HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 1623/2024

Kamla Shankar Nagda S/o Shri Sitaram Ji, Aged About 46 Years, R/o Bijalwas Bamaniya, Police Station Neemach City, Dist. Neemach, Madhya Pradesh.

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s)	:	Mr. M.L. Bishnoi
For Respondent(s)	:	Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

Date of Conclusion of Arguments : 06/01/2026

Date on which Order is Reserved : 06/01/2026

Full Order or Operative Part : Full Order

Date of Pronouncement : 13/02/2026

BY THE COURT:-

1. The instant Criminal Revision Petition has been preferred under Section 438 r.w. 442 of the BNSS by the petitioner against the order dated 03.09.2024 passed by the Special Judge NDPS Act Cases, Pindwara, District Sirohi in Criminal Original Case No.19/2024 whereby the learned Judge framed charges against the petitioner under Section 8/29 of the NDPS Act.

2. In nutshell the facts of the case are that on 01.02.2023, the SHO of Police Station Pindwara intercepted a Maruti Suzuki Ritz car (RJ-14-CK-3978) during routine vehicle checking. The occupant, Mannalal (resident of Neemuch, M.P.), was found in possession of three plastic bags containing a substance suspected to be opium latex. The contraband, weighing 4 kg 760 grams, was seized and sealed in accordance with law, and Mannalal was arrested.

2.1. During interrogation, Mannalal allegedly disclosed that he had procured the contraband from Pukhraj r/o District Bhilwara and was transporting it for delivery to Madan Devasi r/o District Barmer. Subsequent statements recorded on 02.12.2023 and thereafter implicated additional persons, including alleged intended recipients of portions of the contraband.

2.2. On 05.12.2023, Mannalal purportedly stated that he had purchased the opium from the present petitioner–accused, Kamal Nagda. Based on this disclosure, the petitioner was arrested on 06.12.2023, and a charge-sheet under Sections 8/29 of the NDPS Act was filed against him.

2.3. The petitioner contends that he made no voluntary disclosure and that his signatures were forcibly obtained on blank papers. He further alleges that this grievance was raised before the Court at the time of remand but was not recorded. It is also alleged that on 03.09.2024, charges were framed in his absence through video conferencing without affording him a proper opportunity of hearing. Aggrieved by the alleged procedural

irregularities and denial of fair opportunity, the petitioner has filed the present revision petition.

3. Learned counsel for the petitioner contends that the charge has been framed solely on the basis of statements attributed to co-accused persons, which, in law, cannot constitute substantive evidence against the petitioner in the absence of independent corroboration. It is submitted that such an approach is manifestly unsustainable and contrary to settled principles of criminal jurisprudence. Consequently, the order dated 03.09.2024, whereby charge has been imposed, is liable to be set aside.

3.1. It is further contended that immediately upon his arrest, co-accused Mannalal named one Pukhraj as the source of the contraband, and on the following day, during investigation before another Station House Officer, he reiterated the said allegation against Pukhraj. However, curiously, five days after the alleged incident, an information was abruptly recorded implicating the present petitioner, and on the very next day he was taken into custody. Learned counsel emphasizes that neither was there any telephonic conversation between the petitioner and co-accused Mannalal, nor was there any communication with any other accused person, as reflected from the investigation record.

3.2. It is argued that despite the absence of any independent material, the petitioner was charged solely on the basis of an alleged disclosure statement dated 05.12.2023 under Section 27 of the Evidence Act attributed to Mannalal. Counsel further

submits that, as per the order-sheet of that date, the accused persons were not present before the Court, and yet signatures were allegedly obtained, and even the petitioner's counsel was not present. Such procedural irregularities, according to learned counsel, vitiate the impugned order, rendering the order dated 03.09.2024 liable to be quashed.

3.3. Learned counsel further submits that any information furnished by a co-accused can be read against another accused only to the extent it leads to a recovery in consonance with such disclosure. In the absence of any consequential recovery pursuant to the alleged information, the said statement remains nothing more than an uncorroborated assertion of a co-accused, which is inadmissible and cannot form the foundation of a charge. On this ground as well, the impugned order is stated to be legally untenable.

3.4. It is lastly contended that the Investigating Officer, after 02.12.2023, conducted no meaningful investigation whatsoever in relation to Pukhraj, despite his name having surfaced at the earliest stage of inquiry. The charge-sheet presented before the Court is conspicuously silent as to any further probe in that regard. According to learned counsel, this omission unmistakably indicates that the investigation was neither fair nor impartial, but rather perfunctory and selective in nature. On this count also, the order dated 03.09.2024 deserves to be set aside.

4. Per contra, learned Dy.G.A. submits that the trial court has not committed any error passing order framing charge

5. I have heard the learned counsel for the parties and have gone through the impugned order as well as material available on record.

5.1. At the outset, it is necessary to clarify that this Court is not embarking upon an appreciation of evidence nor is it undertaking an evaluative exercise concerning the probative worth of the material collected during investigation. It is trite that at the stage of framing of charge, the Court is not required to meticulously weigh the evidence or adjudge the likelihood of conviction. The limited inquiry is whether, upon a plain reading of the prosecution material, the allegations, taken at their face value, disclose the basic ingredients of the alleged offence or at least give rise to a grave suspicion warranting trial. However, even within this circumscribed jurisdiction, the Court is duty-bound to apply its judicial mind to the material placed before it and to ascertain whether there exists prima facie material linking the accused with the commission of the alleged offence. The framing of charge cannot be reduced to a ritualistic or mechanical exercise merely upon the presentation of a charge-sheet.

6. A. On 02.12.2023 at 4:15 p.m., Mannalal informed that he can show the place to the officer where opium juice was supplied to him by one Pukharaj, son of Shankarlal R/o Ieras, Police Station Raiyla, District Bhilwara.

B. On 02.12.2023 at 4:30 p.m., he again stated that he is able to show the place where he was supposed to deliver the contraband to one Madanlal Devasi, resident of Arjania, Police Station Shivana, District Barmer.

C. Mannalal further stated on 02.12.2023 at 7:00 p.m. that he changed his earlier version and disclosed a new fact that out of seized 4.760 kg opium juice, he was to supply one and a half kg opium juice to Om Prakash Jat, resident of Chittaria, District Pali, and he expressed his desire to show the place to the police officer.

