401** while considering the core issue with respect to the grant of interim relief during pendency of the quashing proceedings under Section 482 of Code of Criminal Procedure, 1973 (Section 528 of BNSS, 2023) has recorded the following conclusions:-

" 33.1. Police has the statutory right and duty under the relevant provisions of the Code of

Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence.

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).

33.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.

33.9. The functions of the judiciary and the police are complementary, not overlapping.

33.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

33.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

33.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the

allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13. The power under Section 482CrPC is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court.

33.14. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , has the jurisdiction to quash the FIR/complaint.

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

33.16. The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482CrPC and/or

under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India.

33.17. Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482CrPC and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

33.18. Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague

and/or broad which can be misunderstood and/or misapplied.”

Taking guidance from the above conclusions and comparing the facts obtained, this Court is of the considered view that the petitioners have failed to make out an exceptional case such that non-interference in the same would result in miscarriage of justice.

39. Also, the additional submission made in the case of the petitioner - Dr. Kamal Kumar Agarwal with respect to his arrest failing to meet out the principles and procedure as prescribed by the Hon'ble Supreme Court in the cases of ***Arvind Kejriwal (supra)***, ***Pankaj Bansal (supra)*** and ***Prabir Purkayastha (supra)*** is not convincing as the grounds of arrest were duly communicated by the respondents to the wife of the petitioner on 04.05.2026. Thus, it cannot be said that the petitioner was arrested in defiance or ignorance of the principles laid down by the Hon'ble Supreme Court.

40. Accordingly, taking note of all the obtained facts and circumstances and on the bare perusal of the impugned FIR, this Court is not inclined to grant any interim relief to the petitioners and consequently, the stay applications in all the criminal miscellaneous petitions are dismissed.

41. Before parting, it is clarified that as it is only the stay application which has been decided vide this order, any observation or finding recorded herein shall not prejudice the rights and contentions of the parties in the final adjudication of the present petition or in any other cognate proceedings.

(ANUROOP SINGHI),J