



2025:CGHC:44176-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2714 of 2025

1. Dinesh Kumar Sahu S/o Shri Uttam Kumar Sahu, Aged About 32 Years Residing At Village And Post Amleshwar Dih., Tehsil-Patan, District-Durg, Chhattisgarh-4900042.
2. Harishankar Sahu, S/o Baliram Sahu, Aged About 29 Years Ward No. - 4 Bhatha Para, Baktara, Baktrara-2 (Baktara), Raipur, Chhattisgarh - 493661.

... Petitioner(s)

versus

State of Chhattisgarh Through Station House Officer Police Station - Mandir-Hasaud District - Raipur, Chhattisgarh - 492101.

...Respondent(s)

For Petitioners	:	Mr. Devashish Tiwari, Advocate.
For Respondent/State	:	Ms. Soumya Sharma, Panel Lawyer.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

01.09.2025

1. Heard Mr. Devashish Tiwari, learned counsel for the petitioners. Also heard Ms. Soumya Sharma, learned Panel Lawyer, appearing for the respondent/State.

2. The present petition has been filed by the petitioner with the following prayer:

“It is, therefore, prayed that this Hon’ble Court may kindly be pleased to quash the First Information Report bearing No. 293 of 2025 lodged at Police Station: Mandir Hasoud, Raipur, Chhattisgarh on 19.07.2025 (Annexure P/1) for the offence punishable under Section 125(b) and 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 to the extent of the petitioners in the interest of justice.”

3. Learned counsel for the petitioners submits that the present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”), seeking quashing of First Information Report (FIR) No. 293 of 2025 lodged at Police Station: Mandir Hasoud, Raipur (C.G.) on 19.07.2025, for the offences punishable under Section 125(b) (*Act endangering life or personal safety of others*) and Section 3(5) (*property in possession of a person’s spouse, clerk or servant*) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS”).

4. Learned counsel for the petitioners further submits that FIR No.293 of 2025 has been registered against employees of ElasticRun, a logistics Company engaged in providing delivery services to Flipkart. The case arises out of a murder and robbery committed on 17.07.2025 by accused Sameer Tandon and Kunal Tiwari, who allegedly used knives procured through Flipkart’s e-commerce platform. The primary offence was registered as FIR No. 291 of 2025 under Sections 109,

103(1), 309(6), and 3(5) of the BNS along with relevant provisions of the Arms Act. It is contended that the present petitioners, namely, Dinesh Kumar Sahu (Senior Area Manager) and Harishankar Sahu (Delivery Service Agent), are associated with ElasticRun, which operates under a Master Services Agreement dated 01.05.2025 with Instakart Services Private Limited (Flipkart's logistics subsidiary). During the investigation of the primary crime, it was revealed that the murder weapons were knives ordered online by accused Kunal Tiwari and delivered through ElasticRun's logistics network.

5. Learned counsel for the petitioners would submit that the prosecution's case is premised on the allegation that, despite prior warnings issued by the police to e-commerce platforms regarding delivery of dangerous weapons, Flipkart and its logistics partners continued to process and deliver such items. The impugned FIR seeks to impute liability on the petitioners under Sections 125(b) and 3(5) of the BNS, on the ground that delivery personnel ought to have suspected the nature of the goods from barcodes and packaging, yet proceeded with delivery, thereby allegedly endangering human life through negligent conduct. It is submitted that the petitioners' role was strictly ministerial and mechanical, confined to pickup and delivery of sealed consignments without any knowledge of their contents or the criminal intent of purchasers. The Master Services Agreement expressly prohibits tampering with packages, and employees are contractually bound to deliver items intact without inspection. The petition relies on statutory protections under the Information Technology Act, 2000,

contending that Flipkart qualifies as an “intermediary” under Section 2(1)(w), and as such is entitled, along with its affiliates, to “safe harbour” protection under Section 79. This immunity, it is argued, extends to criminal liability as well, as recognized in ***Flipkart Internet Private Limited v. State of NCT of Delhi***, reported in **2022 DHC 3072** and ***Flipkart Internet Private Limited v. State of U.P. & Others***, reported in **2022 SCC OnLine All 706**, wherein e-commerce platforms were held entitled to immunity where they complied with due diligence obligations under the IT Rules.

6. It is further contended by the learned counsel for the petitioners that executive or police warnings cannot create binding legal obligations on intermediaries. Placing reliance on the judgment of the Hon’ble Supreme Court in ***Shreya Singhal v. Union of India***, reported in **(2015) 5 SCC 1**, it is submitted that intermediaries are required to act only upon a reasoned Court order, or in limited cases upon directions issued by the Central Government under Section 69A, and not merely on police advisories. The petitioners, therefore, submit that there is no *prima facie* evidence to establish rash or negligent conduct on their part, and that criminal liability for end-users’ misuse of lawfully delivered goods cannot be extended to logistics employees. Imposing such liability would create an untenable precedent, effectively criminalizing routine logistics, e-commerce, and postal operations. Hence, the present petition has been preferred seeking quashment of the FIR.