7. The aforesaid chronological narration of statements made within a span of scarcely three hours unmistakably reflects a vacillating and mutable narrative emerging from the co-accused while in police custody. The legal significance of these shifting versions cannot be trivialized, particularly when the prosecution seeks to construct criminal culpability of the present petitioner on the edifice of such fluctuating disclosures. The jurisprudential caution that confessional or inculpatory statements made in custodial settings are inherently suspect is deeply entrenched in criminal law, premised upon the maxim ***nemo tenetur se ipsum accusare*** , no man is bound to accuse himself. When successive and inconsistent disclosures are made in rapid succession, without any intervening recovery or corroborative circumstance, the probative value of such statements stands seriously diminished even at the threshold stage of charge.

8. It is to be noticed that in all these confessions no new fact has been recovered or discovered; no tangible or material object has been unearthed pursuant to these statements while the accused remained in police lock-up. The constitutional and evidentiary dimensions of such custodial statements were elaborately considered in ***State of Bombay v. Kathi Kalu Oghad, AIR 1961 SC 1808,*** wherein the Constitution Bench delineated the contours of Article 20(3) of the Constitution and clarified the ambit of compelled testimony. For ready reference the relevant paras of ***State of Bombay v. Kathi Kalu Oghad, AIR 1961 SC 1808*** are being reproduced hereunder-

> *"33. Similarly,during the investigation of a crime by the police, if an accused person were to point out the place where the corpus delicti was lying concealed and in pursuance of such an information being given by an accused person, discovery is made within the meaning of s.-27 of the Evidence Act, such information and the discovery made as a result of the information may be proved in evidence even though it may tend to incriminate the person giving the information, while in police custody. Unless it is held that the provisions of s. 27 of the Evidence Act, in so far as they make it admissible evidence which has the tendency to incriminate the giver of the information, are unconstitutional as coming within the prohibition of el. (3) of Art. 20, such information would amount to furnishing evidence. This Court in Sharma's case was not concerned with pronouncing upon the constitutionality of the provisions of s. 27 of the Evidence Act. It could not, therefore, be said to have laid it down that such evidence could not be adduced by the prosecution at the trial of the giver of the information for an alleged crime. The question whether s. 27 of the Evidence Act was unconstitutional because it offended Art. 14 of the Constitution was considered by this court in the,*

case of State of U. P. v. Deomen Upadhyaya . It was held by this Court that s. 27 of the Evidence Act did not offend Art. 14 of the Constitution and was, therefore, intra vires. But the question whether it was unconstitutional because it contravened the provisions of el. (3) of Art. 20 was not considered in that case. That question may, therefoe be treated as an open one. The question has been raised in one of the cases before us and has, therefore, to be decided.

34.The information given by an accused person to,, a police. officer leading to the discovery of a fact which may or may not prove incriminatory has been made admissible in evidence by that Section. If it is not incriminatory of the person giving the information, the question does not arise. It can arise only when it is of an incriminatory character so far as the giver of the information is concerned. If the self-incriminatory information has been given by an accused person without any threat, that will be admissible in evidence and that will not be hit by the provisions of el. (3) of Art. 20 of the Constitution for the reason that there has been no compulsion. It must, therefore, be held that the provisions of s. 27 of the Evidence Act are not within the prohibition aforesaid, unless compulsion has been used in obtaining the information.

In this connection the question was raised before us that in order to bring the case within the prohibition of cl. (3) of Art. 20, it is not necessary that the statement should have been made by the accused person at a time when he fulfilled that character ; it is enough that he should have been an accused person at the time when the statement was sought to be proved in Court, even though he may not have been an accused person at the time he had made that statement. The correctness of the decision of the Constitution Bench of this Court in the case of Mohamed Dastagir v. The State of Madras (1) was questioned because it was said that it ran counter to the observations of the Full Court in Sharma's Case. (2) In the Full Court decision of this Court this question did not directly arise ; nor was it decided. On the other hand, this Court, in Sharma's case(2), held that the protection under Art. 20

> *(3) of the Constitution is available to a person against whom a formal accusation had been levelled, inasmuch as a First Information Report had been lodged against him. Sharma's case (2), therefore, 'did not decide anything to the contrary of what this Court said in Mohamed Dastagir v. The State of Madras(,).''*

The Court emphasized that the protection against self-incrimination extends to testimonial compulsion and that statements obtained in coercive surroundings must be scrutinized with circumspection. Where no discovery of fact ensues from the alleged information, such custodial utterances remain squarely hit by Sections 25 and 26 of the Evidence Act and cannot be elevated to the status of substantive material.

10. It is observed that again on 02.12.2023 at 7:15 p.m., at brief intervals, the accused is shown to have altered his version yet again, now suggesting that out of the total seized opium, one and a half kilograms was to be supplied to another resident of Kushalpura, District Pali, and he wished to show the place to the Investigating Officer. Subsequently, on 05.12.2023 at 4:30 p.m., before the same Investigating Officer, he stated that he obtained the total seized opium from Kamal Nagda S/o Sita Ram B/c Brahmin, R/o Bijalwas, Bamaniya.

11. It is of seminal importance that on 02.12.2023 at 4:15 p.m., he had categorically attributed the source of contraband to Pukhraj S/o Shankarlal, District Bhilwara, and expressed willingness to show the place near Ieras from where he allegedly procured the contraband. The conspicuous absence of any intervening recovery

or verification between these contradictory statements renders the prosecution narrative inherently fragile. Criminal law does not countenance the creation of culpability on the oscillating statements of a co-accused changing his version every few minutes while in custodial interrogation. The Court cannot countenance a situation where, by mere iterative allegations, new accused persons are successively introduced without independent material.

12. Mannalal initially stated that he obtained the contraband from Pukhraj, resident of Bhilwara. After two days, he altered his version and alleged that he obtained it from Kamal Nagda. The gravamen of the matter is that a co-accused's statement, even if implicatory, does not assume the sanctity of gospel truth.

13. Criminal jurisprudence is founded upon proof beyond reasonable doubt, not upon uncorroborated accusation. The material supplied with the charge-sheet, as pointed out by learned counsel, does not disclose any contemporaneous document wherein Mannalal initially implicated the petitioner as the source or intended recipient of the contraband. The prosecution cannot circumvent the settled rule that confession of a co-accused is at best a weak type of evidence and cannot be the sole basis of conviction, much less the sole foundation for framing a charge in the absence of corroborative material.

14. Another information dated 07.12.2023 at 1:15 p.m. suggests that petitioner Kamal Nagda was arrested and allegedly furnished

information at Police Station Swaroopganj that he supplied 4.5 kg opium to Mannalal 8–10 days earlier. Significantly, Mannalal had been arrested on 01.12.2023 and was continuously in police custody. Thus, the alleged disclosure by the petitioner comes after the co-accused had already been interrogated multiple times. The chronology raises a legitimate doubt as to whether the petitioner's alleged disclosure was truly voluntary or the result of a constructed investigative sequence.

