

**CNR No. DLCT12–000062–2025**  
**Complaint Case No. 06 of 2025**  
**Complaint u/s. 210(1)(a) r/w 223 BNSS 2023**  
**For offences alleged u/s. 356 BNS**  
**Satyender Jain v. Karnail Singh**

06.01.2026

**ORDER ON COGNIZANCE UNDER SECTION 223 r/w SECTION 210**  
**AND**  
**ISSUE OF PROCESS UNDER SECTION 227 OF**  
**THE BHARTIYA NAGARIK SURAKSHA SANHITA, 2023;**

**Opening Statement**

1. Present complaint is filed under Section 210(1)(a) r/w 223 Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') for a non-cognizable, bailable and summons trial case for offence punishable under Section 356 Bhartiya Nyaya Sanhita, 2023 (hereinafter referred to as 'BNS') against Karnail Singh.
2. The complainant is an ex-MLA at present (but was an MLA on the date of filing the complaint) from the Shakur Basti Assembly Constituency, Delhi. The proposed accused is a MLA at present from Shakur Basti Assembly, Constituency, Delhi (but was neither a MLA nor a MP on the date of filing the complaint). The allegations in the complaint are that the Shakur Basti is one of the 70 Assemblies that constitute the Delhi Legislative Assembly and since 2013 has been won through elections by complainant Sh. Satyendar Jain. Shakur Basti Constituency in 2025 Delhi Assembly Elections, amongst other candidates, saw a contest between complainant Sh. Satyendar Jain (candidate from Aam Aadmi Party) and respondent no.1 Sh. Karnail Singh (candidate from Bharatiya Janta Party). The elections were announced in January 2025 and in the midst of campaigning, the respondent is alleged to have made defamatory statement. The present

complaint was filed on 06.02.2025, election results were announced on 08.02.2025 and respondent came out victorious defeating the second ranked complainant by 20,998 votes. The results are not mentioned in the complaint or respondents' reply, however such information is available on the website of Election Commission of India, which this Court can take judicial notice.

### **Pre-notice evidence**

3. In compliance of provisions of Section 223 BNSS as well as judgement of **Brand Protectors India Pvt. Ltd. v. Anil Kumar, Crl. M.C. 1495/2025 dated 25.07.2025**, the statement of the complainant and his witnesses were recorded. Necessarily the said evidence was prior to issuance of notice to the proposed accused and while taking cognizance.
4. The complainant examined himself as CW1 and he deposed about his goodwill and reputation starting from his profession of practicing architect, then his political career and service as Member of Legislative Assembly in year 2015 and 2020 while representing Shakur Basti Assembly Constituency. He also deposed to have served as Cabinet Minister holding various portfolios of health, home, PWD, power, industries, urban, development, water, transport at different times. CW1 deposed that Sh. Karnail Singh against whom he made a complaint is a big BJP party leader, was contesting election from Shakur Basti Constituency against him and is president of Mandir Prokosht of Bharatiya Janta Party, Delhi Pradesh. CW1 further deposed that during the election campaign when Model Code of Conduct was in place, and no candidate was expected to level any defamatory or false allegations against a rival candidate. On 19.01.2025, Sh. Karnail Singh gave an interview on TV Channel namely Times Now Navbharat and allegedly levelled baseless and false allegations against him

to defame and lower his reputation. CW1 exhibited the screen shot and the transcript of the interview as Ex.CW1/1. Subsequently, the complainant issued notice to Sh. Karnail Singh for tendering an apology and copy of the same with delivery proof is Ex.CW1/2. The complainant also deposed that the interview levelled false allegations and he even filed copy of panchnama Ex.CW1/3 prepared by the Directorate of Enforcement (hereinafter referred to as 'ED'). The transcript of the interview is Ex.CW1/1, whereas the interview itself is Ex.CW3/A. The interview in its vernacular language is as under –

“Reporter: नमस्कार मैं हूं रविकांत राय और रिपोर्टर वेर्सुस रिपोर्टर में आज हम आ पहुंचे हैं एक हाई प्रोफाइल विधानसभा सीट जिसका नाम है शकूर बस्ती और यह सीट चर्चा में इसलिए है क्योंकि यहां से सतेंद्र जैन को एक बार फिर आम आदमी पार्टी ने उम्मीदवार बनाया है और उन पर बहुत सारे गूंभीर आरोप लगे उनको जेल भी जाना पड़ा और भारतीय जनता पार्टी की तरफ से यह देखिए बीजेपी के जो उम्मीदवार हैं करनैल सिंह जी इनका कार्यालय है और इस वक़्त वो कार्यकर्ताओं से बातचीत भी कर रहे हैं और सीधे उनसे हम बातचीत करते हैं करनैल सिंह सबसे पहले आपका स्वागत है टाइम्स नाउ निभारत पर आप देखिए सुबह-सुबह का वक़्त है कैम्पेनिंग चल रही है पूरे दिन के प्रोग्राम तय किये जा रहे हैं के किस किस तरह प्रचार होगा आप पर बीजेपी ने भरोसा जताया आम आदमी पार्टी ने एक बार फिर सतेंद्र जैन पर भरोसा जताया है क्या बता रहे हैं यहां की विधानसभा जनता को और कैसा कैम्पेन चल रहा है आपका ?

Karnail Singh: आपको भी जय श्री राम और आपके दर्शकों को भी जय श्री राम लोगो के अंदर बहुत उत्साह है बढ़िया कैम्पेनिंग चल रही है जय श्री राम का आशीर्वाद है और वदल्ली में डबल डू जन की सरकार बनानी है सनातन की सरकार

Reporter करनैल जी जो आपके विरोध में उम्मीदवार हैं आम आदमी पार्टी के उन पर बहत सारे गूंभीर आरोप लगे और जहां तक हमारी जानकारी है उन पर ईडी के केसेस चल रहे हैं अभी भी जमानत पर बाहर है जेल जाना पडा तो यह भी एक मुद्दा है बना रहे हैं ?

Karnail Singh: भली भांति वो परिचित हो गई पहले आप बनाने की आश्यकता नहीं है जनता पहचान चुकी है उनकी मानवसकता और उनके विचारों से भली भली भांति वो परिचित हो गई पहले नए लोग आए थे लोगों भोली भाली जनता को बिकूफ बनाया इतना बडा भ्रष्टाचार मनी लॉन्डरिंग इतना बडा जो तीन साल जेल में रहा आज वो जनता को कहने कहता था के भाई मुझे काम नहीं करने दिया गया मैं 3 साल जेल में रहा और इतना बडा भ्रष्टाचार उसके घर से ईडी ने 37 किलो सोना निकला 1100 एकड जमीन उसके नाम है ईडी के पास आप पत्रकार हो आप देख लीजिये खुद तो इतना बडा भ्रष्टाचार का पैसा मनी लॉन्डरिंग करके जो पैसा सडकों पर लगना चाहिए था उस उसने अपनी जमा पूंजी उसको बनाया उसकी वजह से आज जनता तही तराई में है और अपना पूरा मूड बना चुकी है की सनातन की सरकार शकुर बस्ती विधानसभा में भी होगी और पूरी दिल्ली के अंदर भी शकुर बस्ती से हटके पूरी दिल्ली के अंदर भी सनातन की सरकार होगी डबल इंजन की सरकार दिल्ली में भी भारतीय जनता पार्टी की सरकार और केंद्र में भी भारतीय जनता पार्टी की सरकार जिससे पूरे दिल्ली का विकास हो सकेगा

Reporter: करनैल जी एक सवाल आप से अरविन्द केजरीवाल कह रहे हैं की हम तो बहुत ही ईमानदार व्यक्ति हैं इन लोगो ने मुझे फसाया जेल में डाला ?

Karnail Singh: तो ये कौन सी ईमानदारी है के जिस व्यक्ति के ऊपर इतने गभीर आरोप लगे उसको ही यहां से उमीदवार बना दिया कोई राज है क्या मुझे लगता है लगता नही मुझे सूत्रो से पता चला है की अरविन्द केजरीवाल की मजबूरी है सतेंद्र जैन को यहां से टिकट देना और उमीदवार बनाना सतेंदर जैन अरविन्द केजरीवाल के बहत राज जानता है और उसके दबाव में आकर के उसने इसको यहाँ से कैंडिडेट बनाया है उसने बताया अगर मुझे कैंडिडेट नहीं

बनाया तो मैं तेरी सारी पोल खोल दूंगा इसलिए उससे घबरा के उसको भी पता की जो व्यक्ति 2 साल जेल में रहा मनी लॉन्डरिंग में जिसमे जेल रहा ईडी ने उसके घर से छापे मार के सोना निकला व मान सकता हूं की व बोलते हमारे कागज गलत बना दिए यह कर दिया वो लेकिन जो सोना प्रत्यक्ष रूप से जनता के सामने सब अखबारों में आपके नव भारत टाइम्स में भी छपा था फोटो छपी थी सोने की टिक छपी थी देखिए दिल्ली का वातावरण मुझे भी खासी आ गई दिल्ली का पर्यावरण वो तो पैसा कमा कर के ठीक हो गया जनता को बीमार कर इतना पर्यावरण खराम हो गया यानि आप ये कह रहे हैं की अरविन्द केजरीवाल को ब्लैकमेल कर रहे हैं अब नहीं सहेंगे पूरा ब्लैकमेल करके उसने ये कहा के मैं तीन साल अब जनता में बोल रहा है मैं जेल में सहना की वजह से काम नहीं कर पाया मैं इस जनता को और जनार्दन समझ चुकी है की वो 2 साल जब जेल में रहा अब भी जमानत पे है अब भी वो जमानत में बहुत जल्दी दोबारा जेल जाने वाला है नो जनता तो फिर विधायक बिना के रह जायेंगे अगर वह जेल चला जायेगा तो काम कौन करेगा अब तो उसके पास वो बोल रहा है मुझे जेल में रखा इसलिए काम नहीं किया और आगे भी वह जेल ही जाने वाला है तो फिर दिल्ली बर्बाद हो जाएगी तो जनता को ये समझना होगा दिल्ली को भर्षाचार मुक्त करना होता ऐसे भर्षाचारियों से बच के रहना होता और तभी यह संभव हो पायेगा जब दिल्ली में नरेंद्र मोदी जी के नेतृत्व में सरकार बनेगी दिल्ली का विकास होगा आप देख सकते हैं सड़के किस तरह से टूटी हैं नालियां सीवरेज बर्बाद हो चुके हैं बिलकुल पूरी राजधानी को इन लोगो ने बर्बाद कर दिया है ये यहाँ कैंडिडेट नहीं है भू माफिया

Reporter: एक आखरी सवाल कल राहुल गाँधी भी चुनाव मैदान में उतर गए उन्होंने कहा की यह भाजपा वाले और अरविन्द केजरीवाल दोनों मिले हुए दोनों भर्षाचार खत्म नहीं कर सकते कांग्रेस कही है आपकी विधानसभा में या सिर्फ वोट काटने के लिए खदी है ?

Karnail Singh: ऐसा नहीं है उनका प्रचार करने का अपना तरीका है उनकी बांटों पर लोग यकीन नहीं करते हैं अभी लोकसभा में पीछे उन दोनों ने मिलकर

एक इलेक्शन लड़ा तब तो वह भाई कह रहे थे अपने आप को आज वह यह बोल रहे हैं एक दुस्तरे पर प्रत्यारोप कर रहे हैं आज हम और आप कैसे इखट्टे हो सकते हैं आपदा आप नहीं हैं वो अब वो आपदा को गई है पार्टी और भारतीय जनता पार्टी एक कैसे ही सकती है केवल कल तो वो कांग्रेस के साथ खड़े थे और असलियत तो यह है कांग्रेस के कैंडिडेट उनके साथ कहीं बाइक हुए हैं और उनके साथ मिल के इलेक्शन लड़ रहे हैं

Reporter: तो चलिए करनैल सिंह जी सुबह सुबह का वक्त है कम्पैग्न के लिए निकल रहे हैं और यहाँ से आम आदमी पार्टी ने अपने सतेंदर जैन को उतरा है और उनको इस बार सीधे चुनौती "

5. Complainant also called in witness box CW2 Sh. Bhanu Gulati, who deposed that he resides within the Shakurbasti Constituency in Delhi and from year 2013 until 2025, the complainant Sh. Satyender Jain was elected member of the Legislative Assembly. He deposed that prior to being elected as an MLA, Mr. Satyender Jain was engaged in the profession of Architect and during his tenure as an MLA he was serving as Health Minister and PWD Minister. CW2 also deposed that whenever he met the complainant, he used to help in resolving local issues in relation to maintenance of roads, sewer and other related activities. CW2 deposed that he respected complainant for his honesty and hardwork as he himself as well his office used to assist him and other residents of the Shakurbasti Constituency on regular basis without any difficulty/ consideration. CW2 further deposed that in the month of January 2025 just before the Elections for the State of Delhi, he happened to watch a video on youtube uploaded by Times Now Navbharat whereby an interview of Mr. Karnail Singh, who was contesting as rival of complainant. CW2 also deposed that he watched the entire video, being resident of Shakurbasti Constituency whereby Mr. Karnail Singh, in his interview said that during an ED raid conducted, 37

Kgs of Gold and property over 1100 acres was found at the premises of Mr. Satyendra Jain. Mr. Karnail Singh further stated that Mr. Satyendra Jain is involved in corrupt practices. CW2 deposed that after watching such video, he felt extremely betrayed as property over 1100 acres and 37 kgs of Gold could not have been accumulated/ earned by his profession as an Architect or by his salary as a MLA or a Minister. CW2 stated that Sh. Karnail Singh was contesting as a candidate from Shakurbasti Constituency and, he knew he was an educated person who was holding various assets in USA and he believed his words and representations in the interview. CW2 further deposed that representations/ allegations deeply affected the respect and impression that he had for complainant Satyendra Jain considering he believed him to be an honest and upright politician. CW2 also deposed that he stopped respecting Mr. Satyendra Jain afterwards. CW2 then deposed to have met Sh. Satyendra Jain on 30.01.2025 and confronted him with the allegations made by Sh. Karnail Singh, and upon hearing about the allegations, Sh. Satyendra Jain told him that such allegations of recovery of 37 kgs of gold and 1100 acres of property is false. CW2 deposed the complainant even offered to show him the search and seizure memo prepared by ED when he was arrested and when raids were conducted at his premises. CW2 stated the he accepted his offer and perused the search memo on mobile phone of complainant, however CW2 maintained to believe in allegations of Sh. Karnail Singh, who may have some material evidence to make the allegations and he himself was a wealthy man having various assets across the country and USA. CW2 also believed Sh. Karnail Singh as he must be aware of legal process and implications of making representations/ allegations against complainant Sh. Satyendra Jain.

6. The complainant did not examine another witness Sh. Bhuvan Juneja, however moved an application to examine the Editor in-chief of Times

Now Navbharat to prove the alleged interview of Sh. Karnail Singh. Summons were issued and in compliance CW3 Sh. Ravikant Rai who was working as Special Correspondent with Times Now Navbharat, Bennet Coleman & Co. Ltd appeared. CW3 was examined and he stated that he conducted an interview with Sh. Karnail Singh on 18.01.2025 and he recorded the video and same was uploaded on youtube channel of Times Now Navbharat at URL link <https://www.youtube.com/watch?v=vc-gmm5QyeM>. CW3 also brought on record the downloaded video in a pen drive, same is now Ex.CW3/A.

**Pre-cognizance notice and opportunity to proposed accused of being heard**

7. The complainant closed his pre-notice evidence under Section 223 BNSS and proposed accused who was already observing the proceedings of the case, accepted notice. Arguments were advanced by the complainant side as well as proposed accused on 20.12.2025 and even written submissions have been filed by the proposed accused.
8. The complainant argued that during campaigning on 19.01.2025 the proposed accused no.1 gave an interview to Times Now Navbharat news channel and allegations are that imputation was made by the proposed accused no.1 in the interview to defame the complainant to gain undue political advantage by slandering the complainant.
9. The complainant has argued that the whole interview was aimed at tarnishing the image of the complainant for political gains and the imputations made were clearly defamatory. The complainant side has specifically argued that four allegations were levelled in the interview which were blatantly false and defamatory towards the complainant, the same are as follows: -

- a. "ED recovered 37 KG of gold from his house; he has 1100 Acre of land in his name"
- b. "He made his own wealth from this corruption, from the money which was supposed to be spent on the people"
- c. "He indulged in huge corruption and money laundering; huge gold has been recovered from his house"
- d. "He is bhoo mafia and will be sent to jail again"

10. The complainant argued that above imputations are not only false, made to defame the complainant and were published. Resultantly many friends, well-wishers, associates and people from his constituency came to meet him and in particularly CW2 Sh. Bhanu Gulati held the complainant in very high esteem and have considered him to be a man of impeccable character with high repute, but confronted the Complainant on 30.01.2025 in view of the interview of proposed accused. It is argued that CW2 questioned the Complainant on said interview which featured on social media as to how 37 KG gold and 1100 acres property documents have been seized from his residence during ED raids which could be acquired from the amount generated from corrupt practices. The complaint argues that the imputations made by the proposed accused in the interview are not related to the press release of the ED as well as the seizure memos of the investigating agencies. The imputations so made were all made up and false to defame complainant with the aim of making political gains.

11. The proposed accused while availing his opportunity of being heard has filed written submission and made oral submission. The reply states that the interview given by the proposed accused was based on wide spread information on internet available in the public domain and were made in good faith for the welfare of the public, for the public good, without any ill-

will or malice towards the complainant. The reply further states that statements were made in the context of addressing public concerns related to governance and do not qualify as defamation as they are legitimate right to express concerns as a public figure and a responsible citizen. The reply also states that the statements made are covered under exceptions 1, 2, 3 and 9 to Section 356 of the BNS. The reply also states that in the interview, the proposed accused himself asked the interviewer to verify and thus the responsibility was on the publishing house to report after verifying the statements. The reply also refers to documents i.e. tweet on 'X' social media platform dated 06.06.2022 by Directorate of Enforcement about raid and seizure in connection with case involving the complainant, copy of various news article as well as press release. The reply also refers to judgments of various Hon'ble Constitutional Courts on what would not constitute defamation. The proposed accused has also argued that the complainant being a public servant is subject to public scrutiny and hence the comments made by the proposed accused were his legitimate right to express regarding functioning of state machinery as well as of public servant.

12. Submission heard. File perused.

#### **Order under Section 223 r/w 210 BNSS on taking Cognizance**

13. The present complaint is qua offence allegedly committed by the proposed accused punishable under Section 356 BNS. Criminal defamation requires actus reus of making of an imputation intended to be heard, seen or read, by signs or by visible representation; it also requires mens rea of intention, knowledge or reason to believe that such imputation will harm the reputation. Criminal defamation thus requires three ingredients – imputation, publication and mental element to cause harm.

14. There is no denying that statements were made by the proposed accused in an interview given to CW3 which was later published on Times Now Navbharat News Channel. The transcript of the interview is already Ex.CW1/1 and the original interview is Ex.CW3/1. It would be immaterial if the proposed accused published it himself or through news report. As long as proposed accused admits that he gave the interview to a media person which was heard by others and even published on National news channel to be seen by the public there is clearly statements and publication. Mental element to cause harm shall be subject matter of trial. At the stage of taking cognizance and issue of notice to the accused, no court can decide upon the mental element of the proposed accused in making any statement. For the same reason, the defence at this stage that proposed accused was covered by exceptions of Section 356 BNS, also cannot be considered, since they are part of specific defense. The complainant has to prove its case first during trial before the Court calls upon the accused to prove his defense. It is settled law that defense cannot be decided at the initial stage unless it sufficiently throws out the case of the complainant in its entirety. In other words, unless the accused at preliminary stage of the inquiry or trial, shows defense which can hit the very root of the case, the complaint cannot be dismissed. The defense of the accused based on the exception to criminal defamation can only be decided once the complainant has proved his case and then accused can put forth his defense.
15. The only consideration before proceeding with the present complaint is if the statements made were imputation covered under Section 356 BNS to constitute criminal defamation. The Court is only required to see if complaint discloses commission of offence and further if it can form an opinion of proceeding against the proposed accused. Section 210 BNSS provides conditions requisite for initiation of proceedings wherein any

Magistrate of the first class, may take cognizance of any offence upon receiving a complaint of facts, including any complaint filed by a person authorised under any special law, which constitutes such offence. The other requisite required are provided under Section 223 BNSS, wherein the Court is required to examine the complainant and witnesses on oath. The complainant has examined himself as CW1, CW2 who heard the imputation and CW3 who showed that the interview by proposed accused was published and available to general public. The Proviso to Section 223 BNSS however requires that the Court gives opportunity to be heard before cognizance is taken. All the requisites stand satisfied as per the provisions of law and the present complaint of facts thus is required to proceed as per law.

16. **This Court thus takes cognizance of the offence under Section 210 r/w 223 BNSS.**

**Order qua Section 227 BNSS of Issue of Process against accused**

17. To reiterate, the complainant side alleged that the entire interview Ex.CW3/1, transcript of which is Ex.CW1/1, was defamatory, however four specific imputations as stated in paragraph 9 above are false and defamatory. To such specific allegations, there exists allegations of commission of an offence.
18. Section 227 BNSS requires a Magistrate to form an opinion that sufficient grounds to proceed against an accused exists after taking cognizance of the complaint of facts. Here the word ‘opinion’ is deliberately used since what is required is opinion to proceed and not prima facie, which is required when inquiry stage goes into trial. At this stage of inquiry, the only extent

of requirement under the law, for the Court to see is opinion about sufficient grounds to proceed against an accused.

19. The complaint also specifically alleges that these imputations were made at the office of proposed accused where workers were present and same was made in an interview to a news channel which published the same and same was heard by many persons. The complaint alleges that many persons in his constituency confronted the complainant about the allegations of 37 KG gold having been recovered from his house as well as large parcel of land he owns from corrupt practices. The complaint alleges that these imputations thus were false intended to be heard with mens rea to cause harm to the reputation of the complainant and hence liable to be tried for the offence of defamation. The complaint thus avers all the ingredients of the offence of defamation to have been made out for taking cognizance. In addition to the reference to complaint, it is argued that since the proposed accused was political rival in the Delhi Assembly Election 2025 for the same Shakur Basti constituency, the imputations made by proposed accused were clearly under malice and for political gains, which resulted in the loss of complainant in the elections.
20. Apart from the defence of exception, the two main arguments of the proposed accused are that – i. he only made statements which are present in public domain and released in the press by the ED; and ii. the statements were made with a caution to the media houses to verify the same before publishing.
21. The second argument is very easy to counter, and it is self-destructive. If the proposed accused wants to caution the media to verify each statement before publishing, he ought to make statement with same caution. Any

person cannot just make statement against character or conduct of any person and put the task upon the media to verify the same. If such can be a defence, then defamation would only exist in penal statute. Any person would make statement whatsoever be the context and escape the consequences by putting the condition that the listeners must verify before believing him. This is even more crucial when public figures are involved. Even in the present case, both the complainant and the proposed accused are politicians as well as public figures and thus ought to have cautioned oneself to verify before imputing any allegations against the other.

22. The next claim of the proposed accused is that he only reiterated the statements already available in the public domain. In this regard, reference is made to Ex.CW1/3 i.e. Panchnama of ED dated 07.06.2022 qua the search and seizure memo at the house of the complainant which mentions seizure of various documents, one digital device along-with two locker keys and currency notes totaling Rs.2,79,000/-. This panchnama does not refer to any recovery of 37KG gold and property documents of 1100 Acres of land as alleged by the proposed accused in his interview/ alleged statement. During the arguments, the proposed accused stated that the ED also searched the houses of co-accused and accomplice of the complainant during investigation and from such investigation there was recovery of 133 gold coins, Rs.2.85 Crores in cash as well as some incriminating documents. It is the argument thus that there was various news circulating that all this recovery was from the house of the complainant and based on this information, he made statements in the interview. The proposed accused wished to rely on the documents filed by him with the reply.
23. This Court would again caution itself not to look at the documents filed by the proposed accused at this stage of inquiry. However, a simple peek

into these documents of proposed accused itself would be detrimental to proposed accused himself. The documents are from ED's post on social media platform and various news following the raids by the ED in 2022. The ED's post itself says 133 coins weighed 1.80 KG in total and news report clarifies that in none of the post by the ED, it is mentioned the source from where they were recovered. One of the reports even shows that ED made no statement that recoveries were made from the house of the complainant. If this Court is to read the document filed by the proposed accused any further, the arguments can be easily countered, however this Court would reserve the said exercise for trial. Needless to say, that little can be gained by the proposed accused while arguing at this stage of cognizance.

24. Finally, the proposed accused have referred to various judgment on merits of what is defamation and its conflict with the Fundamental Right of Freedom of Speech and Expression. The proposed accused cited **Shreya Singhal v. Union of India**, [2015 (5) SCC 1]; **State of Maharashtra v. Sujay Mangesh Payarekar**, [2008 (9) SCC 475)]; **M.A. Reumugam v. Kittu** (2009 1 SCC); **Sewakram Sobhani v/ R.K. Karanjia**, (1981 3 SCC); **Maneka Gandhi v. Union of India**, (1978 1 SCC), **Govt. of Andhra Pradesh & Ors. v. P. Lakshmi Devi**; **Board of Trustees of Port of Bombay v. DR Nadhkarni** (1983 SCC 124, 134); and **Golaknath (I.C.) v. State of Punjab**, [1967 (2) SCR 762]; **Chintamanrao v. State of M.P.** (1950 SCR 759). All the above judgments were cited to show that the proposed accused exercised his Fundamental Right of Free Speech, which expressing his opinion in good faith regarding the conduct of public servants. The argument was that Fundamental Rights are sacrosanct to an individual and thus he could express his opinion which are based on facts which are available in public domain, especially concerning public

functionary. Even argument was made based on various articles filed with the reply by the proposed accused, that the image of complainant is already tainted and it is immaterial if he has been indulged in smaller or a bigger corruption, a crime is a crime.

25. The proposed accused also cited **S. Khushboo v. Kanniammal & Anr., (2010) 5 SCC 600; Subramanian Swamy v. Union of India, (2016) 7 SCC 221; and Sewakram Sobhani Case (Supra)**, to argue that when statement made in course of political discourse, which warrants a higher threshold for defamation.
26. This Court admits that Fundamental Rights are sacrosanct to any individual and also conquers with proposed accused that public functionaries are subject to public opinions and criticism regarding their public functions. This Court however, with case at hand has different complaint of fact. The statements made by proposed accused as shown in the transcript Ex.CW1/1 and specific portions reiterated in Paragraph 9 above are specifically aimed at the complainant to his personal character. Such statements found no backing from any information available in public domain. The complainant exhibited copy of panchanama Ex.CW1/3, prepared by ED while it conducted search at his residence, and there was no recovery of cash, gold or property documents as alleged by the proposed accused. The information was thus either concocted by the proposed accused or deliberately exaggerated as he was contesting against the complainant from the same constituency.
27. In submitting all the judgments before this Court, the proposed accused might have come across **Gurubaksh Singh Sibbia & Anr. Etc. v. State of Punjab, AIR 1980 SC 1632**, wherein the Constitution Bench of the

Hon'ble Supreme Court of India implicitly recognized a link between Article 21 and the presumption of innocence. Next in **Sahara India Real Estate Corp. Ltd. & Ors v. SEBI & Anr., AIR 2012 SC 3829**, the Hon'ble Supreme Court specifically held that presumption of innocence is embedded in Part III of the Constitution 'not only as part of rule of law under Article 14 but also as an Article 21. The Hon'ble Apex Court even went further and laid down that to uphold the rule of equality and right to life, even freedom of speech under Article 19(1)(a) can be restricted. The context of making such remark was to protect an individual from dangers posed by a media trial.

28. In the present case, the proposed accused was contesting as an opposition to the complainant from same constituency and hence the statements ought to have been made with a higher degree of care and caution. The proposed accused made statement to the media persons and then asked them to exercise caution before publishing the same. The proposed accused however, himself did not bother to check his facts before giving the interview. The facts stated by him in the complaint, are not backed by any ED statement, press release or information in public domain. It appears the proposed accused made statement with his own facts and figures, wherein the mental element of proposed accused shall be subject matter of trial, as also if same is covered under any exception to criminal defamation under law.
29. Before returning finding, it is relevant to state the reason why 'postponement of issue of process' under Section 225 BNSS is not mandatory in the present case. As already stated, the complainant was sitting MLA from Shakur Basti Assembly Constituency when the complaint was filed on 06.02.2025. The matter was fixed for consideration including

for the reason that proposed accused was neither sitting nor former MP or MLA. By the next date of hearing i.e. 19.02.2025, the complainant lost in Delhi Assembly Election, 2025 and proposed accused was elected MLA from Shakur Basti Assembly Constituency. The position remains the same at present also. The accused is already before the Hon'ble High Court of Delhi qua maintainability of present complaint before this Court and he may continue to pursue that.

30. This Court has been setup for trials against sitting and former Members of Parliament (MPs) and Members of Legislative Assemblies (MLAs) and as such there is no territorial jurisdiction of this Court restricting it to any particular police station or district of NCT of Delhi. As per the subject matter and status of accused, this Court exercises jurisdiction to try any offence committed in any district of NCT of Delhi. Now Section 225 BNSS requires that where Magistrate may think fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding.
31. Since this Court has territorial jurisdiction to try the offence, there is no binding provision to postpone the issue of process and direct limited investigation under Section 225 BNSS. As regards the directory provision that Magistrate may inquire himself or direct limited investigation, the purpose of the same is that there exists sufficient ground for proceeding, however, when material exists for the Court to form opinion to Order issue of process against the accused, then the Court is not mandatorily required to postpone the issue of process in all cases.

## **ORDER**

32. From the detailed discussion above and given that the requirements of law under Section 210, 223, 227 of the BNSS are complied with, this Court does not require any limited inquiry. **There are sufficient grounds to proceed. This Court therefore directs Issue of Process against the accused Sh. Karnail Singh under Section 227 BNSS.**

**Pronounced in the Open  
Court on 06.01.2026**

**[PARAS DALAL]  
ACJM-01, RADC  
New Delhi**