



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Revision Petition No. 1721/2025

1. Vinay Baghla S/o Ashok Baghla, Aged About 26 Years,  
Resident Of Gali No 7, Chak 3-E, Chhoti, Tehsil And  
District Sri Ganganagar, Rajasthan
2. Hans Raj S/o Tara Nath, Aged About 30 Years, Resident  
Of Nena Sar Sumeriya, Post Bhojasar Chota, Tehsil Sardar  
Sahar, District Churu At Present Of Sajan Singh Ka  
Makan, Gali No 11, Setiya Farm, Sri Ganganagar,  
Rajasthan
3. Prashant Soni S/o Pradeep Soni, Aged About 19 Years,  
Resident Of Gali No 3, Guru Nagar, Purani Abadi Sri  
Ganganagar, Tehsil And District Sri Ganganagar,  
Rajasthan

----Petitioners

Versus

State Of Rajasthan, Through Its Public Prosecutor

----Respondent

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For Petitioner(s) : Mr. S.R. Godara  
For Respondent(s) : Mr. SR Choudhary,PP

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**Reportable-**

**DATE OF CONCLUSION OF ARGUMENTS 06/03/2026**

**DATE ON WHICH ORDER IS RESERVED 06/03/2026**

**FULL ORDER OR OPERATIVE PART****Full Order****DATE OF PRONOUNCEMENT****18/05/2026****BY THE COURT:-****Grievance-**

1. By way of filing the instant revision petition under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (in short "BNSS") the petitioner assails the order dated 04.11.2025 passed by the learned Additional Sessions Judge No. 02, Sri Ganganagar in Sessions Case No. 10/2025 (CIS No. 14/2025), titled as State of Rajasthan Vs. Prashant Soni & Ors., whereby the learned trial Court has framed charges against the petitioner under Sections 111(2) (b), 111(3), 111(4), 111(6), 317(5), 318(4) read with Section 61(2)(b) of the Bharatiya Nyaya Sanhita, 2023.(in short "BNS")

**2. Brief Facts of the Case**

3. The brief facts of the case are that on 02.11.2024 at about 06:05 PM, Head Constable Kamlesh Kumar Meena (No. 81), along with Constable Rohitash (No. 1635) and other police personnel, left Police Station Purani Abadi, Sri Ganganagar on patrolling duty. At about 10:05 PM, near Dhingda Park, a reliable informer apprised the police party that one Vinay Baghla, son of Ashok Kumar Baghla, aged 25 years, resident of Gali No. 7, Chak 3E, Chhoti Police Jawaharpur, Sri Ganganagar, was proceeding from Multipurpose School





towards the old office of the Irrigation Department carrying ATM cards, cheque books and other banking documents belonging to various persons, which were being used for withdrawal of cyber fraud amounts on behalf of Manish Soni and Prashant Soni. Acting upon the said credible information, the police party reached near the old Irrigation Department office at about 10:20 PM, where a young man carrying a dark-coloured bag was seen approaching. On noticing the police party, he attempted to flee but was apprehended, and on being asked, he disclosed his name as Vinay Baghla. Upon search conducted in the presence of Constable Rohitash (No. 1635) as witness, multiple banking documents were recovered from his possession, including passbooks, cheque books and ATM cards pertaining to accounts in the names of Ramesh (PNB Account No. 3959000100182266), Hansraj (IndusInd Bank Account No. 100230550396), Rukhsar Ansari (PNB Account No. 3959000100182406 and SBI Account No. 61189917936), and Vinay Baghla himself (Kotak Mahindra Bank Account No. 7949351699).

3.1 During interrogation, Vinay Baghla disclosed that all the aforesaid cheque books, bank accounts and ATM cards were being used for withdrawal of amounts obtained through cyber fraud transactions, and that the cash so withdrawn was being delivered on different dates to Manish Soni and his brother Prashant Soni at their residence at Guru Nagar, Purani Abadi, Sri Ganganagar, for which he was paid Rs.





5,000/- per visit. He further disclosed that Manish Soni was engaged in buying and selling USDT cryptocurrency through BINANCE APP and was routing the proceeds through multiple bank accounts to circumvent the daily transaction limit; that the said bank accounts had been procured at Manish Soni's direction through various persons including Hansraj and Rukhsar Ansari. Cyber fraud complaints were found registered on the SAMANVAYA portal against the said bank accounts, reflecting fraudulent transactions including a complaint of Rs. 60,000/- against IndusInd Bank Account No. 100230550396 and multiple complaints against Kotak Mahindra Bank Account No. 7949351699.

3.2 On the basis of the aforesaid allegations, FIR No. 370/2024 was registered at Police Station Purani Abadi, Sri Ganganagar on 03.11.2024. During the course of investigation, the petitioners came to be arrested and, after completion of investigation, the police submitted Final Report (Charge Sheet No. 01, dated 31.01.2025) before the learned trial Court. Thereafter, the learned Additional Sessions Judge No. 2, Sri Ganganagar, in Sessions Case No. 10/2025 (CIS No. 14/2025), titled *State of Rajasthan Vs. Prashant Soni & Ors.*, vide order dated 04.11.2025, framed charges against the petitioners under Sections 111(2)(b), 111(3), 111(4), 111(6), 317(2), 317(5), 318(4) read with Section 61(2)(b) of the Bharatiya Nyaya Sanhita, 2023. Being aggrieved by





the said order, the petitioners have preferred the present revision petition.

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

### **Observations-**

### **5. Scope of Revisional Jurisdiction Against Orders Framing Charge**

Before advertng to the merits of the rival submissions, it would be apposite to delineate the contours of revisional jurisdiction exercisable against an order framing charge. Though the jurisdiction under Sections 438 and 442 of the BNSS is undoubtedly limited in nature and is not intended to convert the revisional Court into a Court of appeal conducting meticulous re-appreciation of evidence, nevertheless, the said restriction does not denude the revisional Court of its constitutional and judicial obligation to prevent manifest miscarriage of justice arising from arbitrary or mechanically passed charge orders. The legislative intent underlying the revisional powers conferred upon the High Court and the Court of Sessions is to enable the superior Court to call for and examine the record of any proceeding before an inferior Criminal Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, as also the regularity of such proceedings. Thus, where the order





impugned reflects non-application of judicial mind, misapplication of statutory provisions, or failure to consider whether the essential ingredients of the alleged offences are prima facie disclosed, the revisional Court would be fully justified in exercising its supervisory and corrective jurisdiction to secure the ends of justice.

5.1 It is trite that at the stage of framing of charge, the trial Court is not expected to undertake a roving enquiry into the probative value of the material collected during investigation. However, the equally well-settled principle is that the Court cannot act as a mere post office of the prosecution and mechanically reproduce the allegations contained in the charge-sheet without examining whether the foundational statutory ingredients constituting the alleged offences are prima facie disclosed from the material placed on record.

5.2 The revisional jurisdiction, though narrow, can legitimately be invoked where the impugned order suffers from patent non-application of judicial mind; where the order is wholly non-speaking in nature; where the essential ingredients of the alleged offences are conspicuously absent; where a legal prohibition or jurisdictional infirmity has been ignored; or where the material collected during investigation, even if accepted at its face value, does not disclose the





commission of the offences for which charges have been framed.

5.3 The power of revision assumes particular significance in cases involving grave penal consequences arising out of invocation of serious offences carrying enhanced punishments and stigmatic consequences. In such cases, the Court is duty-bound to ensure that criminal prosecution is not permitted to proceed merely on the basis of conjectures, omnibus allegations, or inferential assumptions unsupported by legally admissible foundational material.

5.4 The object underlying judicial scrutiny at the stage of charge is not to conduct a pre-trial adjudication of guilt, but to ensure that the coercive machinery of criminal law is not set into motion in the absence of the minimum legal threshold mandated by statute. The administration of criminal justice demands a careful balance between the societal interest in prosecution of offences and the individual's right against unwarranted criminal prosecution.

5.5 Thus, while exercising revisional jurisdiction against an order framing charge, the Court is not expected to weigh the evidence as would be done after trial; nevertheless, it remains incumbent upon the Court to examine whether the learned trial Court has applied its judicial mind to the material available on record and whether the statutory





ingredients constituting the alleged offences are prima facie borne out therefrom.

## 6. Principles Governing Framing of Charge

The jurisprudence governing framing of charge is no longer res integra and stands crystallized through a catena of authoritative pronouncements rendered by the Hon'ble Supreme Court. The settled legal position consistently emphasizes that although a detailed appreciation of evidence is impermissible at the threshold stage, the Court is nevertheless required to undertake a limited judicial scrutiny to ascertain whether the material collected by the prosecution discloses the essential ingredients of the alleged offences so as to justify compelling an accused to undergo the rigours of a criminal trial.