7. *Per contra*, learned State Counsel opposes the submissions

advanced on behalf of the petitioners and contends that the knife ordered by the accused, Sameer Tandon and Kunal Tiwari, which was allegedly procured through Flipkart and subsequently used in the commission of murder and robbery on 17.07.2025, was a prohibited knife under the Arms Act. It is argued that the petitioners, being employees of ElasticRun, a logistics Company engaged in providing delivery services to Flipkart, cannot escape criminal liability merely on the ground that they were unaware of the contents of the package they delivered. She further submits that, on 17.10.2024, the Office of In-charge, Anti-Crime & Cyber Unit, Bilaspur (C.G.) had sent e-mails to Amazon, Flipkart, Snapdeal, and ShopClues e-commerce websites, directing them to provide details of the supply of online orders of knives, except kitchen knives. Thereafter, on 17.06.2025, the Office of the Additional Superintendent of Police, Crime, Raipur (C.G.) issued a letter to the Security Officer, Flipkart, Dumartarai, Raipur (C.G.), stating that through this office's e-mail ID raipurcrimecell.cg@gov.in, Flipkart had been asked on 08.06.2025 to furnish information regarding orders and deliveries of spring-assisted / button-operated knives, which are restricted from delivery, for the period from 01.01.2025 to 07.06.2025. However, till date, Flipkart has neither furnished the required information nor given any reply. It is further clarified that under the Arms Act, button-operated / spring-assisted knives are prohibited. Nevertheless, Flipkart accepted orders for such prohibited knives, and ElasticRun, the logistics Company where the petitioners were employed, delivered the same. The said knives were later used in the commission of the

aforementioned murder and robbery on 17.07.2025. Accordingly, it is urged that the present petition deserves to be dismissed.

8. We have heard learned counsel for the parties and perused the material available on record including the impugned FIR.

9. The jurisdiction to quash a complaint, FIR, or charge-sheet is extraordinary and must be exercised sparingly. Courts ordinarily do not interfere with investigations of cognizable offences. FIRs may be quashed only where allegations, even if accepted at face value, do not prima facie constitute an offence. In ***State of Haryana v. Ch. Bhajan Lal***, reported in ***AIR 1992 SC 605***, the Apex Court held that quashing is permissible in rare cases, such as where allegations are frivolous, inherently improbable, or mala fide. Similarly, in ***Rupan Deol Bajaj v. K.P.S. Gill***, reported in ***1995 SCC (Cri) 1059***, ***Rajesh Bajaj v. State of NCT of Delhi***, reported in ***(1999) 3 SCC 259***, and ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E Ltd.***, reported in ***2000 SCC (Cri) 615***, it was held that a prima facie case prevents quashing, though patently absurd allegations may be quashed. Further, in ***Neharika Infrastructure Pvt. Ltd. v. State of Maharashtra & Ors.***, reported in ***2021 SCC OnLine SC 315***, the Court emphasized that Courts cannot probe the reliability of allegations at the threshold. In ***State of Orissa v. Saroj Kumar Sahoo***, reported in ***(2005) 13 SCC 540***, it was reiterated that probabilities of the prosecution case or mala fide intent cannot be assessed at the quashing stage.

10. Applying the above principles, the contentions raised by the

petitioner's counsel cannot be examined at this stage. Adjudication of factual disputes, evaluation of evidence, or assessment of credibility does not fall within the jurisdiction under Section 528 of the BNSS or Section 482 of the Cr.P.C. On the material on record, it cannot be concluded that the criminal proceedings are manifestly mala fide or instituted with an ulterior motive to harass the accused. FIRs or criminal proceedings can be quashed only in accordance with the parameters laid down by the Hon'ble Apex Court in the above decisions.

11. The reliance placed by the petitioners on decisions granting immunity to intermediaries cannot be accepted for quashing at the threshold for the following reasons:

“Different statutory and factual matrix: The cited cases dealt with intermediary liability in the context of online content or listings. The present FIR involves allegations of physical delivery of dangerous articles used in the commission of murder.

Distinguishability on facts: In those cases, due diligence obligations were shown to have been complied with. Here, investigation is yet to ascertain whether there was any breach of due diligence or negligence.

Safe-harbour not absolute: Section 79 of the IT Act affords immunity subject to conditions. It does not bar investigation where allegations suggest facilitation of crime or rash/negligent conduct.

Shreya Singhal (supra) inapplicable: That judgment concerned constitutional validity of Section 66A and

scope of takedown obligations. It does not preclude police from investigating a cognizable offence alleging physical delivery of weapons.”

12. In view of the foregoing discussion, we are of the considered opinion that the allegations contained in the impugned FIR, taken at their face value, disclose the commission of cognizable offences. The FIR specifically alleges that the knives ordered by the accused persons through Flipkart, which were prohibited under the Arms Act, were delivered through the logistics chain of ElasticRun where the petitioners were employed, despite prior communications and warnings from the police authorities to e-commerce platforms to desist from supplying such prohibited items. Whether the petitioners had actual knowledge of the contents, whether they acted negligently, and whether safe-harbour protections under the IT Act are available to them, are all matters requiring investigation and cannot be conclusively determined at this preliminary stage. Accordingly, we see no ground to invoke our extraordinary jurisdiction to quash the FIR at the threshold.

13. The petition is accordingly **dismissed**. The investigating agency shall be free to proceed in accordance with law. Nothing stated herein shall prejudice the petitioners’ rights to avail remedies in accordance with law, including bail, discharge, or defence at trial.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice