RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Miscellaneous (Petition) No. 10332/2026
CNR: RJHC011088112026 | URN: CRLMP / 17413U / 2026

Rajasthan High Court
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Gulshan Kumar S/o Tulsidas, Aged About 26 Years, R/o Authorized Representative Of M/s Tulsi Modern Dairy, Town Road, Near Gurudwara Satipura, Hanumangarh, District Hanumangarh, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Lins Thomas S/o Thomas Abraham, Aged About 38 Years, R/o House No. 175, Sector No.- 11-A, Ward No. 08, Hanumangarh Junction, P.s. Hanumangarh Junction, District Hanumangarh, Rajasthan. Presently Posted As U.d.c. At Chief Medical And Health Offce, Hanumangarh, Raj.
3. Dr. Navneet Sharma, Designated Officer And Chief Medical And Health Officer, Hanumangarh Town, District Hanumangarh, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Baltej Singh Sandhu
For Respondent(s)	:	Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

REOPORTABLE

06/11/2026

GRIEVANCE

1.The instant criminal miscellaneous petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short "BNSS"), has been preferred on behalf of the petitioner seeking quashing of FIR No. 678/2026 dated 10.10.2026, registered at Police Station

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Hanumangarh Junction, District Hanumangarh, for the offences punishable under Sections 318(4), 125, 271, 272 and 275 of the Bharatiya Nyaya Sanhita, 2023 (in short "BNS"), along with all consequential proceedings arising therefrom.

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BRIEF FACTS OF THE CASE

2. The concise facts of the case, as alleged in the FIR, are that Dr. Navneet Sharma, Designated Officer and Chief Medical and Health Officer, Hanumangarh, got an inspection conducted through Food Safety Officers at M/s Tulsi Modern Dairy, situated at Satipura, District Hanumangarh. During the course of inspection, several irregularities were allegedly noticed, including non-availability of health certificates of the employees engaged in the preparation of ghee and sale of sweets, lack of cleanliness of utensils, stove and tawa used in the kitchen, accumulation of carbon deposits thereon, presence of flies and ants in a vessel containing rasgullas and approximately 10 kilograms of stale and dried barfi. It was further noticed that the requisite licence/registration was not displayed at the premises and the documents pertaining to pest control were also not produced. Upon laboratory examination, the food articles and beverages were allegedly found not conforming to the prescribed standards. Accordingly, it was alleged that petitioner, being the person responsible for M/s Tulsi Modern Dairy, along with other persons, was engaged in selling harmful and substandard food articles and beverages to the general public, thereby endangering human life, cheating the consumers and causing wrongful loss to the public for

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obtaining wrongful gain. On the basis of the aforesaid report submitted before the police, the impugned FIR came to be registered for the offences punishable under Sections 318(4), 125, 271, 272 and 275 of the BNS.

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SUBMISSIONS ON BEHALF OF THE PETITIONER

3. Learned counsel for the petitioner submitted that the impugned FIR is false, frivolous and has been lodged at the behest of political rivals to settle political scores and harass the petitioner, despite there being no material disclosing the commission of the alleged offences. It is further contended that proceedings under the Food Safety and Standards Act, 2006 have already been initiated against the petitioner and, in view of the overriding effect of Section 89 thereof and the exhaustive mechanism prescribed under the said Act, the initiation of parallel criminal proceedings under the general penal law is wholly unwarranted. It is thus argued that the impugned FIR is an abuse of the process of law and deserves to be quashed along with all consequential proceedings.

SUBMISSIONS ON BEHALF OF THE STATE

4. Per contra, learned Public Prosecutor submits that the allegations levelled in the impugned FIR prima facie disclose the commission of cognizable offences and, therefore, warrant a thorough investigation. It is further submitted that the initiation of proceedings under the Food Safety and Standards Act, 2006 does not, by itself, preclude the criminal prosecution of the petitioner for offences punishable under the general penal law, particularly

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when the allegations disclose independent criminal acts. It is thus contended that no case for quashing the impugned FIR is made out.

OBSERVATION

5. Heard learned counsels appearing on behalf of the parties and perused the material available on record.

A. Whether the Allegations Prima Facie Constitute the Offence of Cheating under Section 318(4) of the BNS

6. Upon a careful perusal of the impugned FIR and the material allegations contained therein, this Court finds that the allegations cannot be viewed in isolation or reduced to mere deficiencies in maintaining hygienic conditions at the dairy premises. The allegations, taken together, indicate that food articles, including sweets and other consumable products, were being prepared, stored and offered for sale to the general public despite the alleged unhygienic conditions and their suspected unsuitability for human consumption.

6.1 Before proceeding any further, it would be apposite to first examine the statutory provision pertaining to the offence of cheating. For the sake of ready reference, Section 318 of the BNS is reproduced hereinbelow:-

> **318. Cheating**
> "(1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to

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that person in body, mind, reputation or property, is said to cheat.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations.

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

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> (2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
> (3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.
> (4) Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

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6.2 At this stage, it would be apposite to notice that the expression "cheating", as defined under Section 318(1) of the BNS, is not confined merely to deception resulting in delivery of property. The provision also encompasses a situation wherein a person, by reason of deception, is intentionally induced to do or omit to do something which he would not have otherwise done or omitted, and such act or omission causes or is likely to cause damage or harm to him in body, mind, reputation or property. The expression 'likely to cause' assumes considerable significance, inasmuch as the legislature has consciously not made the actual occurrence of harm an indispensable requirement for attracting the provision.

6.3 The human body is one of the expressly recognised interests sought to be protected under the aforesaid provision. A person purchasing food articles from an establishment engaged in the business of selling food products ordinarily acts upon the

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representation, whether express or implicit, that the articles so offered are fit for human consumption and conform to the standards ordinarily expected of food products. The purchaser places reliance upon the apparent quality, presentation and representations attending the sale and parts with his money in the belief that the commodity being purchased is fit for consumption. If, under the guise of supplying wholesome and consumable food articles, a person knowingly offers contaminated, noxious or otherwise unfit food articles for sale, thereby inducing unsuspecting purchasers to consume the same, the possibility of damage or harm to their bodily health cannot be brushed aside as a remote or imaginary consequence.

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6.4 This Court can certainly take judicial notice of the ordinary manner in which commercial transactions take place in a marketplace. Food articles displayed, arranged and exhibited at a commercial establishment engaged in the sale of sweets and other consumables are ordinarily meant for being purchased and consumed by members of the public. Such articles are not displayed merely as objects of decoration or exhibition. The very purpose of their display is to attract prospective purchasers and induce them to make a purchase. Therefore, where food articles allegedly unfit for human consumption are displayed and offered for sale, the possibility of unsuspecting consumers purchasing and consuming such articles, on the faith of their apparent quality and suitability, cannot be denied.

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6.5 It is equally important to bear in mind that the statutory expression is not restricted to actual bodily injury. The likelihood of harm to the body is sufficient, provided the other foundational ingredients of deception and intentional inducement are prima facie disclosed. Consumption of contaminated, noxious or spurious food articles is inherently capable of exposing the consumer to health hazards. The fact that no particular consumer has, as yet, come forward with a complaint of having suffered bodily injury would not, by itself, efface the likelihood of harm arising from the alleged conduct.

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6.6 Further, the second limb of Section 318(1) has to be read in conjunction with the first limb, and the allegations herein also require examination from the standpoint of dishonest inducement resulting in delivery of property. When a consumer, believing the food article to be wholesome and fit for consumption, purchases the same and parts with the consideration therefor, the element of delivery of property pursuant to the alleged deception also becomes relevant. The precise nature of the representations made, the knowledge attributable to the persons responsible for the establishment and the circumstances in which the food articles were purchased are matters which can appropriately be unravelled during investigation.

6.7 At this juncture, it would be premature to insist upon the identification and examination of every individual purchaser as a condition precedent for permitting the investigation to proceed. The investigating agency is yet to ascertain the complete chain of

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transactions, identify the persons who purchased the allegedly contaminated food articles and record their statements. The absence of such statements at the present stage cannot be treated as a circumstance conclusively demolishing the allegations contained in the FIR. The contention that the allegations do not constitute cheating merely because no specific instance of bodily injury has been reported, therefore, does not commend acceptance at this stage. Whether the alleged deception was deliberate, whether the persons responsible knowingly offered such articles for sale and whether purchasers were dishonestly induced to part with their money are matters requiring investigation and appreciation of evidence. This Court, while exercising jurisdiction under Section 528 of the BNSS, would not undertake a meticulous examination of such disputed factual aspects or substitute its own assessment for that of the investigating agency at the threshold.

B. Whether the Allegations Disclose an Act Endangering Human Life or Personal Safety under Section 125 of the BNS

7. Moving further, it would be apposite to examine Section 125 of the BNS which deals with acts endangering the life or personal safety of others. For the sake of ready reference, the said provision is reproduced hereinbelow:-

> **125. Act endangering life or personal safety of others.**
>
> "Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a

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> term which may extend to three months or with fine which may extend to two thousand five hundred rupees, or with both, but—
> (a) where hurt is caused, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;
> (b) where grievous hurt is caused, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both."