### 6.1 Difference Between "Suspicion" and "Mechanical Reproduction of Chargesheet"

There exists a vital distinction in criminal jurisprudence between "grave suspicion arising from legally relevant material" and a mere mechanical reiteration of allegations contained in the police report. Suspicion contemplated in law must emerge from objective foundational facts disclosed from the record and not from generalized assumptions or broad prosecutorial assertions unsupported by specific incriminating material.





The Court framing charge is required to independently evaluate whether the material collected during investigation, if accepted on its face value, discloses the constituent elements of the alleged offences. Mere reproduction of statutory language or mechanical acceptance of investigative conclusions cannot substitute judicial satisfaction mandated under criminal law.

A criminal trial carries serious civil, social and penal consequences. Therefore, the order framing charge cannot be reduced to an empty formality or ritualistic endorsement of the prosecution case. Judicial scrutiny at the threshold stage acts as a vital safeguard against arbitrary prosecution and unwarranted criminal trial.

## 6.2 Duty to Examine Statutory Ingredients

It is a foundational principle of criminal jurisprudence that before framing charge, the Court must satisfy itself that the material on record prima facie discloses every essential ingredient constituting the alleged offence. In the absence of such foundational facts, continuation of prosecution would amount to permitting criminal law to travel beyond the boundaries prescribed by statute.

The requirement assumes greater significance where the prosecution invokes aggravated or special penal provisions carrying enhanced punishments, stringent procedural consequences, or stigmatic implications. Invocation of such





provisions cannot rest upon vague allegations, inferential assumptions, or omnibus accusations lacking specific foundational material connecting the accused with the essential ingredients of the offence alleged.

The aforesaid principles assume greater significance where grave offences carrying serious penal consequences are invoked under special provisions such as Section 111 of the BNS dealing with organised crime. In such prosecutions, the Court is under a heightened obligation to examine whether the material collected during investigation prima facie discloses the existence of the statutory ingredients necessary to attract the rigours of the said provision, before compelling an accused to face prosecution for offences of such grave nature and consequence.

**SCHEME, OBJECT AND LEGISLATIVE INTENT OF SECTION 111 OF THE BHARATIYA NYAYA SANHITA, 2023**

**7. Evolution of Organised Crime Jurisprudence in India: From Legislative Vacuum to Codified Prohibition**

7.1 The phenomenon of organised crime, in its juridical sense, is characterised by a constellation of features that fundamentally distinguish it from ordinary or incidental criminality- features including structural hierarchy, continuity of criminal enterprise, collective operation through a coordinated network, and the systematic pursuit of





pecuniary or material advantage through the deployment of coercive, violent, or otherwise unlawful means. Notwithstanding the pervasive and devastating consequences that organised crime syndicates have historically inflicted upon the social, economic and institutional fabric of this nation, the general penal law of India, as codified in the Indian Penal Code, 1860 conspicuously lacked a dedicated provision capable of addressing the jurisprudential and prosecutorial complexities inherent in tackling organised criminal enterprises as a distinct category of structured wrongdoing. The Indian Penal Code, conceived in an era predating the emergence of sophisticated transnational criminal networks and technologically enabled syndicate operations, provided offences premised upon individual culpability and discrete criminal acts, but was inherently ill-equipped to address the systemic, multi-layered, and self-perpetuating character of organised crime as a socio-legal phenomenon.

7.2 The legislative response to this structural lacuna was, for several decades, confined to the domain of special enactments operating within geographically delimited jurisdictions. The Maharashtra Control of Organised Crime Act, 1999 (hereinafter "MCOCA") stands as the foremost precedent in this legislative tradition, having been enacted in recognition of the grave challenge posed by organised criminal syndicates to public order, constitutional





governance, and the rule of law in the State of Maharashtra. MCOCA introduced, for the first time in the Indian statutory framework, a comprehensive definitional and penal architecture specifically calibrated to prosecute organised crime as a structured, continuing enterprise. Its provisions recognised the role of the "organised crime syndicate" as a distinct juridical subject, the significance of "continuing unlawful activity" as the operative touchstone, and the necessity of enhanced penal consequences to deter coordinated criminal enterprises that conventional penal provisions were incapable of adequately addressing. The Karnataka Control of Organised Crime Act, 2000 followed a substantially similar legislative path, extending comparable definitional and prosecutorial frameworks to organised criminal activity within the territorial limits of the State of Karnataka.

7.3 However, the jurisdictional circumscription of these State enactments constituted a fundamental structural limitation of considerable significance. Organised crime syndicates, by their very nature transboundary, mobile, and adaptive , operated with manifest ease across State borders, thereby rendering the enforcement architecture of State-specific statutes structurally inadequate in the face of inter-State or pan-India criminal networks. The Unlawful Activities (Prevention) Act, 1967, as substantially amended in 2004 and 2008, addressed a different though occasionally





overlapping domain: that of terrorism and activities threatening the sovereignty and integrity of the nation. While UAPA provisions could, in appropriate factual matrices, apply to terrorist organisations that also engaged in organised criminal activity for the purpose of financing their operations, the statute was neither designed nor intended to serve as a general framework for prosecuting organised crime lacking a nexus to terrorism or secessionist activity. The conceptual and operational distinction between organised crime for material/pecuniary gain on the one hand, and terrorist or anti-national activity on the other, accordingly persisted as a significant jurisprudential gap in the pre-BNS statutory landscape.

7.4 It is against this backdrop of legislative fragmentation, jurisdictional limitation, and the absence of a uniform national framework for combating organised crime, that Parliament enacted the BNS incorporating Section 111 as a pivotal and transformative provision. The Parliamentary Standing Committee on Home Affairs, in its deliberations preceding the enactment of the BNS, underscored the imperative of introducing a comprehensive, nationally applicable provision to address the organised criminal ecosystem, one that would extend beyond the territorial and structural limitations of existing State enactments and fill the legislative vacuum left by the Indian Penal Code in respect of syndicated, structured, and continuing criminal enterprises.





The Law Commission of India, across successive reports<sup>1</sup> addressing criminal law reform, had similarly highlighted the necessity of recognising organised crime as a juridically distinct category requiring dedicated prosecutorial tools, enhanced evidentiary standards, and proportionate but stringent penal consequences.

7.5 Section 111 of the BNS thus represents a conscious and deliberate legislative shift, a paradigmatic departure from the framework of individuated criminal liability under the general penal law towards the prosecution of structured criminal enterprises operating through continuing unlawful activities for pecuniary or other material advantage. It is not merely a restatement or consolidation of existing offences; it is an architecturally distinct provision, animated by a legislative intent that is qualitatively different from that underlying the provisions of conventional criminal law. This Court must therefore approach the textual and purposive interpretation of Section 111 with a full appreciation of the constitutional, historical and jurisprudential context from which it emerged, and with equal vigilance against both the dilution of its protective purposes and the expansive misapplication of its rigorous penal consequences.

## 8. Textual Analysis of Section 111 of the Bharatiya Nyaya Sanhita, 2023: A Clause-by-Clause Dissection

<sup>1</sup> Law Commission of India, 42nd Report: Indian Penal Code (1971), Law Commission of India, 156th Report: The Indian Penal Code (1997), Law Commission of India, 177th Report: Recommendations for Amending Various Enactments, Both Civil and Criminal (2001).





8.1 The interpretive exercise must begin with the text of the provision itself, approached with the foundational principle of statutory construction that every word employed by the legislature is presumed to be meaningful, purposive, and non-redundant. A holistic reading of Section 111 of the BNS reveals a carefully layered architecture of definitions, conditions, and penal gradations, each constituent element performing a distinct and indispensable function within the overall scheme of the provision.

Since the controversy involved in the present matter turns substantially upon the scope, ingredients, and legislative architecture of Section 111 of the BNS, the provision deserves reproduction at the threshold:

*111. Organised crime.-(1) Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes (sic cyber crime), trafficking of persons, drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom, by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime.*

*Explanation. For the purposes of this sub-section,-*





(i) "organised crime syndicate" means a group of two or more persons who, acting either singly or jointly, as a syndicate or gang indulge in any continuing unlawful activity;

(ii) "continuing unlawful activity" means an activity prohibited by law which is a cognizable offence, punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence, and includes economic offence;

(iii) "economic offence" includes criminal breach of trust, forgery, counterfeiting of currency-notes, bank-notes and Government stamps, hawala transaction, mass-marketing (sic mass marketing) fraud or running any scheme to defraud several persons or doing any act in any manner with a view to defraud any bank or financial institution or any other institution or organisation for obtaining monetary benefits in any form.