15. Mannalal furnished two divergent informations-

    - one on 02.12.2023 attributing procurement to Pukhraj, and
    - another on 05.12.2023 attributing it to Kamal Nagda.

16. The petitioner was not named in the earliest disclosure. In criminal jurisprudence, the earliest version carries significant evidentiary weight. Subsequent improvements or alterations are ordinarily viewed with caution, particularly where they enlarge the net of criminality. The absence of the petitioner's name in the earliest statements assumes decisive importance in evaluating whether a grave suspicion legitimately arises against him.

17. The Court must pose a fundamental question: in a prosecution under the NDPS Act involving commercial quantity, where the statutory minimum sentence is ten years, what was the material justifying the arrest of the petitioner? The NDPS Act, being a stringent statute, demands scrupulous adherence to procedural safeguards. The rigour of punishment must be matched by rigour

of proof. Arrest and prosecution cannot be predicated upon conjectural disclosures devoid of recovery or corroboration.

18. Even assuming the prosecution's best case , that upon arrest on 07.12.2023 the petitioner disclosed supply of opium to Mannalal , such disclosure constitutes the only material connecting him to the recovery. Yet the perplexing question remains: what was the material prior to his arrest? The arrest appears to have preceded any independent incriminating evidence. The law does not permit a fishing expedition whereby arrest is first effected and evidence sought thereafter to justify it.

19. Now comes the pivotal question: whether a solitary paper of confession and disclosure statement recorded at 1:15 p.m. on 07.12.2023 at Police Station Swaroopganj can amount to legally admissible evidence. The said disclosure statement, reproduced verbatim for ready reference, reads as follows:

"मैंने आज से करीब *8-10* दिन पहलें मन्नालाल पुत्र श्री कन्हैयालाल जाति नागदा ब्राहाम्ण निवासी रेवली देवली को साढ़े चार किलों अफीम मेरे घर के बाहर दिया था. मैने अफीम मन्नालाल को जिस स्थान पर दिया था वो स्थान मैं जानता हूं। जो आपके साथ चलकर बता सकता हूं।"

20. Sections 24, 25 and 26 of the Evidence Act erect a formidable bar against confessions made to police officers or while in police custody. Unless the case falls strictly within the narrow exception carved out under Section 27, such statements remain inadmissible.

21. The admissibility under Section 27 hinges upon discovery of a fact in consequence of information received. The jurisprudence is settled that only that portion of information which distinctly relates to the fact thereby discovered is admissible. In the present case, no recovery or discovery ensued from the petitioner's alleged disclosure. Therefore, the sine qua non for invoking Section 27 is conspicuously absent.

22. The Privy Council in ***Pulukuri Kottaya v. King Emperor, 51 CWN 474 (PC)***, authoritatively expounded that Section 27 is founded on the doctrine of confirmation by subsequent events. For ready reference the relevant paras of ***Pulukuri Kottaya v. King Emperor, 51 CWN 474 (PC),*** are being reproduced hereunder-

> *"8. The second question, which involves the construction of Section 27 of the Indian Evidence Act, will now be considered. That section and the two preceding sections, with which it must be read, are in these terms:*
>
> *25. No confession made to a Police officer shall be proved as against a person accused of any offence.*
>
> *26. No confession made by any person whilst he is in the custody of a Police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.*
>
> *The explanation to the section is not relevant.*
>
> *27. Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence in the custody of a Police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.*

9. Section 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding section, and enables certain statements made by a person in police custody to be proved. The condition necessary to bring the section into operation is that the discovery of a fact in consequence of information received from a person accused of any offence in the custody of a Police officer must be deposed to, and thereupon so much of the information as relates distinctly to the fact thereby discovered may be proved. The section seems to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true, and accordingly can be safely allowed to be given in evidence; but clearly the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. Normally the section is brought into operation when a person in police custody produces from some place of concealment some object, such as a dead body, a weapon, or ornaments, said to be connected with the crime of which the informant is accused. Mr. Megaw, for the Crown, has argued that in such a case the "fact discovered" is the physical object produced, and that any information which relates distinctly to that object can be proved. Upon this view information given by a person that the body produced is that of a person murdered by him, that the weapon produced is the one used by him in the commission of a murder, or that the ornaments produced were stolen in a dacoity would all be admissible. If this be the effect of Section 27, little substance would remain in the ban imposed by the two preceding sections on confessions made to the police, or by persons in police custody. That ban was presumably inspired by the fear of the legislature that a person under police influence might be induced to confess by the exercise of undue pressure. But if all that is required to lift the ban be the inclusion in the confession of information relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the police will prove equal to the occasion, and that in practice the ban will lose its effect. On normal principles of

construction their Lordships think that the proviso to Section 26, added by Section 27, should not be held to nullify the substance of the section. In their Lordships' view it is fallacious to treat the "fact discovered" within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that "I will produce a knife concealed in the roof of my house" does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge; and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added "with which I stabbed A", these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

10. High Courts in India have generally taken the view as to the meaning of Section 27 which appeals to their Lordships, and reference may be made particularly to Sukhan v. The Crown (1929) I.L.R. 10 Lah. 283, F.B. and Ganu Chandra v. Emperor (1931) I.L.R. 56 Bom. 172, s.c. 34 Bom. L.R. 303 on which the appellants rely, and with which their Lordships are in agreement. A contrary view has, however, been taken by the Madras High Court, and the question was discussed at length in a Full Bench decision of that Court, Athappa Goundan, In re, [1937] Mad. 695, F.B. where the cases were referred to. The Court, whilst admitting that the weight of Indian authority was against them, nevertheless took the view that any information which served to connect the object discovered with the offence charged was admissible under Section 27. In that case the Court had to deal with a confession of murder made by a person in police custody, and the Court admitted the confession because in the last sentence (readily separable from the rest) there was an offer to

produce two bottles, a rope, and a cloth gag, which, according to the confession, had been used in, or were connected with, the commission of the murder, and the objects were in fact produced. The Court was impressed with the consideration that as the objects produced were not in themselves of an incriminating nature their production would be irrelevant unless they were shown to be connected with the murder, and there was no evidence so to connect them apart from the confession. Their Lordships are unable to accept this reasoning. The difficulty, however great, of proving that a fact discovered on information supplied by the accused is a relevant fact can afford no justification for reading into Section 27 something which is not there, and admitting in evidence a confession barred Indian by Section 26. Except in cases in which the possession, or concealment, of an object constitutes the gist of the offence charged, it can seldom happen that information relating to the discovery of a fact forms the foundation of the prosecution case. It is only one link in the chain of proof, and the other links must be forged in manner allowed by law."

23. The discovery of a fact must be the direct outcome of the information given. The Court cautioned that the provision does not render the entire confession admissible but only that limited portion which leads to discovery. Sections 24, 25 and 26 operate as substantive safeguards; Section 27 is an exception and must be strictly construed. Absent discovery, the alleged disclosure of the petitioner remains inadmissible in toto.

24. Except this confession or disclosure, nothing has been recovered in the present case. The place allegedly shown yielded no contraband. No corroboration or verification of the petitioner's alleged statement was undertaken. In the absence of recovery, call detail records, financial trail, or independent witness

testimony, the prosecution case lacks the minimal foundational facts required even at the stage of charge.

25. In ***Nagamma @ Nagarathna v. State of Karnataka (2025 INSC 1135)***, wherein the Hon'ble Supreme Court held that even though disclosure statements may have a contributory role, they are not by themselves sufficient to sustain a conviction unless corroborated by credible and independent evidence. The Court further emphasized that Section 27 is an exception to the rule contained in Sections 25 and 26, and must be strictly construed. Heightened scrutiny is required to rule out tutoring or coercion, and the burden lies squarely upon the prosecution to establish that the disclosure was genuine and led to a credible discovery. In the absence of independent recovery or corroboration, the evidentiary worth of custodial disclosure remains intrinsically weak. For ready reference the relevant paras of ***Nagamma @ Nagarathna v. State of Karnataka (2025 INSC 1135)***, are being reproduced hereunder-

> *"25. The extra judicial confessions, said to have been made by A2 in the present case, were all within the police station, where she is said to have voluntarily come, to confess about the murder. The confession made to the SHO, PW-15, overheard by PW-17, the Sentry of the police station, hence has to be completely eschewed under Section 25. The confession made to PW-18, the wife of the deceased and PW-7, though a police constable; who arrived at the police station in the status of the neighbour of the deceased, also has to be eschewed under Section 26. The other witnesses to whom the extra judicial confession was made, that too inside the police station, in any case turned hostile.*

26. Yet another circumstance relied upon by the prosecution is the recovery of a chopper, MO-16 on the confession statement of A4 under Section 27. In this context, we have to look at the evidence of PW-24, the investigating officer (I.O) who deposed that A3 and A4 were taken into police custody on 15.03.2006 after their voluntary surrender before Court on 13.03.2006. It is the categoric statement of the I.O that both A3 and A4 confessed in their voluntary statements that they would point out the chopper used for commission of offence by leading the police to the spot where they concealed it. A4 alone was taken to the spot, leading to the recovery of MO-16, is the case of the prosecution.

27. Disclosure statements taken from one or more persons in police custody do not go out of the purview of Section 27 altogether, as held in ***State (NCT of Delhi) v. Navjot Sandhu @ Afsan Guru7*** *and reiterated in* ***Kishore Bhadke v. State of Maharashtra8.*** *While asserting that a joint or simultaneous disclosure would per se be not inadmissible under Section 27, it was observed that it is very difficult to place reliance on such an utterance in chorus; which was also held to be, in fact, a myth. Recognising that there would be practical difficulty in placing reliance on such evidence, it was declared that it is for the Courts to decide, on a proper evaluation of evidence, whether and to what extent such a simultaneous disclosure could be relied upon. In* ***Kishor Bhadke7****, while affirming the above principles in* ***Navjot Sandhu6****, the facts revealed were noticed, wherein the information given by one, after the other, was without any break, almost simultaneously and such information was followed up by pointing out the material thing by both the accused, in which circumstance it was held that there is no reason to eschew such evidence.*

28. With the above principles in mind when we look at the facts of the present case, the I.O though has stated about the disclosure statement of both A3 and A4, he does not specify whether it is simultaneous or one after the other. It is also not clear; if the disclosure is at different points of time, in which event, who made the first disclosure. Deposition of PW-24 though does not speak of the exact location as stated by the accused in the confession statement; PW-24 speaks of having taken A4 to the bush of Rose Trees at the Helipad near Udayagiri Layout from where the chopper was produced. PW-2 and PW-3, the witnesses of recovery of MO16 turned hostile and they deposed that they affixed their signatures to the recovery mahazar

at the police station. Further, it also has to be noticed that but for the recovery there is nothing to indicate the culpability of A3 and A4 through forensic evidence to link the recovered weapon to the crime proper.

29. Insofar as the recovery under Section 27, as has been reiterated in ***Mohd. Inayatullah v. State of Maharashtra****9, the expression 'fact discovered' includes not only the physical object produced, but also the place from which it is produced and the knowledge of the accused about the concealment. In the cited decision, which considered the offence of theft, the accused had made a statement of the place where the stolen drums were kept by him. Finding the admissible portion of the statement to be only the location of the three drums, it was held that the information taken in conjunction with the facts discovered, was insufficient to draw the presumption that the accused was the thief or the receiver of the stolen property, with the knowledge that it was stolen. The drums in question were found in the compound or yard of a musafirkhana (rest place for travellers) and it was neither lying concealed nor was the compound under the lock and key of the accused. In the present case, the I.O, PW-24, categorically deposed before Court that after A3 and A4 were taken into custody on 15.03.2006, pursuant to their surrender before Court on 13.03.2006, confessions were made by both the accused regarding the concealment of the chopper allegedly used for commission of offence; which statement of 'use in the commission of offence' has to be totally eschewed. The exact spot in which the concealment was made as stated in the disclosure statement has also not been deposed to by the I.O.*

30. ***Manoj Kumar Soni v. State of M.P.10*** *was a case in which all the accused persons made disclosure statements to the IO whereupon recovery of various articles were effected. It was held that even when disclosure statements hold significance as a contributing factor in a case, it is not so strong a piece of evidence sufficient on its own and without anything more to bring home the charges beyond reasonable doubt (sic, para 22).*

31. The fact that confessions were made by both the accused and the recovery was made from one of the accused, A4, leading the police to the spot would restrain us from treating the recovery as an inculpating circumstance against A3 or A4, especially when the confession is taken simultaneously from both the accused. We

are of the opinion that in the present case there can be no reliance placed on the recovery based on the sketchy evidence adduced."

26. The statements recorded by the Investigating Officer, including those of the seizing officer Sitaram, Constable Dilip Kumar, Jeevaram, ASI Jagdish Singh, Constable Shantaram, Rishikesh, Vidyadhar, Chunnilal, Shankarlal, and Head Constable Haridas, have been cursorily examined. None of these statements, on their face, attributes any specific role to the petitioner or discloses any circumstance connecting him with the alleged offence.

27. It assumes added significance that the petitioner has been charged under Section 29 of the NDPS Act, which postulates conspiracy or abetment. The invocation of Section 29 necessarily presupposes the existence of material indicating prior meeting of minds, participation, facilitation, or intentional aid. In the absence of prima facie material disclosing such foundational elements, the mere invocation of the statutory provision cannot suffice.

28. This Court is conscious of the fact that offences under the NDPS Act, particularly those involving commercial quantity, carry severe statutory consequences, including a minimum sentence of ten years' rigorous imprisonment. Precisely for this reason, the exercise of jurisdiction at the stage of framing of charge must reflect conscious and informed judicial scrutiny. The Court is not an adjunct or extension of the investigating agency; it cannot merely endorse or echo the conclusions drawn by the police. It is incumbent upon the Court to delineate, at least in brief, the basis upon which it forms an opinion that the accused must face trial,

so that the accused is made aware of the precise nature of the allegations and is afforded a meaningful opportunity to defend himself. The impugned order, however, does not disclose any consideration of the role attributed to the petitioner, nor does it indicate which material persuaded the learned trial Court to form an opinion that offences under Sections 8/29 of the NDPS Act are prima facie made out against him. The order is conspicuously silent as to the statutory ingredients of the alleged offences and the nexus of the petitioner thereto. The absence of such reasoning renders the order cryptic and non-speaking.

29. At this juncture, it becomes imperative to advert to the true import and amplitude of Section 29 of the NDPS Act, under which the petitioner has been arraigned. Section 29 embodies two distinct yet interrelated penal concepts: **abetment** and **criminal conspiracy,** both of which operate as substantive offences and attract the same punishment as that prescribed for the principal offence.

30. The invocation of Section 29 is not a matter of mere formality; rather, it presupposes the existence of legally cognizable material disclosing the foundational elements of either abetment or conspiracy. In the absence of such foundational material, the mere mechanical reproduction of Section 29 in the charge cannot, by itself, sustain judicial scrutiny.

31. The expression "abet" is not defined in the NDPS Act; therefore, recourse must be had to Section 107 of the Indian Penal Code,

which elucidates abetment as comprising three distinct modalities:

Instigation *– where a person actively provokes, incites, urges, or encourages the commission of an offence;*

Conspiracy *– where two or more persons engage in a conspiracy for the commission of an offence and some act or illegal omission takes place in pursuance thereof;*

Intentional Aid *– where a person intentionally aids, by act or illegal omission, the commission of an offence.*

32. Abetment, thus, is not a passive or accidental association. It necessarily imports *mens rea*, i.e., conscious knowledge and intentional participation. The act of abetment must precede or accompany the commission of the offence and must have a live nexus with its execution.

33. Mere presence, casual acquaintance, remote association, or suspicion of involvement does not constitute abetment. The law requires prima facie material showing that the accused either instigated the offence, facilitated it with conscious intent, or intentionally aided its commission.

34. In the present case, even if the prosecution material is taken at face value, there is no discernible material indicating instigation by the petitioner, nor is there prima facie evidence of intentional aid or facilitation in the procurement, transportation, or intended delivery of the contraband.

35. Criminal conspiracy, as incorporated within Section 29, draws its substantive content from Section 120A IPC. The gravamen of conspiracy lies in the agreement between two or more persons to commit an illegal act or a legal act by illegal means.

The essential constituents of conspiracy are:

An agreement between two or more persons;

- *The agreement must be to commit an offence or an illegal act;*
- *There must exist a meeting of minds, consensus ad idem, towards the unlawful objective.*

36. While it is true that conspiracy is often hatched in secrecy and may be proved through circumstantial evidence, the existence of an agreement cannot be inferred from conjecture, surmise, or shifting disclosure statements unaccompanied by corroboration. There must be prima facie material indicating a conscious and pre-arranged plan.

37. The jurisprudence consistently holds that mere knowledge, suspicion, or post facto conduct is insufficient to establish conspiracy. What the law punishes is not association, but agreement; not proximity, but participation; not suspicion, but shared design.

38. Applying the aforesaid principles to the material placed before this Court, it becomes evident that:

- The initial disclosures attributed to the principal accused Mannalal named Pukhraj as the source of the contraband.

- The subsequent narrative indicated intended delivery to Madan Devasi.
- At no stage in the contemporaneous material does there appear a prima facie reference to any prior meeting of minds between Mannalal and the present petitioner.

The belated disclosure implicating the petitioner stands unsupported by any independent recovery, electronic communication, financial transaction, or other corroborative circumstance suggestive of conspiracy or intentional aid.

39. In prosecutions under the NDPS Act, particularly those involving commercial quantity where statutory punishment is severe and mandatory in character, the threshold requirement of prima facie material assumes heightened importance. Section 29 cannot be invoked in a vacuum; it demands at least a skeletal foundation indicating agreement, instigation, or intentional facilitation.

40. While this Court reiterates that it is not required to meticulously evaluate the evidence or render findings on its probative worth, it is nonetheless obligated to examine whether the material on record, taken at its highest, discloses the essential ingredients of abetment or conspiracy.

The impugned order does not reflect any consideration of:

- *Whether there existed material disclosing instigation or intentional aid;*

- *Whether there was prima facie evidence of agreement or meeting of minds;*
- *Whether the alleged disclosure statement, in absence of recovery, could constitute material capable of giving rise to grave suspicion of conspiracy.*

The omission to examine these statutory ingredients renders the invocation of Section 29 devoid of analytical foundation.

41. It must be emphasized that conspiracy and abetment are serious imputations carrying equal penal consequences as the substantive offence itself. The liberty of a citizen cannot be subjected to the rigours of trial under such stringent provisions unless the Court, even at a prima facie level, records satisfaction that the material discloses the existence of the essential components of the alleged offence. In the absence of such reflection in the impugned order, the framing of charge under Section 8/29 of the NDPS Act appears to be a mechanical invocation rather than a reasoned judicial determination.

42. At this juncture, it would be appropriate to reproduce the relevant extract from ***Reema vs. State of Rajasthan***, S.B. Criminal Revision Petition No. 581/2025, decided on 22.01.2026.

> *"9. At the outset, it is pertinent to note that this Court, in S.B. Criminal Revision Petition No. 1675/2025 , an earlier matter involving analogous facts and circumstances, had occasion to examine the legality of an order framing charge, wherein detailed observations were made regarding the scope of judicial scrutiny at the stage of framing of charge, the requirement of meaningful*

application of mind, and the impermissibility of mechanical framing of charges.

10. The said order is being reproduced hereunder for ready reference:

1. *By way of filing the instant revision petition, the petitioner calls in question the order dated 06.11.2025 passed by the learned Special Judge, Prevention of Corruption Act, No. 1, Udaipur, in Special Sessions Case No. 46/2025 (State v. Ganpatlal Sharma & Anr.), arising out of FIR No. 157/2024, CPS ACB Jaipur, whereby charges have been framed against the petitioner under Section 07 of the Prevention of Corruption Act, 1988 (as amended in 2018) and Section 61(2) of the Bharatiya Nyaya Sanhita, despite gross violation of the mandatory provisions of Sections 230, 249, 250(1) and 250(2) of the BNSS, resulting in serious miscarriage of justice and infringement of the petitioner's fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India, rendering the impugned order illegal, arbitrary and unsustainable in law.*
2. *The brief facts of the present are that the petitioner is Accused No. 1 (hereinafter referred to as "A-1") in the Sessions Case titled State v. Ganpat Lal Sharma & Anr., arising out of FIR No. 157/2024 registered at Central Police Station (CPS), Anti Corruption Bureau (ACB). Upon completion of investigation, Charge-sheet No. 221/2025 was filed against the petitioner for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (as amended up to 2018) and Section 61(2) of the Bharatiya Nyaya Sanhita. The present Criminal Revision Petition is directed against the order dated 06.11.2025, whereby charges have been framed against the petitioner in blatant violation of Sections 230, 249, 250(1), 250(2) and 252(1) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) and Articles 14 and 21 of the Constitution of India. The charge-sheet was submitted on 21.08.2025 before the learned Special Judge, Prevention of Corruption Act, No. 1, Udaipur, by Respondent No. 2, the Additional Superintendent of Police, ACB, Special Unit, Udaipur.*
3. *Thereafter, the matter was placed before the learned Special Judge on 17.09.2025, and on the same day, cognizance of the alleged offence was taken, as reflected in the order sheet dated 17.09.2025.*
4. *Subsequently, on 06.11.2025, the learned Special Judge proceeded to take a decision to frame charges against the petitioner. The order sheet dated 06.11.2025 records that after hearing arguments on charge and perusal of the record, a prima facie case under Section 7 of the Prevention of Corruption Act and Section 61(2) of the Bharatiya Nyaya Sanhita, 2023 was found to be made out, and charges were accordingly framed, read over and explained to the accused, who pleaded not guilty and claimed trial. Directions were*

further issued for summoning prosecution witnesses and for leading prosecution evidence.

5. *That the present S.B. Criminal Revision Petition is confined to assailing the order dated 06.11.2025, whereby the decision to frame charges and the consequent framing of charges against the petitioner were undertaken, despite non-compliance with the mandatory statutory safeguards contained in Sections 230, 249, 250(1), 250(2) and 252(1) of the BNSS, thereby resulting in grave prejudice to the petitioner and causing violation of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India.*

6. *Heard learned counsels present for the parties and gone through the materials available on record.*

OBSERVATIONS

A. Scope of Judicial Scrutiny at the Stage of Framing of Charge

7. *At the outset, it is necessary to recapitulate the well-settled contours governing judicial scrutiny at the stage of framing of charge. The Court, while exercising jurisdiction under Sections 250 (Discharge) and 251 (Framing of charge) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), is neither expected to conduct a meticulous appreciation of evidence nor to weigh the probative value of the material as would be done after a full-fledged trial. Equally, the Court is not to act as a mere conduit for endorsing the opinion of the investigating agency.*

8. *The seminal judgment of the Hon'ble Supreme Court in* ***Union of India v. Prafulla Kumar Samal & Anr., AIR 1979 SC 366****, authoritatively lays down that while framing charge, the Judge has the undoubted power to sift and weigh the material for the limited purpose of finding out whether a prima facie case exists. The Court is duty-bound to apply its judicial mind to the broad probabilities of the case, the total effect of the material placed on record, and to ascertain whether the accusation is not frivolous. The expression "ground for presuming" does not imply proof beyond reasonable doubt but nevertheless requires existence of legally admissible material capable of supporting the essential ingredients of the alleged offence.*

9. *At the same time, the Hon'ble Supreme Court in* ***Kanti Bhadra Shah & Anr. v. State of West Bengal, (2000) 1 SCC 722****, clarified that framing of charge does not require a detailed or elaborate order akin to a judgment of acquittal or discharge, the order must nonetheless reflect conscious application of mind. The Court is not obliged to write lengthy reasons while framing charges; however, it must demonstrate that it has examined whether the basic ingredients of the offence are disclosed from the material on record. Thus, the law strikes a delicate balance: brevity is permissible, mechanical endorsement is not.*

B. Mandatory Nature of Procedural Safeguards under BNSS

10. *The BNSS consciously preserves and strengthens procedural safeguards at the pre-trial stage, recognising that deprivation of liberty commences not merely upon conviction*

but from the moment the criminal process is set in motion. Sections 230 (Supply to accused of copy of police report and other documents), 249 (Opening case for prosecution), 250 (Discharge) and 251 (Framing of charge) of the BNSS are not empty formalities; they are statutory manifestations of the constitutional guarantee of a fair procedure under Articles 14 and 21 of the Constitution of India.

11. *The Hon'ble Supreme Court has consistently held that where a statute prescribes a particular procedure, it must be followed in that manner or not at all. Procedural compliance is not a matter of convenience but of jurisdiction.*

C. Non-Compliance with Section 230 BNSS – Supply of Documents

12. *Section 230 of the BNSS mandates that in cases instituted on a police report, the Court shall, without delay, and in no case beyond fourteen days, furnish to the accused copies of all documents forwarded with the police report under Section 193(6) BNSS.*

13. *From the record, it emerges that although the order sheet dated 17.09.2025 records that copies of the charge-sheet "along with CD" were supplied, there is prima facie substance in the grievance that all documents forming part of the police report were not furnished, and that the supply was effected through the investigating agency without judicial verification or grant of reasonable time to the accused to ascertain completeness.*

14. *More importantly, where the prosecution case substantially rests upon electronic evidence, compliance with Section 230 BNSS assumes heightened significance. The Hon'ble Supreme Court in **P. Gopalakrishnan @ Dileep v. State of Kerala, (2020) 9 SCC 161**, has categorically held that the original memory card constitutes a document, and the accused is entitled to receive its authenticated clone copy prepared in accordance with law. Supply of an uncertified CD, not prepared through hash-value authentication, does not fulfil the statutory mandate.*

15. *The furnishing of incomplete or legally unrecognised copies strikes at the very root of the accused's right to effectively invoke the remedy of discharge under Section 250 BNSS.*

D. Failure to Conduct Prosecutorial Opening under Section 249 BNSS

16. *Section 249 BNSS obligates the Public Prosecutor to "open the case" by describing the charge and stating by what evidence the prosecution proposes to establish guilt. The phrase "shall open" is peremptory and admits of no discretion.*

17. *The record of proceedings dated 06.11.2025 does not reflect that any such prosecutorial opening was undertaken. Absence of this statutory exercise deprives the Court of an informed basis to assess whether the materials relied upon correspond to the essential ingredients of the offence alleged. Framing of charge without such prosecutorial articulation*

reduces the judicial exercise to a formal endorsement of the charge-sheet, which the law expressly prohibits.

E. Curtailment of the Right to Seek Discharge under Section 250 BNSS

18. *For ready reference section 250 BNSS is reproduced herein below-*

Section 250 Discharge

(1) The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232.

(2) If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

19. *Section 250(1) BNSS confers upon the accused a valuable right to prefer an application for discharge within sixty days from the date of commitment. In cases under the Prevention of Corruption Act, where the Special Judge takes cognizance directly, the date of cognizance effectively marks the commencement of this statutory period.*

20. *Learned counsel for the accused-petitioner, namely Mr. C.S. Kotwani, Ms. Preeti Sharma and Mr. Manoj Chaudhary, vehemently urged that the defence was in the process of preparing an application for discharge and had unequivocally expressed its intention to avail the statutory remedy under Section 250 BNSS. It was submitted that despite such clear inclination, the learned court proceeded to frame charges without granting reasonable and adequate time to the accused to exercise the liberty expressly conferred by law.*

21. *Although Section 250(1) BNSS provides a discretion to the accused to prefer an application for discharge within sixty days, the grant of such statutory period cannot be termed as unreasonable or dilatory, as the same flows directly from the legislative mandate. While it may be correct that in every case the court is not denuded of power to consider the question of discharge only upon the formal filing of an application by the accused, yet where the accused manifests a clear and bona fide intention to invoke the remedy of discharge, the court is duty-bound to afford a meaningful opportunity to do so. Denial of such opportunity, particularly when the statute itself prescribes a specific time frame, amounts to rendering the statutory right illusory and defeats the very object of Section 250(2) BNSS, which obligates judicial consideration of the sufficiency of grounds before proceeding to frame charges.*

22. *In the present case, charges came to be framed on the 50th day from the date of cognizance, thereby truncating the statutory window available to the accused.*

23. *Further, Section 250(2) BNSS mandates the Court to consider the record and hear the submissions of the accused even where no formal discharge application is filed, and to*

record reasons for declining discharge. The impugned order does not reflect such consideration or reasoning.

F. Mechanical Framing of Charge and Absence of Meaningful Judicial Application of Mind

24. *The impugned order dated 06.11.2025, when examined on the anvil of the statutory framework and the settled principles governing framing of charge, discloses a manifest deficiency in judicial reasoning and application of mind. The order sheet merely records, in a highly cursory and omnibus manner, that arguments on charge were heard, the record was perused, and a prima facie case under Section 7 of the Prevention of Corruption Act, 1988 (as amended in 2018) and Section 61(2) of the Bharatiya Nyaya Sanhita was found to be made out. Beyond this ritualistic recital, the order is conspicuously silent as to what material, what circumstances, or what factual substratum weighed with the learned Trial Court in forming such an opinion.*

25. *It is no doubt correct that at the stage of framing of charge, the Court is not expected to write a detailed or elaborate order as would be warranted at the stage of discharge or final adjudication. The Hon'ble Supreme Court in* ***Kanti Bhadra Shah & Anr. v. State of West Bengal (2000) 1 SCC 722*** *has clarified that framing of charge does not require a reasoned order akin to a judgment. However, the said principle cannot be misconstrued to legitimise a mechanical or non-speaking exercise, devoid of even minimal articulation of judicial satisfaction. Brevity is permissible; opacity is not.*

26. *The distinction between a brief order and a mechanical order is well recognised in criminal jurisprudence. Even while framing charges, the Court must indicate, albeit succinctly, that it has adverted to the material on record and that such material, if taken at face value,* ***discloses the existence of the essential ingredients of the offence alleged for which charges has to be framed.*** *A mere reproduction of statutory sections or a bare assertion that an offence is "prima facie made out" does not fulfil this requirement.*

27. *This requirement assumes greater significance in prosecutions under the Prevention of Corruption Act post the 2018 amendment. The legislative transformation of Section 7 has introduced the element of "improper or dishonest performance of public duty" as a sine qua non. Therefore, even at the threshold stage, the Court is expected to advert, howsoever briefly to the existence of material indicating demand or acceptance of undue advantage in connection with such improper or dishonest performance. In the absence of even a skeletal reference to such material, the order betrays a presumption rather than a judicial satisfaction.*

28. *The Hon'ble Supreme Court in* ***Union of India v. Prafulla Kumar Samal & Anr., AIR 1979 SC 366****, has categorically held that the Judge cannot act merely as a post office or a mouthpiece of the prosecution. The Court must consider the broad probabilities of the case, the total effect of the evidence and documents produced, and any basic infirmities apparent on the face of the record. The impugned*

order, however, reflects no such exercise and instead appears to have proceeded on the erroneous assumption that the filing of a charge-sheet ipso facto warrants framing of charge.

29. *Further, the expression "arguments on charge heard" recorded in the order sheet, without even a fleeting reference to the nature of such arguments or the reasons for their rejection, renders the exercise under Sections 250 and 251 of the BNSS illusory. Such recording, unaccompanied by any demonstrable consideration, amounts to an empty formality, which has been consistently deprecated by constitutional courts. The Hon'ble Supreme Court in* ***Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan (2010) 9 SCC 496*** *has held that "rubber-stamp reasons" or pretence of reasoning cannot be equated with a valid judicial decision-making process.*

30. *This Court, in* ***H.G. Grover v. State of Rajasthan (S.B. Criminal Revision Petition No. 1356/2022)****, has reiterated that although meticulous appreciation of evidence is not required at the stage of framing of charge, the Trial Court must nonetheless satisfy itself that the material on record discloses the essential ingredients of the offence and must reflect such satisfaction in the order. The absence of such reflection renders the order vulnerable to judicial correction.*

31. *Thus, the impugned order dated 06.11.2025, viewed holistically, suffers from procedural superficiality and lack of discernible judicial reasoning. It does not demonstrate that the learned Trial Court applied its independent judicial mind to the statutory ingredients of the offences alleged, nor does it indicate how the material on record satisfies the threshold of "ground for presuming" as contemplated under Section 251 BNSS. Such an order, though brief, crosses the impermissible line into mechanical adjudication and therefore cannot be sustained in law.*

32. *At this juncture, it is of crucial significance to underscore that Section 250 BNSS expressly enables the accused to avail a statutory period of sixty days to prefer an application for discharge. The provision is not merely directory but confers a substantive procedural right upon the accused to invoke judicial scrutiny of the sufficiency of grounds before being compelled to face a full-fledged trial. Once the defence, through its counsel, categorically conveys its intention to exercise such right, the Court is obligated to facilitate and receive such application, rather than foreclose the statutory remedy by prematurely proceeding to frame charges.*

33. *This Court is conscious of the fact that the Bharatiya Nagarik Suraksha Sanhita is a relatively new procedural code, and situations may arise where the accused expressly seeks to avail the entire statutory window of sixty days for moving an application for discharge. Such procedural contingencies are inherent in the legislative scheme and may, in future, warrant authoritative pronouncement by constitutional courts.*

34. However, since the precise contours of such situations do not presently fall for exhaustive adjudication, this Court refrains from making any broader or final comment on the issue. Nonetheless, so long as the statutory provision stands on the statute book, adherence thereto is not optional but mandatory. It is incumbent upon the Court, at the very least, to examine whether the mandate of Section 250 BNSS has been complied with in letter and spirit. The failure to do so, particularly in the face of an expressed intent by the accused to invoke the said provision, vitiates the procedural fairness of the proceedings and strikes at the root of the statutory safeguard envisaged by the legislature.

G. Nature of Present Observations and Consequential Directions

35. *It is clarified, with utmost circumspection, that the foregoing discussion is purely academic and procedural in nature. This Court has consciously refrained from expressing any opinion on whether the material on record ultimately warrants framing of charge against the petitioner or not. The merits of the prosecution case are left completely open to be left upon the learned trial court to adjudge whether charges are liable to be framed or not.*

36. In view of the cumulative procedural infirmities noticed hereinabove, the impugned order dated 06.11.2025 cannot be sustained. The matter deserves to be remanded to the learned Special Judge for fresh consideration.

37. *Accordingly, the instant revision petition is allowed in part and the impugned order dated 06.11.2025 is set aside. The matter is remitted with directions that:*

- *the learned Trial Court shall afford adequate opportunity to both parties;*
- *the petitioner shall be granted ten days' further time, if so advised, to move an application for discharge;*
- *the learned Special Judge shall thereafter pass an appropriate order strictly in accordance with law, keeping in view the statutory scheme of the BNSS and the settled legal position.*

38. The learned Trial Court shall remain entirely free and uninfluenced by any observation made herein and shall decide the matter independently on the basis of the material available on record and the submissions advanced before it.

11. A careful comparison of the facts of the present case with those considered in the aforesaid order reveals that the present case is squarely covered by the principles laid down therein.

12. In the present matter also, the impugned order dated 18.03.2025 reflects a mechanical exercise of jurisdiction. The learned Trial Court has merely recorded that arguments on charge were heard and, upon perusal of the record, found sufficient grounds to frame charge under Section 302 IPC, without even minimal indication as to

what material or circumstances weighed with it for forming such opinion.

13. It is trite law that though a detailed appreciation of evidence is not required at the stage of framing of charge, the Court is nonetheless obliged to apply its judicial mind to the material on record and satisfy itself that the essential ingredients of the alleged offence are prima facie disclosed. A cryptic and omnibus order, bereft of discernible reasoning, falls foul of the settled principles governing framing of charge.

14. In the present case, the impugned order does not reflect consideration of the peculiar factual backdrop, including the role attributed to the petitioner in the FIR, her consistent version in the Parcha Bayan and statement under Section 164 Cr.P.C., and the circumstances under which the investigating agency reversed the role of the parties while filing the charge-sheet. The order, therefore, gives an impression of having been passed as a matter of routine, rather than as a result of an informed judicial exercise.

15. The infirmity noticed is not merely cosmetic but goes to the root of the matter, as the framing of charge marks a serious stage in criminal proceedings, carrying grave consequences for the liberty and reputation of an accused. Such an order must withstand the minimal requirement of judicial scrutiny.

16. This Court is conscious of the fact that it is not required, at this stage, to enter into the merits of the prosecution case or to weigh the probative value of the evidence. Accordingly, this Court refrains from expressing any opinion on whether a charge under Section 302 IPC is ultimately made out or not. All such issues are left open to be examined by the learned Trial Court."

43. The principles enunciated in *Reema* (supra) squarely govern the present controversy. Applying the aforesaid legal position to the facts of the instant case, this Court is of the considered opinion that the impugned order dated 03.09.2024 suffers from patent

non-application of judicial mind. The order neither adverted to the material on record nor articulated reasons demonstrating satisfaction regarding the existence of prima facie ingredients of the alleged offences. Such a cryptic and non-speaking order cannot be sustained in the eyes of law.

. Consequently, the instant revision petition deserves to be partly allowed in terms of the law laid down in *Reema* (supra). The impugned order dated 03.09.2024 passed in Criminal Original Case No.19/2024 by the learned Special Judge, NDPS Act, Pindwara District Sirohi, is hereby set aside. The matter is remanded to the learned trial Court for fresh consideration of the question of framing of charge. The learned trial Court shall afford due and adequate opportunity of hearing to both the prosecution and the accused and thereafter pass a reasoned, speaking, and legally sustainable order strictly in accordance with law.

45. It is made abundantly clear that the learned trial Court shall decide the matter independently, uninfluenced by any observations made herein. Nothing contained in this order shall be construed as an expression on the merits of the case.

46. The stay petition, and all pending applications, if any, stands disposed of accordingly.

(FARJAND ALI),J

10-Mamta/-