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7.1 Section 125 of the BNS penalises an act done so rashly or negligently as to endanger human life or the personal safety of others. The gravamen of the provision lies in the creation of danger to human life or personal safety, and the actual occurrence of hurt is not a necessary ingredient of the basic offence. In the present matter, the allegations regarding preparation and storage of food articles in unhygienic conditions, presence of flies and ants in food items and the alleged sale of stale and substandard food products to the public are matters which cannot be lightly brushed aside. If such allegations are found to be true, the conduct may prima facie disclose an act endangering the health and personal safety of unsuspecting consumers. Whether the conduct was rash or negligent and whether it created the requisite degree of danger are matters which must be examined in the course of investigation.

C. Whether the Allegations Attract the Offences Relating to the Spread of Infection of Diseases Dangerous to Life under Sections 271 and 272 of the BNS

8. Adverting now to Sections 271, 272 and 275 of the BNS, which deal with acts relating to the spread of infection of diseases

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dangerous to life and the adulteration or sale of noxious food or drink. For the sake of ready reference, the aforesaid provisions are reproduced hereinbelow:-

> **271. Negligent act likely to spread infection of disease dangerous to life.**
> "Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."
>
> **272. Malignant act likely to spread infection of disease dangerous to life.**
> "Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."
>
> **275. Sale of noxious food or drink.**
> "Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

8.1 Sections 271 and 272 of the BNS deal with negligent and malignant acts, respectively, which are likely to spread the infection of a disease dangerous to life, where the accused knows or has reason to believe that the act is likely to produce such consequences. The allegations regarding contamination of food articles, presence of flies and ants in consumable products and unhygienic conditions prevailing at the premises provide circumstances warranting investigation into the nature of the contamination and the attendant health hazards. The distinction

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between a negligent act and a malignant act, together with the requisite knowledge or reason to believe, would necessarily depend upon the facts and material brought on record during investigation. At this preliminary stage, the Court would not be justified in foreclosing that inquiry merely because the precise nature and consequences of the alleged contamination are yet to be fully ascertained.

D. Whether the Allegations Prima Facie Constitute the Offence of Selling or Offering Noxious Food or Drink under Section 275 of the BNS

9. Section 275 of the BNS specifically deals with selling, offering or exposing for sale, as food or drink, any article which has been rendered or has become noxious or is in a condition unfit for human consumption, with the knowledge or reason to believe that the same is noxious or unfit for consumption. In the present case, the allegations that approximately 10 kilograms of stale and dried barfi were found at the premises, that flies and ants were present in a vessel containing rasgullas and that the food articles were allegedly found not conforming to the prescribed standards upon laboratory examination, are circumstances which prima facie warrant investigation into the applicability of the aforesaid provision. The question whether the food articles were indeed noxious or unfit for consumption and whether the persons responsible for their sale had the requisite knowledge or reason to believe so would be determined on the basis of the material collected during investigation. It is not necessary, at the stage of

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considering a petition for quashing, to record a conclusive finding regarding the guilt of the petitioner. The statutory ingredients are required to be examined in the light of the allegations and the material collected, without converting the present proceedings into a trial.

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E. Scope and Limitations of Inherent Jurisdiction under Section 528 of the BNSS

10. The inherent jurisdiction of this Court is intended to prevent abuse of the process of law and to secure the ends of justice. However, such jurisdiction cannot be exercised to stifle a legitimate investigation, particularly when the allegations disclose circumstances which warrant a thorough inquiry into the safety of food articles being made available for public consumption. The nature of the allegations in the present case is not confined to a private dispute between two individuals. It concerns the health and safety of the public at large.

10.1 Food is a basic necessity of human life, and any deliberate or reckless compromise with its quality and safety has the potential of affecting numerous unsuspecting consumers. The interest of public health, therefore, assumes paramount importance while examining the allegations at this preliminary stage. The investigating agency must be afforded an opportunity to ascertain the source and nature of contamination, examine the relevant laboratory reports, identify the persons involved in the preparation and sale of the food articles and record the statements of the persons who may have purchased the same. Any premature

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interference by this Court would not only interrupt the process of investigation but may also foreclose an inquiry into matters having a direct bearing upon public health and safety. In view of the foregoing discussion, this Court does not find any compelling ground warranting exercise of its inherent jurisdiction under Section 528 of the BNSS for quashing the impugned FIR at this stage.

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CONCLUSION AND DIRECTIONS

11. Accordingly, the instant criminal miscellaneous petition is dismissed.

12. It is, however, made clear that the observations made hereinabove are confined to the adjudication of the present petition seeking quashing of the proceedings by exercising inherent powers at the nascent stage only. The investigating agency shall proceed strictly in accordance with law and conduct the investigation independently, without being influenced by any observation made in this order. The aforesaid observations shall be duly taken into consideration before filing of the result of the investigation.

(FARJAND ALI),J

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