(2) Whoever commits organised crime shall.-

a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which shall not be less than ten lakh rupees;





(b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(4) Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(5) Whoever, intentionally, harbours or conceals any person who has committed the offence of an organised crime shall be punished with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.





(6) *Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than two lakh rupees.*

(7) *If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than one lakh rupees.*

**A. Organised Crime:** The expression "organised crime" as employed in Section 111 denotes not merely the simultaneous participation of multiple persons in criminal activity, but the commission of any continuing unlawful activity by a person who is a member of or associated in any manner with an organised crime syndicate, undertaken on behalf of such syndicate, using violence or threat of violence, intimidation, coercion, or other unlawful means, with the objective of gaining pecuniary benefits or gaining undue economic or other advantage for himself or any person or promoting insurgency. The critical operative phrase is "continuing unlawful activity" , a concept that imports





temporal extension, repetition, and structured persistence into the definitional framework, thereby categorically distinguishing organised crime from a discrete, isolated criminal transaction, however serious in nature.

**B. Organised Crime Syndicate:** The expression "organised crime syndicate" is defined to mean a group of two or more persons who, acting either singly or collectively, as a syndicate or gang, indulge in activities of organised crime.

a. The definitional threshold of two or more persons, however, must be read conjunctively with the requirement of syndicated or gang-like operation, that is to say, the mere co-participation of two persons in a criminal offence does not, in itself, constitute an organised crime syndicate within the meaning of the provision.

b. Indeed, the ordinary architecture of criminal law has, both under the erstwhile Indian Penal Code and its statutory successor, the Bharatiya Nyaya Sanhita, already provided an elaborate and comprehensive framework to address offences committed by multiple persons acting in concert. Concepts such as common intention, abetment, criminal conspiracy, unlawful assembly, and common object have long existed as distinct heads of criminal liability, sufficiently empowering the prosecuting agency to deal with ordinary crimes involving plurality of offenders. The mere circumstance that more than one individual participates in the commission of





an offence, therefore, does not ipso facto attract the exceptional regime contemplated under Section 111 of the BNS.

c. The provision under consideration is not intended to operate as a mere enlarged substitute for conventional principles of joint criminal liability already embedded within the penal framework. Rather, it has been enacted to combat a qualitatively distinct category of criminality, namely, structured, continuous, and organised criminal enterprises operating with a degree of systemic coordination, continuity, and pecuniary motivation transcending isolated or episodic offences. The legislative object underlying Section 111 thus assumes determinative significance, for the provision must be interpreted in a manner that preserves its exceptional character and prevents its dilution into a residuary clause applicable to every offence involving multiple accused persons.

d. In this context, the use of the expression "syndicate or gang" assumes considerable significance. The legislature has consciously employed terminology denoting an already constituted and identifiable criminal collective, functioning with some degree of continuity, structure, coordination, and prior existence. Consequently, a solitary or isolated criminal incident involving several persons cannot, merely by reason of plurality of offenders, be elevated into the category of





organised crime by loosely describing the accused as a "gang". Before the rigours of Section 111 can legitimately be invoked, the prosecution must prima facie demonstrate that the alleged syndicate or gang had an existence independent of, and prior to, the commission of the offence in question, and that such group was engaged in continuing unlawful activity within the meaning of Explanation (ii) to Section 111. The concept of a "gang" under the provision, therefore, necessarily postulates something more than a temporary coming together of individuals for the commission of a single offence; it contemplates a pre-existing organised body pursuing continuing criminal objectives through coordinated functioning over a period of time.

e. To illustrate, where four individuals conjointly commit a murder, one having conceived the design, another having abetted its execution, others acting pursuant to a prior conspiracy or sharing a common intention, the offence may undoubtedly attract the ordinary penal provisions governing murder, abetment, conspiracy, or constructive liability. Yet, such an occurrence, by itself, would not automatically metamorphose into "organised crime" within the meaning of Section 111. If every premeditated offence involving coordinated participation of several persons were to be mechanically subsumed within the ambit of organised crime, the carefully calibrated distinction between ordinary penal liability and the special statutory framework governing





organised criminal syndicates would stand obliterated. The element of syndicated or gang-like functioning, therefore, imports a structural and organisational dimension into the definition, namely, a demonstrable degree of continuity, coordinated criminal enterprise, and shared unlawful design extending beyond the confines of an isolated criminal episode, thereby elevating the group beyond casual association or an ad hoc criminal conspiracy.

**C. Continuing Unlawful Activity:** Perhaps the most jurisprudentially significant and most frequently misunderstood element of Section 111 is the requirement of “continuing unlawful activity.”

a. Significantly, the expression has not been separately defined in the principal definitional clause of the provision; rather, the Legislature has consciously chosen to elaborate and structurally define the expression through Explanation (ii) appended to Section 111(1). Consequently, the true scope of the expression cannot be understood merely from the ordinary dictionary meaning of the words “continuing,” “unlawful,” or “activity,” but only through a careful dissection of each statutory ingredient embedded within Explanation (ii). The definition is therefore exhaustive, conditional, and composite in nature, every constituent requirement being mandatory and not merely illustrative.





b. The Explanation provides that “continuing unlawful activity” means an activity prohibited by law which is a cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate, in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence. The Legislature has thus deliberately incorporated multiple cumulative thresholds before an activity can graduate into the category of “continuing unlawful activity.”

c. First, the activity must be one “prohibited by law.” This requirement excludes acts which may be morally improper, administratively irregular, or civilly wrongful, but which do not constitute offences recognised by penal law. The provision therefore operates strictly within the domain of criminal illegality and not mere misconduct or breach of contractual or civil obligations.

d. Secondly, the unlawful activity must amount to a “cognizable offence.” This ingredient is of considerable significance because the Legislature has intentionally restricted the provision to offences of sufficient seriousness where the police may arrest without warrant and initiate investigation on their own authority. Consequently, non-





cognizable offences stand excluded from the statutory framework of Section 111. The legislative intent is thus to target grave and serious criminality rather than petty infractions.

e. Thirdly, the offence must be punishable with imprisonment of "three years or more." This acts as an additional filtering mechanism to ensure that trivial or comparatively minor offences do not attract the drastic consequences contemplated under the organised crime framework. The Legislature has therefore created a minimum penal threshold so that only offences possessing a substantial degree of gravity can constitute the foundational unlawful activity.

f. Fourthly, the activity must be undertaken "either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate." This ingredient is crucial because it establishes the indispensable nexus between the unlawful act and the organised criminal structure. The offence is not transformed into organised crime merely because several persons participated in it. The prosecution must demonstrate that the act was committed in the capacity of a syndicate member or for the benefit, advancement, protection, or functioning of such syndicate. The statutory focus is therefore not merely upon plurality of offenders, but upon the existence of an organised criminal enterprise possessing continuity and coordinated functioning.





g. Fifthly and perhaps most importantly the Explanation expressly requires that “more than one charge-sheets” must have been filed before a competent Court within the preceding period of ten years. This requirement constitutes the core distinguishing feature of “continuing unlawful activity.” The Legislature has consciously employed the expression “more than one charge-sheets,” thereby unmistakably indicating that a solitary criminal case or isolated FIR can never, by itself, satisfy the statutory threshold. Previous instances of criminal activity are therefore not incidental but foundational to the very existence of the offence. The provision demands demonstrable antecedent continuity reflected through multiple prosecutorial actions.

h. The requirement of “more than one charge-sheet” performs several important legal functions simultaneously:

- (i) it introduces the element of continuity and recurrence;
- (ii) it distinguishes organised criminal activity from isolated criminal conduct;
- (iii) it provides an objective prosecutorial threshold before the extraordinary consequences of Section 111 may be invoked; and
- (iv) it prevents ordinary criminal disputes from being mechanically escalated into organised crime prosecutions.





The Legislature has thus intentionally avoided criminalising a single aberrational incident under the rubric of organised crime.

i. Equally significant is the further statutory requirement that the competent Court must have "taken cognizance" of such offences. Mere registration of FIRs, pendency of investigation, or unverified allegations are therefore insufficient. The law requires a judicial application of mind resulting in cognizance upon the charge-sheets filed. This safeguard assumes considerable importance because it prevents invocation of Section 111 merely on the basis of police allegations unsupported by judicial scrutiny.

j. The temporal requirement of "within the preceding period of ten years" is also of substantive importance. The Legislature has prescribed a definite statutory window within which the prior charge-sheets must exist, thereby ensuring that stale, remote, or disconnected allegations are not indefinitely resurrected to artificially construct continuity. The continuity contemplated by the provision must therefore be proximate, demonstrable, and legally traceable within the prescribed statutory period.

k. The expression "continuing" thus cannot be treated as a mere adjectival embellishment. It is the heart of the statutory architecture. The provision contemplates continuity not merely in time, but continuity of organised criminal





conduct manifested through repeated criminal activity, prior charge-sheets, judicial cognizance, syndicate nexus, and persistence of unlawful operations. The statutory scheme therefore targets organised criminal enterprises exhibiting sustained and recurring criminal behaviour rather than isolated or standalone offences.

l. To illustrate, if several persons jointly commit a single offence of assault, murder, extortion, or kidnapping arising out of a personal dispute or isolated incident, the same may undoubtedly attract the ordinary penal provisions of the BNS. However, unless there exist prior charge-sheets demonstrating repeated criminal activity within the statutory period, coupled with material indicating organised syndicate functioning, the offence would not ipso facto become "continuing unlawful activity" within the meaning of Section 111.

m. Conversely, where a structured gang repeatedly engages in extortion, land grabbing, contract killings, trafficking, or economic offences over a sustained period, and multiple charge-sheets in relation to such activities have already been filed with cognizance taken by competent Courts within the preceding ten years, the statutory ingredients of "continuing unlawful activity" may legitimately stand attracted. The emphasis of the provision is therefore not merely upon the





seriousness of a single offence, but upon the demonstrated continuity of organised criminal conduct.

**D. Economic Benefit and Pecuniary/Material**

**Advantage:** Section 111 expressly requires that the organised criminal activity be undertaken with the objective of gaining pecuniary benefits or gaining undue economic or other advantage. This requirement of financial or material motivation serves as a critical distinguishing feature separating organised crime from offences motivated by personal enmity, passion, ideology, or impulse. The financial or material nexus must be a foundational object of the continuing unlawful activity, not merely an incidental consequence of an otherwise ordinary offence.

**E. Violence, Threat, Intimidation, Coercion, and**

**Unlawful Means:** Section 111 requires that the continuing unlawful activity be carried out through the deployment of violence, threat of violence, intimidation, coercion, or other unlawful means. The requirement of such coercive or violent methodology is not merely illustrative, it is a constitutive ingredient that distinguishes the modus operandi of organised crime from that of ordinary economic offences. The legislature's deliberate inclusion of this requirement reflects the recognition that organised criminal syndicates typically operate through a combination of fear, force, and systemic intimidation, and that it is precisely this coercive





capacity that renders them qualitatively distinct from, and more gravely threatening than, ordinary criminal enterprises.

**F. Membership, Harboursing, and Facilitation:** Section 111, across its various sub-sections, also penalises membership of an organised crime syndicate, harboursing of a member of such a syndicate, and facilitation of the activities of the syndicate. Each of these modes of culpability carries its distinct penal consequence. Critically, even for these extended forms of liability, the foundational prerequisite is the existence of a demonstrable organised crime syndicate , a structured group engaged in continuing unlawful activity with the requisite criminal purpose. Without the establishment of this foundational predicate, the ancillary forms of liability contemplated under Section 111 cannot, in law, be invoked against any accused person.

**9. Essential Ingredients for Invocation of Section 111 BNS: A Structured Framework for Prima Facie Satisfaction**

9.1 Having undertaken the foregoing textual analysis of the constituent elements of Section 111 BNS, this Court considers it necessary , and indeed, constitutionally imperative , to formulate a structured framework of essential ingredients whose prima facie disclosure from the material collected during investigation is a sine qua non for the lawful framing of charge under the said provision. The failure to





disclose any one of these essential ingredients on the face of the investigative record is not a curable deficiency or a matter to be reserved for determination at trial , it is a foundational infirmity that strikes at the very jurisdiction of the Court to frame charge under the provision in question.

9.2 To prima facie sustain a charge under Section 111 of the BNS, the prosecution is obligated to place on record before the trial Court material that discloses, at the minimum threshold of grave suspicion, each of the following essential ingredients:

**(i)** The existence of an **organised crime syndicate** , a structured group of two or more persons operating in a coordinated, gang-like, or syndicated manner, with a shared criminal purpose and organisational coherence that transcends casual association or incidental co-participation in a single criminal act;

**(ii)** The commission or facilitation of **continuing unlawful activity** , that is, activity constituting a cognizable offence punishable with three years or more of imprisonment, which has been carried out repeatedly or persistently over a discernible period of time, exhibiting a pattern of structured criminal operation rather than arising from a solitary, spontaneous, or isolated transaction;

**(iii)** The commission of such continuing unlawful activity **singly or jointly, by a member of or on behalf of such**





**organised crime syndicate**, thereby establishing the nexus between the accused, the syndicate, and the unlawful activity , a nexus that must rest on specific foundational material and not on bald inferential assumptions;

(iv) The deployment, in the course of such continuing unlawful activity, of **violence, threat of violence, intimidation, coercion, or other unlawful means** , the coercive dimension being an essential element of the modus operandi of organised crime, not merely a contextual or incidental feature;

(v) The objective of **gaining pecuniary benefits or undue economic or other advantage** , a financial or material motivation that must be a purpose of the organised criminal enterprise, not merely a fortuitous or incidental consequence of an otherwise ordinary offence;

(vi) The element of **continuity and structural criminality** , that is, material disclosing that the criminal enterprise is not a one-time event but a recurring, ongoing, and structurally organised operation exhibiting the characteristics of a criminal enterprise that has acquired, or seeks to acquire, an entrenched existence;

(vii) The **nexus of the specific accused with the organised crime syndicate** , either as a member, an associate, a harbourer, a facilitator, or a conspirator , evidenced by specific material connecting the individual





accused with the syndicate's structure, activities, or criminal purpose, and not merely by their presence at the scene of an isolated offence; and

**(viii) Foundational material beyond isolated or individual criminality** , that is, material which, even at the stage of prima facie evaluation, qualitatively demonstrates the existence of a structured criminal enterprise and distinguishes the conduct alleged from that which would ordinarily attract the provisions of general penal law alone.

9.3 The absence of any one of the foregoing ingredients from the material placed on record is not a technical objection to be addressed through subsequent evidence at trial , it represents a failure to satisfy the minimum legal threshold for invocation of a provision carrying grave penal consequences, and obliges the Court, at the stage of charge, to withhold the application of Section 111 and confine the prosecution to the appropriate provisions of general criminal law. Put differently, the invocation of Section 111 BNS is legally sustainable only when the material collected during investigation prima facie discloses the cumulative existence of all the essential constituents of the offence as statutorily contemplated. Since Section 111 creates a distinct and aggravated category of criminal liability directed against organised criminal enterprises, the prosecution cannot be permitted to invoke the provision by selectively establishing





isolated components while leaving other foundational elements absent or inferentially assumed. Each ingredient forms an indispensable part of the statutory architecture of the offence, and the deficiency of even a single constituent is sufficient to denude the prosecution of the jurisdictional basis necessary for attracting Section 111 BNS.

## 10. The Vital Distinction Between Organised Crime and Ordinary Crime: A Constitutional Imperative

10.1 Of all the principles that animate the proper construction and application of Section 111 BNS, none is more constitutionally significant, or more susceptible to prosecutorial misapplication, than the fundamental distinction between organised crime, properly so called, and ordinary criminal offending that may, on a superficial or indiscriminating reading, present some of the external features of organised activity.

10.2 The legislative intent underlying Section 111 was not, and unambiguously could not have been, to transform every offence involving more than one accused person into organised crime. The introduction of a co-accused does not, by that fact alone, import the definitional architecture of Section 111 into what would otherwise be a straightforward prosecution under the provisions of general penal law. This distinction, though it may appear obvious in the abstract, assumes critical importance in its practical application, for





there exists a manifest and judicially cognizable danger that prosecuting agencies, confronted with multi-accused cases involving financial transactions, may invoke Section 111 as a matter of routine escalation rather than principled legal assessment.

10.3 The statute itself, through the definitional requirement of an "organised crime syndicate" operating through "continuing unlawful activity" by way of violence, coercion or other unlawful means for pecuniary gain, has drawn a clear and deliberate legislative line between the domain of Section 111 and the domain of ordinary criminal law. Not every instance of cheating, however large in quantum, constitutes organised crime. Not every cyber fraud, even one involving multiple participants and multiple victims, satisfies the threshold of continuing unlawful activity carried out by an organised crime syndicate. Not every criminal conspiracy, however carefully conceived and executed, acquires the character of organised crime within the meaning of Section 111 merely by virtue of involving a plurality of accused persons acting in concert. Not every financial transaction that is unlawful or fraudulent in nature bears the hallmarks of an organised criminal enterprise. Not every case in which multiple accused persons are named in a charge-sheet justifies invocation of the severe penal consequences contemplated by Section 111.





10.4 If the provision were to be interpreted expansively, without strict adherence to its foundational definitional requirements, the inevitable consequence would be the routine escalation of ordinary penal offences , offences adequately addressed by the general provisions of the BNS , into organised crime prosecutions, thereby visiting upon accused persons the disproportionate stigma, enhanced punishment, and procedural consequences attendant upon prosecution under Section 111, in circumstances where such consequences were never intended by the legislature. Such an outcome would represent not merely a prosecutorial excess but a constitutional infirmity of the gravest order , a violation of the principle of proportionality in penal law, the right against unwarranted criminal prosecution, and the foundational guarantee that the coercive machinery of criminal justice shall not be deployed beyond the boundaries prescribed by law.

10.5 This Court is, therefore, of the considered view that the distinction between organised crime and ordinary crime is not a distinction of degree , it is a distinction of kind. Organised crime, as contemplated by Section 111, possesses a structural dimension, a temporal dimension, a purposive dimension, and a methodological dimension that collectively set it apart from the general domain of criminal law. Where these dimensions are not prima facie disclosed from the material collected during investigation, the invocation of





Section 111 is legally impermissible, regardless of the severity of the underlying offence or the number of persons alleged to be involved in its commission.

## 11. The Indispensability of Foundational Material: Against Bald Allegations and Inferential Assumptions

11.1 The severity of the penal consequences that flow from a conviction under Section 111 of the BNS , including the enhanced punishment, the reputational and social stigma, and the procedural consequences that attach to prosecution under a provision dealing with organised crime , places the Court under a correspondingly heightened obligation of judicial vigilance at the stage of charge. The gravity of the provision demands that its invocation rest upon a solid foundation of specific, legally relevant, and objectively discernible material , not upon bald or omnibus allegations that merely reproduce the language of the statute without demonstrating its factual applicability to the conduct of the accused.

11.2 The foundational material necessary to sustain a prima facie case under Section 111 must disclose, with sufficient clarity to generate grave suspicion rather than mere speculation, each of the following structural dimensions of organised criminal activity:

**(i) Prior Activities and Pattern of Recurrence:** The material must reveal antecedent criminal activity by the





syndicate or its members , a discernible pattern of recurring unlawful conduct that establishes the "continuing" character of the unlawful activity, as opposed to the episodic or one-off character of ordinary offending. A single transaction, even one involving substantial financial harm, does not , without more , constitute evidence of continuing unlawful activity within the meaning of Section 111.

**(ii) Structural Coherence and Syndicate Organisation:**

The material must disclose the existence of an organised crime syndicate as a structured, cohesive entity , not merely a loose, informal, or transient association of individuals who happened to participate in the same criminal transaction. The syndicate must exhibit a degree of organisational coherence , whether by way of hierarchy, division of roles, coordinated operation, shared criminal purpose, or other indicia of structured group identity , that distinguishes it from an ad hoc criminal conspiracy.

**(iii) Recurring Unlawful Enterprise and Financial**

**Motivation:** The material must disclose that the unlawful activity is part of a recurring enterprise directed towards the systematic generation of pecuniary or material benefit, and not merely a single, opportunistic transaction motivated by immediate financial gain. The distinction between a one-time fraud and a recurring criminal enterprise directed towards the systematic extraction of economic advantage is a





distinction of the utmost legal significance in the context of Section 111.

**(iv) Network, Hierarchy, and Coordinated Operation:**

The material must disclose, at the prima facie level, some evidence of a network or hierarchical structure , an operational arrangement in which members or associates of the syndicate perform differentiated roles in furtherance of the collective criminal enterprise. The mere existence of two or more persons acting in concert to commit a single offence does not, without evidence of structured coordination and role differentiation, establish the existence of an organised crime syndicate.

**(v) Coercive Methodology:** The material must disclose the use, or a credible threat of use, of violence, intimidation, coercion, or other unlawful means as part of the modus operandi of the continuing unlawful activity. This requirement is not satisfied by the mere fact that the underlying offence is of a coercive or exploitative character , it demands specific material demonstrating that the accused deployed, or was associated with the deployment of, coercive means as an integral feature of the syndicate's criminal operations.

11.3 Invocation of Section 111 cannot rest merely upon bald allegations or isolated accusations arising from a singular transaction, however egregious in its character. Where the material collected during investigation discloses, at the





highest, the commission of a discrete financial offence by a small group of individuals acting in concert on a single occasion, without any foundational material establishing the existence of a structured organised crime syndicate, the requisite continuing unlawful activity, or the coercive methodology characteristic of organised crime, the framing of charge under Section 111 represents not a legitimate exercise of the trial Court's judicial function but an unlawful extension of a grave penal provision beyond the boundaries prescribed by its enabling statute , an extension that this Court, in the exercise of its revisional jurisdiction, is both empowered and obligated to correct.

11.4 The administration of criminal justice in a constitutional democracy demands that the power to prosecute be exercised with rigour, precision, and fidelity to the law as enacted. The provisions of Section 111 of the Bharatiya Nyaya Sanhita, 2023, were crafted by Parliament as a shield against the most structured, persistent, and institutionalised forms of organised criminality , not as a prosecutorial escalation device to be deployed against ordinary offenders on the basis of inferential assumptions and omnibus allegations unsupported by foundational material. Courts of criminal jurisdiction must, at every stage at which they are called upon to apply this provision, remain steadfast to the legislative intent underlying it, and resolute in their refusal to permit the coercive machinery of organised crime





prosecution to be set into motion in the absence of the minimum legal threshold that Parliament, in its wisdom, has prescribed.

## 11.5 Organised Crime Defined and Proved

### 11.5.1 Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra (2005)

This seminal Supreme Court case<sup>2</sup> considered important issues in the application of MCOCA,<sup>3</sup> including the definition of an "organised crime syndicate" and the test for determining membership in such a syndicate. The Court found that membership in an organised crime syndicate does not require direct proof of enrolment or agreement to join; it can be inferred from circumstantial evidence that the accused participated in syndicate activities, he received benefits from his membership in the syndicate, or he associated with known members of the syndicate. The Court also held that the 'continuing unlawful activity' requirement two or more charge-sheets within required time periods is a jurisdictional requirement for invoking the MCOCA, rather than an evidentiary requirement. If the charge-sheets are not present, a court has no jurisdictional power to use MCOCA to prosecute the accused, even if they clearly engage in organised crime activity.<sup>4</sup> This "jurisdictional" approach has

2. Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, (2005) 5 SCC 294 (India).

3. Maharashtra Control of Organised Crime Act, No. 30 of 1999 (India) [hereinafter MCOCA].

4. See Ranjitsing Brahmajeetsing Sharma, (2005) 5 SCC 294.





implications for Section 111 BNS which adopts a continuing unlawful activity definition.

11.5.2 Yakub Abdul Razak Memon v. State of Maharashtra (2013)

In the *Yakub Memon* case,<sup>5</sup> the Supreme Court considered detailed judicial analysis of the definition and proof of criminal conspiracy in the context of organised crime concerning the case of the last convict in the 1993 Bombay blasts. According to the Supreme Court, in a major criminal conspiracy involving multiple persons from various countries, with many months of preparation it is not necessary to show that each conspirator knew and was present at the scene when specific criminal acts were committed by other conspirators; it is sufficient to establish that the conspirator was part of an overarching criminal design and specific criminal acts were committed in execution of this design. This broad view of criminal conspiracy under the IPC means that enterprise-level proof will be required in Section 111 BNS cases.

11.5.3. Hussain Umar Zulfikar Shaikh v. Competent Authority (2019)

This case<sup>6</sup> involved the definition of "organised crime syndicate" under MCOCA, which required the court to consider whether a rather loosely coordinated group of

<sup>5</sup> Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1 (India).

<sup>6</sup> Hussain Umar Zulfikar Shaikh v. Competent Authority, 2019 SCC OnLine Bom 1870 (India).





people involved in multiple acts of highway robbery and theft of vehicles qualified as an "organised crime syndicate". The Bombay High Court found that the prerequisites of three persons, continuity and a profit motive were indeed met but the term "syndicate" implies some form of hierarchy or organisation a purely ad hoc group of persons, albeit a criminal one, would not constitute a syndicate. The need for a degree of structure is not expressly mentioned in MCOCA or BNS 2023, but has been implied.

**APPLICATION OF LAW TO THE FACTS OF THE PRESENT CASE**

**12. Whether the Material Collected During Investigation Prima Facie Discloses the Existence of an Organised Crime Syndicate**

12.1 Having laid down the comprehensive legal framework governing the scheme, object, and essential ingredients of Section 111 of the BNS, this Court now proceeds to apply the said framework to the specific factual matrix disclosed by the material placed before the trial Court, with a view to determining whether the learned Additional Sessions Judge No. 02, Sri Ganganagar, was legally justified in framing charges against the petitioners under the said provision.

12.2 The genesis of the prosecution in the present case lies in a single nocturnal patrol operation conducted on 02.11.2024 by a police party headed by Head Constable





Kamlesh Kumar (Kani 81), who had departed along with Rohitash Kani 1635 at 6:05 PM in a private vehicle for routine area patrolling. Acting upon secret information received at approximately 10:05 PM near Dhingda Park , to the effect that one Vinay Baghala son of Ashok Kumar Baghala, a resident of Gali No. 07, Chak 3E Chhoti Police, Jawaharnagar, Sri Ganganagar, was proceeding towards the old office of the Irrigation Department carrying ATM cards and cheque books belonging to others, with the proceeds of cyber fraud to be delivered to Manish Soni and Prashant Soni at their residence in Guru Nagar, Purani Abadi , the police party apprehended Vinay Baghala at approximately 10:20 PM near the said location. The entirety of the prosecution case in the present matter as disclosed in the charge-sheet dated 31.01.2025 (FIR No. 370/25) filed against all three accused, namely, Prashant Soni, Manish Soni, and Vinay Baghala, traces its factual origin to this solitary incident of apprehension.

12.3 Upon this foundational factual matrix, this Court is constrained to observe that the material placed before the trial Court, even if accepted entirely at face value and without any critical scrutiny, fails to prima facie disclose the existence of an "organised crime syndicate" within the definitional contemplation of Section 111 BNS. An organised crime syndicate, as this Court has elaborately discussed in the preceding section, is not constituted merely by the fact





that two or more persons are alleged to have participated in a criminal transaction. It requires the existence of a structured, cohesive group operating in a coordinated, gang-like, or syndicated manner, with shared criminal purpose, organisational hierarchy, and continuity of unlawful enterprise.

12.4 A careful examination of the charge-sheet material dated 31.01.2025 (FIR No. 370/25) reveals that the prosecution's entire case rests upon:

**(i)** the recovery of certain banking documents from the possession of Vinay Baghala, specifically: a Punjab National Bank passbook in the name of one Ramesh (Account No. 3959000100182266, PNB Jawaharnahar Chowk Branch, Sri Ganganagar), a cheque book pertaining to the same PNB account (cheque nos. 626877 to 626890, of which three cheques had already been torn and allegedly presented), an ATM-cum-RuPay card (No. 5085461159635409) issued on the said Ramesh account; documents relating to an IndusInd Bank account (No. 100230550396) in the name of one Hansraj, including a cheque book (cheque nos. 422391-422400) and an ATM card (No. 5256220217781602); a PNB cheque book in the name of one Rukhsar Ansari (Account No. 3959000100182406, cheque nos. 820021-820040); and a Kotak Mahindra Bank cheque book and VISA ATM card in





the name of Vinay Baghala himself (Account No. 7949351699, cheque nos. 000011-000035);

(ii) the alleged statement of Vinay Baghala during interrogation that these banking instruments were being used for cyber fraud transactions, cash being withdrawn through the three torn PNB cheques at Mira Chowk Branch, Sri Ganganagar, in Ramesh's name, and the proceeds were to be delivered on different dates to petitioner Manish Soni and his brother petitioner Prashant Soni at their residence in Guru Nagar, Purani Abadi; that he received Rs. 5,000/- per day's transaction as his commission; that he had also accompanied one Hansraj to IndusInd Bank's branch near Tantiya Hospital to present a cheque for encashment, which was dishonoured as the account was found closed; and that Rukhsar Ansari's two SBI cheques were also presented at SBI's Lakad Mandi Road branch for cash withdrawals of Rs. 1 lakh per cheque on two occasions; and

(iii) further disclosure during interrogation that Manish Soni and Prashant Soni were engaged in the business of USDT cryptocurrency purchase and sale through the Binance application on Manish Soni's phone, purchasing USDT coins at Rs. 88-90 per coin online and reselling at Rs. 94-95 per coin, with amounts received through the Binance App being transferred by Manish Soni to Vinay Baghala's Kotak Mahindra account.





12.5 Nowhere in this material is there any disclosure, even at the level of grave suspicion, of a structured organised crime syndicate as a distinct, recognisable criminal entity with a defined membership, an established hierarchy of command, an articulated division of roles, or a demonstrable continuity of organised criminal enterprise.

12.6 The charge-sheet does not disclose any prior criminal enterprise attributable to the petitioners or any identified syndicate. It does not reveal any leadership structure, chain of command, or organisational framework characteristic of a criminal syndicate. It does not disclose the existence of any network of operatives beyond the three accused persons named therein. The absence of any material disclosing syndicate structure, hierarchy, or organised group identity is not a deficiency susceptible of cure at trial; it is a foundational void that strikes at the very legal basis for invocation of the provision.

### **13. Absence of Material Establishing Continuing Unlawful Activity: A Critical Lacuna**

13.1 As this Court has elaborately discussed in the preceding sections, the expression "continuing unlawful activity" is not merely a descriptive phrase, it is a substantive and constitutive ingredient of the offence of organised crime under Section 111 BNS, carrying a specific juridical meaning that imports temporal extension, repetition, persistence, and





the existence of a discernible pattern of recurring criminal operation. The word "continuing" is not surplusage; it performs the critical function of distinguishing the domain of organised crime from that of ordinary criminal offending, however grave the isolated transaction may be.

13.2 An examination of the charge-sheet filed in the present case reveals a conspicuous and complete absence of any material establishing continuing unlawful activity within the meaning of Section 111 BNS. The prosecution's case is, at its highest, the case of a single incident of recovery of multiple banking documents from an individual on a single night. The charge-sheet dated 31.01.2025 (FIR No. 370/25) filed against all three accused does not supply the critical deficiency of material establishing a pattern of recurring criminal activity by an organised syndicate over any discernible period. While the material discloses that certain cheques from accounts in the names of Ramesh, Hansraj, and Rukhsar Ansari were presented for encashment on different occasions, the charge-sheet lacks any material disclosing the specific dates, amounts, frequency, and coordinated mechanism of such transactions as part of a continuing criminal enterprise, or any evidence establishing that the accused collectively operated a structured, ongoing scheme for organised cyber fraud.





13.3 The charge-sheet does not disclose any antecedent criminal history of the accused referable to organised cyber fraud activity. It does not reveal any prior FIRs, convictions, or even investigations attributable to the alleged syndicate for similar activities. It does not establish any pattern of repeated criminal conduct across multiple bank accounts managed under a unified criminal framework, multiple victims across multiple jurisdictions over multiple time periods, that would furnish the evidentiary foundation for a finding that the accused were engaged in "continuing unlawful activity" in the juridical sense contemplated by Section 111 BNS. The recovery of banking documents belonging to multiple third parties in a single interception, in the absence of foundational material establishing how and over what period these accounts were procured and used as part of an organised continuing enterprise, does not , without materially more , constitute continuing unlawful activity.

13.4 This Court notes with particular concern that the charge-sheet filed against the petitioners in the cyber fraud matter (FIR No. 370/25) did not have any antecedent charge-sheet specifically invoking Section 111 BNS in respect of the petitioners in the context of organised cyber fraud activity , a circumstance that is not without legal significance. It is a matter requiring careful judicial attention that the grave and stigmatic provisions of Section 111 came





to be invoked in the charge-sheet dated 31.01.2025, in the absence of any prior foundational material disclosing the existence of a continuing unlawful activity by an organised syndicate. The invocation of organised crime provisions in the absence of any intervening discovery of material disclosing syndicate structure or continuing unlawful enterprise raises a legitimate question regarding the bona fide basis for such invocation, a question that the impugned order of the trial Court entirely fails to address.

**14. Whether the Alleged Acts Reveal Pecuniary Gain Through an Organised Criminal Enterprise: Distinguishing Isolated Fraud from Syndicated Crime**

14.1 It is not in dispute that cyber fraud, as a category of criminal activity, is capable, in appropriate factual circumstances and with adequate foundational material, of constituting the continuing unlawful activity of an organised crime syndicate for the purpose of Section 111 BNS. The critical question, however, is not whether cyber fraud is an offence, or even whether it was committed in the present case, but whether the specific material placed on record prima facie discloses that the alleged cyber fraud was part of a pecuniary enterprise carried out by or on behalf of an organised crime syndicate through the deployment of violence, coercion, or other unlawful means. The answer to





that question, on a careful analysis of the charge-sheet material, is unambiguously in the negative.

14.2 The charge-sheet material discloses, at the highest, an allegation that banking documents relating to accounts in the names of third parties , Ramesh, Hansraj, and Rukhsar Ansari , were being used for the encashment of amounts connected to cyber fraud transactions, with proceeds to be delivered to the petitioners, and that the operation was additionally connected to a USDT cryptocurrency trading activity conducted through the Binance App. The material does not disclose the identity of the victims of the alleged underlying cyber fraud, the modus operandi by which the fraud was perpetrated upon them, the network through which the proceeds were laundered or distributed across a criminal enterprise, or any hierarchical arrangement through which the alleged criminal enterprise was coordinated and managed at any level above the three accused persons. The material does not disclose any technology-enabled infrastructure characteristic of an organised cyber fraud syndicate, beyond the use of the Binance App for cryptocurrency transactions , an application that is in common civilian use and does not, by itself, constitute evidence of organised crime.

14.3 The distinction between an isolated instance of fraud , even one that involves the complicity of two or three persons





, and a structured criminal enterprise operating as an organised crime syndicate for pecuniary gain is a distinction of the most fundamental legal significance. Parliament, in enacting Section 111 BNS, was targeting the latter and not the former. An allegation that two persons directed a third person to carry banking documents belonging to multiple third parties and deliver the encashed proceeds, arising out of a single instance of interception on a single night, falls manifestly within the domain of the general penal provisions dealing with cheating, criminal conspiracy, and related offences. It does not, without material disclosing organisational structure, financial scale, continuity, and the coercive methodology of a criminal syndicate, enter the domain of organised crime under Section 111 BNS.

**15. Failure of the Trial Court to Examine the Statutory Ingredients: A Patent Non-Application of Judicial Mind**

15.1 Having found that the material on record fails to disclose the essential ingredients of Section 111 BNS, this Court must now examine the quality of the judicial reasoning that animated the impugned order dated 04.11.2025 passed by the learned Additional Sessions Judge No. 02, Sri Ganganagar. The standard against which the impugned order falls to be tested is not one of perfection, no such standard is applicable at the stage of framing of charge. The standard is whether the trial Court applied its judicial mind to the





statutory ingredients of the offences invoked and arrived at a judicially reasoned satisfaction that the material on record prima facie discloses those ingredients. Measured against this standard, the impugned order is, in the considered view of this Court, manifestly deficient.

15.2 A careful reading of the impugned order reveals that the learned trial Court has, without any independent examination of the statutory ingredients constituting the offence of organised crime under Section 111 BNS, and without any analysis of whether the material collected during investigation discloses , even at the level of grave suspicion , the existence of an organised crime syndicate, continuing unlawful activity, the deployment of coercive means, or the objective of pecuniary gain through a structured criminal enterprise, proceeded to frame charges against the petitioners under multiple sub-sections of Section 111 BNS. The impugned order further compounds this deficiency by appearing to draw sustenance from the circumstance that one of the petitioners , Prashant Soni , was also charge-sheeted in FIR No. 604/2024 (charge-sheet dated 31.12.2024) pertaining to the wholly separate incident of 24.10.2024 involving alleged obstruction of duty and assault on public servants. However, it must be noticed with care that even in FIR No. 604/2024, only Prashant Soni was charge-sheeted, and that charge-sheet did not invoke Section 111 BNS. The invocation of a separate charge-sheet





in an unrelated matter as circumstantial reinforcement for an organised crime charge in a distinct FIR, without establishing any factual or structural nexus between the two, is not a legally permissible process of reasoning.

15.3 The impugned order does not contain any discussion of what constitutes an "organised crime syndicate" or whether the material on record discloses the existence of such a syndicate. It does not examine what constitutes "continuing unlawful activity" or whether any material establishing continuity, repetition, or pattern of criminal operation has been placed on record. It does not address the requirement of violence, threat, intimidation, or coercion, or examine whether the modus operandi alleged in the present case satisfies this constitutive ingredient. It does not discuss whether the petitioners' nexus with any organised crime syndicate is disclosed from the material on record, or whether their alleged involvement rises beyond that of ordinary criminal conspiracy or abetment. The order appears to be, in substance, a mechanical reproduction and endorsement of the allegations contained in the charge-sheet, without any independent judicial analysis of whether those allegations satisfy the statutory threshold for invocation of Section 111 BNS.

15.4 Critically, the impugned order discloses no awareness of a distinction of fundamental legal importance that goes to





the very heart of the applicability of Section 111 BNS , the distinction between a **repeat offender** and a **member of an organised crime syndicate**. These two categories, though superficially similar in that both involve persons with a pattern of criminal conduct, are legally distinct in every material respect. Every repeat offender cannot, merely by reason of prior criminal antecedents, be branded a member of an organised crime syndicate. The law demands far more. For the threshold of Section 111 BNS to be crossed, the material on record must disclose , at the very minimum , the existence of an **organised structure**: a recognisable syndicate with defined membership and hierarchical command; **continuity of criminal enterprise**: a demonstrable pattern of recurring unlawful activity over time, not merely isolated or sporadic transactions; **coordinated criminality**: a division of roles and coordinated functioning of multiple persons within the syndicate's framework, directed towards a common criminal objective; **unlawful gain** as the driving purpose of the syndicate's collective operation; and **syndicate functioning** as a distinct, recognisable, and ongoing criminal entity , and not merely a loose association of individuals engaged in a single or limited criminal venture. None of these constitutive characteristics are disclosed by the material on record in the present case. The three accused , emerge from the charge-sheet as individuals alleged to have participated in a financial





fraud arrangement of limited and localised scope, in circumstances that disclose, at the highest, an offence of cheating or criminal conspiracy to commit cheating. The leap from that allegation to the grave and stigmatic invocation of organised crime under Section 111 BNS, without any material bridging that legal distance, is a leap that the law does not permit, and that the trial Court was constitutionally obligated to scrutinise and resist.

15.5 The framing of charge is a judicial act , not an administrative or ministerial formality. When a trial Court frames charge under a provision as serious as Section 111 BNS, carrying the gravest penal consequences and the most stigmatic implications, it is performing a constitutional function of the highest order. The exercise of that function demands, at minimum, a reasoned articulation of how the statutory ingredients of the offence are prima facie satisfied by the material placed on record. An order that frames charges under Section 111 BNS without any such articulation , without any discussion of syndicate structure, continuing unlawful activity, coercive modus operandi, or the specific nexus of each accused with the organised criminal enterprise , cannot be said to represent the discharge of that judicial function. It represents, instead, a surrender of the judicial gatekeeping role that the law has entrusted to trial Courts at the stage of framing of charge, in favour of a mechanical deference to the prosecution case that this Court has





consistently characterised as impermissible. The absence of any engagement with the critical distinction between habitual offending and organised crime , a distinction that goes to the foundational applicability of Section 111 BNS , only deepens the infirmity of the impugned order and fortifies the conclusion that it cannot be permitted to stand.

## 16. THE CONSTITUTIONAL PERIL OF MECHANICAL INVOCATION OF SECTION 111 BNS: A BROADER CAUTION

16.1 The present case affords this Court an occasion to address a matter of considerable constitutional significance that transcends the specific facts of the instant revision petition. The mechanical invocation of Section 111 of the BNS, in the absence of foundational material satisfying the essential ingredients of the provision , is not merely a legal error susceptible of correction in individual cases through the exercise of revisional jurisdiction. It represents a systemic pathology, the unchecked proliferation of which poses grave and multidimensional threats to the constitutional guarantees of individual liberty, due process, and the proportionality of penal law, threats that demand both acknowledgment and clear judicial correction.

16.2 Section 111 BNS carries penal consequences of extraordinary severity. The provision prescribes, upon conviction, punishment that may extend to life





imprisonment, together with fine. The stigma that attaches to prosecution under an organised crime provision , even in advance of any conviction , is qualitatively and materially different from, and far more profound than, the stigma that attaches to prosecution under the general penal law. An accused person charged with organised crime under Section 111 BNS faces not merely the ordinary burden of a criminal trial, but the social, professional, familial, and reputational consequences of being publicly identified as a member or associate of an organised crime syndicate , a label that carries the most severe connotations of professional criminality and structural wickedness in the public consciousness. The consequences of such labelling, once visited upon an accused person, are not wholly reversible even upon eventual acquittal.

16.3 The liberty interest of an accused person confronting prosecution under Section 111 BNS is therefore qualitatively different from that of an accused facing charges under ordinary penal provisions. Courts must remain constitutively alive to this distinction, and must exercise a correspondingly heightened degree of scrutiny in examining whether the foundational prerequisites for invocation of the provision are satisfied. The observation of the Hon'ble Supreme Court in catena of decisions , to the effect that the power to prosecute, like all state power, must be exercised in accordance with constitutional norms of proportionality,





fairness, and purposive fidelity to the law , assumes particular resonance and urgency in the context of a provision as grave and far-reaching in its consequences as Section 111 BNS.

16.4 Courts must remain alive to the grave civil and penal consequences flowing from invocation of organised crime provisions. Liberal or mechanical invocation of Section 111 BNS, absent foundational facts, risks normalising extraordinary penal provisions for ordinary criminal prosecutions , a development of the most adverse constitutional consequence. When general penal provisions dealing with cheating, criminal conspiracy, and abetment are available and adequate to address the conduct alleged, the resort to Section 111 BNS without foundational material disclosing syndicate structure, continuing unlawful enterprise, and coercive methodology constitutes not merely a prosecutorial excess but a disproportionate deployment of the most severe instruments of the criminal law against ordinary offenders.

16.5 The normalisation of Section 111 BNS as a routine prosecutorial tool , invocable in every case of financial fraud involving more than one accused person , would carry consequences of the gravest constitutional order. It would effectively obliterate the carefully crafted legislative distinction between organised crime and ordinary crime. It





would render nugatory the detailed definitional architecture through which Parliament has sought to confine the operation of Section 111 BNS to the most serious, structured, and institutionalised forms of criminal enterprise. It would systematically expose persons accused of ordinary financial offences to the disproportionate penal consequences and reputational devastation of an organised crime prosecution. And it would represent a progressive erosion of the principle of proportionality in penal law , a principle that lies at the very foundation of constitutional criminal justice in a democratic republic.

16.6 Furthermore, the procedural consequences of being arraigned as an accused under Section 111 BNS , including the implications for bail, the potential invocation of related provisions dealing with property attachment and forfeiture, and the heightened public and institutional scrutiny that attaches to organised crime prosecutions , impose upon the accused a burden of contestation that is qualitatively distinct from, and far more onerous than, that imposed by an ordinary criminal prosecution. These consequences begin to operate at the stage of framing of charge itself , not merely upon conviction , thereby making the correctness of the charge-framing order a matter of immediate and substantial consequence to the fundamental rights of the accused.





16.7 This Court, therefore, considers it constitutionally imperative to reiterate , with the fullest force available to this jurisdiction , that Section 111 BNS is an extraordinary provision designed for extraordinary circumstances, and that its invocation must be attended by extraordinary judicial care. Neither the filing of a charge-sheet invoking Section 111 BNS nor the prosecution's assertion that an accused is a member of an organised crime syndicate can, by itself, discharge the judicial obligation to independently examine whether the statutory ingredients of the provision are prima facie satisfied by the material on record. Judicial caution at the stage of charge is not a technical obstacle to prosecution , it is the constitutional safeguard through which the courts ensure that the most severe instruments of criminal law are deployed only within the boundaries prescribed by the legislature, and not beyond them.

**17. WHETHER THE IMPUGNED ORDER DATED 04.11.2025  
CAN SUSTAIN IN LAW**

17.1 In the light of the comprehensive analysis undertaken in the preceding sections, this Court is of the considered and unhesitating view that the impugned order dated 04.11.2025 passed by the learned Additional Sessions Judge No. 02, Sri Ganganagar, framing charges against the petitioners under Sections 111(2)(b), 111(3), 111(4), and 111(6) of the BNS, cannot sustain scrutiny in law and deserves to be quashed





and set aside to the said extent. However, insofar as the remaining offences alleged against the petitioners are concerned, this Court finds that the same do not warrant interference in the present revisional jurisdiction and are liable to be proceeded with in accordance with law before the competent Court having jurisdiction.

17.2 First, the material collected during investigation, even when accepted at its face value and taken in its entirety, fails to prima facie disclose the foundational statutory ingredients necessary for invocation of Section 111 BNS. The prosecution material does not reveal the existence of an organised crime syndicate, continuing unlawful activity, structural hierarchy, coordinated criminal enterprise, or the coercive methodology contemplated by Section 111 BNS. The allegations, at the highest, disclose a discrete and localised financial fraud arrangement allegedly involving a limited number of individuals, which may attract the ordinary penal provisions dealing with cheating, conspiracy, and related offences, but do not cross the elevated statutory threshold necessary to attract the grave and exceptional provisions of organised crime under Section 111 BNS.

17.3 Second, the impugned order reflects a patent non-application of judicial mind insofar as the charges under Section 111 BNS are concerned. The learned trial Court failed to independently examine whether the essential





ingredients constituting organised crime were prima facie established from the material placed before it. The order does not contain any meaningful discussion regarding the existence of an organised crime syndicate, continuing unlawful activity, structured criminal enterprise, or the nexus of the accused with such alleged syndicate. The framing of charges under Section 111 BNS appears to have proceeded merely on the basis of the allegations contained in the charge-sheet, without the rigorous judicial scrutiny mandated for invocation of a provision carrying such grave penal and stigmatic consequences.

17.4 Third, the invocation of Section 111 BNS in the present case represents an impermissible expansion of an extraordinary penal provision beyond the limits intended by Parliament. Section 111 BNS was enacted to combat structured, continuing, and institutionalised forms of organised criminality, and not to mechanically elevate every instance of alleged financial or cyber fraud involving more than one accused into the domain of organised crime prosecution. In the absence of foundational material disclosing the existence of a continuing organised criminal enterprise, the framing of charges under Section 111 BNS cannot legally be sustained.

17.5 This Court is therefore satisfied that the order dated 04.11.2025 deserves to be quashed and set aside to the





limited extent of the charges framed under Sections 111(2) (b), 111(3), 111(4), and 111(6) of the BNS, and the petitioners are consequently liable to be discharged from the said charges of allegedly indulging in organised crime within the meaning of Section 111 BNS.

## 18. CONSEQUENCE OF QUASHMENT OF CHARGES UNDER SECTION 111 BNS

18.1 Having held that the charges framed against the petitioners under Sections 111(2)(b), 111(3), 111(4), and 111(6) BNS are legally unsustainable, the consequential question that arises is regarding the competent forum for trial of the remaining offences alleged against the petitioners.

18.2 It is not in dispute that the jurisdiction of the learned Sessions Court in the present matter was primarily invoked on account of the inclusion of the offences under Section 111 BNS. Once the said charges are held unsustainable and the petitioners stand discharged therefrom, the substratum conferring Sessions jurisdiction in the present case no longer survives insofar as the remaining offences are concerned.

18.3 The remaining offences alleged against the petitioners are, therefore, liable to be proceeded with before the competent Judicial Magistrate having territorial jurisdiction to take cognizance of the offences and to proceed further in accordance with law. Consequently, the matter deserves to





be remanded for being placed before the appropriate Court competent to try the remaining offences in accordance with the scheme of the Bharatiya Nagarik Suraksha Sanhita, 2023.

18.4 This Court clarifies that, for the instant case, the present adjudication is confined solely to the legality and sustainability of the charges framed under Section 111 BNS. Nothing observed herein shall be construed as any expression on the merits of the remaining offences alleged against the petitioners in this case which shall be examined independently by the competent Court in accordance with law and on the basis of the material available on record.

#### 19. OPERATIVE DIRECTIONS

19.1 For the reasons elaborately recorded hereinabove, the present revision petition stands partly allowed.

19.2 The impugned order dated 04.11.2025 passed by the learned Additional Sessions Judge No. 02, Sri Ganganagar, in Sessions Case No. 10/2025 (CIS No. 14/2025), titled *State of Rajasthan Vs. Prashant Soni & Ors.*, is hereby quashed and set aside to the limited extent of the charges framed against the petitioners under Sections 111(2)(b), 111(3), 111(4), and 111(6) of the BNS.

19.3 As a necessary consequence thereof, the petitioners stand discharged from the aforesaid charges under Section 111 BNS relating to alleged organised crime.





19.4 The remaining offences alleged against the petitioners shall, however, proceed in accordance with law before the competent Judicial Magistrate having territorial jurisdiction to take cognizance of and try the said offences.

19.5 Accordingly, the record of the present case shall be transmitted to the learned District & Sessions Judge, Sri Ganganagar, who shall thereafter forward the matter to the appropriate Court/forum competent to proceed with the remaining offences in accordance with law.

19.6 The competent Court shall thereafter proceed further in the matter strictly in accordance with law and uninfluenced by any observations made in the present order touching upon the merits of the remaining offences.

20. The revision petition stands partly allowed in the aforesaid terms. All pending applications, if any, shall stand disposed of accordingly.

**(FARJAND ALI),J**

15-Mamta/-

