



2026:CGHC:13121-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 669 of 2026**

Rajnarayan Sahu @ Raju Sahu S/o Late Sunderlal Sahu Aged About 61 Years R/o Nehru Chowk, Balodabazar, P.S. City Kotwali, District-Balodabazar-Bhatapara (C.G.)

... Petitioner**versus**

1 - State Of Chhattisgarh Through-District Magistrate District-Balodabazar-Bhatapara (C.G.)

2 - Station House Officer Through- Police Station- City Kotwali, Balodabazar Bhatapara (C.G.)

... Respondents

For Petitioner : Mr.Prakash Tiwari, Advocate

For Respondents : Mr.Priyank Rathi, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Order on Board****Per Ramesh Sinha, Chief Justice****19.03.2026**

1. Heard Mr.Prakash Tiwari, learned counsel for the petitioner as well as Mr.Priyank Rathi, learned Government Advocate appearing for the respondents/State.

2. The petitioner has filed this petition with the following prayer:

“ It is therefore prayed that the Hon'ble court may kindly be pleased to allow the petition and set aside the impugned F.I.R. No. 0425/2025 dated 29.04.2025 lodged at Police Station City Kotwali, Balodabazar, Chhattisgarh along with Chargesheet No. 453/2025 dated 26.05.2025 registered U/s 6 of the Chhattisgarh Gambling (Prohibition) Act, 2022 and the Order dated 04.02.2026 passed by the First Additional Sessions Judge, Balodabazar-Bhatapara (Chhattisgarh), in Criminal Revision Case No. 04/2026 arising out of Criminal Case No. 2608/2025 pending before Chief Judicial Magistrate Baloda Bazar in the ends of justice.”

3. Brief facts are necessary for the case are that the Police Station City Kotwali, Balodabazar (C.G.) has initiated criminal proceedings against the petitioner under F.I.R. No. 0425/2025, under Section 6 of the Chhattisgarh Gambling (Prohibition) Act, 2022, on the basis of information received by Head Constable Aadoram Dhruv. On 29.04.2025 at about 11:30 AM, the police conducted a raid in village Rawan and apprehended a 75-year-old individual, namely Hariram Verma, who was allegedly caught red-handed writing Satta-Patti. Upon his arrest, the police seized ₹600/- and certain gambling materials from his exclusive possession. During the course of the investigation, the police recorded the memorandum statement of the co-accused, Hariram Verma. In the said statement, the co-accused allegedly claimed that he was writing betting slips at the behest of the present

applicant, Rajnarayan Sahu, for a 10% commission, and further alleged that the petitioner managed the operations through a specific mobile number. Acting solely on this custodial confession, the police arrayed the petitioner as Accused No. 2. Despite the absolute lack of incriminating material, the police authorities filed the chargesheet on 26.05.2025 in Crime No. 425/2025 for an offence punishable under Section 6 of the Chhattisgarh Gambling (Prohibition) Act, 2022.

4. The petitioner, being aggrieved by this baseless implication, filed an application for discharge under Section 262 of the BNSS before learned Chief Judicial Magistrate, Balodabazar. However, vide order dated 15.01.2026, learned Trial Court rejected the application in a mechanical manner without considering that the memorandum of a co-accused does not constitute “legal evidence.”
5. The petitioner subsequently challenged the said order by way of a Criminal Revision in Criminal Revision Case No. 04/2026 arising out of Criminal Case No. 2608/2025 pending before the Chief Judicial Magistrate, Balodabazar, before the First Additional Sessions Judge, Balodabazar. Vide the impugned order dated 04.02.2026, learned Lower Court dismissed the revision, erroneously holding that a prima facie case exists and that the merits of the evidence cannot be evaluated at this stage.
6. It is respectfully submitted that the petitioner has been a victim of

targeted harassment by the local police. In order to expose this pattern of malicious prosecution, the petitioner applicant filed an application under the Right to Information Act to obtain a list of all criminal cases previously filed against him. The RTI records reveal a startling fact, namely that in every single case previously instituted against the petitioner by the police, he has been found “Not Guilty” and has been granted clean acquittal by the competent Court. This clearly establishes that the present FIR is merely a continuation of a persistent attempt to tarnish the applicant’s reputation. Hence, this petition.

7. Learned counsel for the petitioner submits that the entire prosecution case rests solely upon the memorandum statement of the co-accused, namely Hariram Verma, allegedly recorded during police custody. It is submitted that such a statement has no evidentiary value in the eyes of law and cannot be used as substantive evidence against the present petitioner. The law is well-settled that a confessional or disclosure statement of a co-accused cannot form the sole basis either for framing of charge or for continuation of criminal proceedings, unless it leads to a discovery of fact, which is admittedly absent in the present case. It is further submitted that the petitioner has been arrayed as an accused only on the basis of the said custodial statement, without any independent corroboration. No recovery has been made from the petitioner, no incriminating material has been seized, and no independent witness or technical evidence such as Call Detail

Records has been brought on record to connect the petitioner with the alleged offence. Even as per the prosecution case, the petitioner was not present at the place of occurrence. Learned counsel further draws the attention of this Court to a glaring procedural illegality in the investigation. As per the arrest memo, the petitioner was arrested at 11:00 hours on 01.05.2025, whereas the memorandum statement is shown to have been recorded at 10:30 hours on the same day. This clearly demonstrates that the alleged statement was recorded prior to the formal arrest, rendering the same wholly illegal and inadmissible in law. Such manipulation of records indicates that the investigating agency has acted in a predetermined and mala fide manner to falsely implicate the petitioner.

8. On the aspect of targeted harassment, it is submitted that the petitioner has been consistently subjected to malicious prosecution at the hands of the local police. In the year 2019, externment proceedings were initiated against the petitioner by the Superintendent of Police, Balodabazar; however, the same were rejected by the Collector, Balodabazar, on the ground that no prima facie case was made out. This itself demonstrates that even the administrative authorities found no substance in the allegations against the petitioner. It is further submitted that the petitioner had earlier approached this Court in connection with FIR No. 0876 dated 21.12.2021 registered at Police Station City Kotwali, Balodabazar for an offence under Section 4(A) of the

Public Gambling (Chhattisgarh Amendment) Act. This Court, vide order dated 06.08.2025 passed in CRMP No. 1024/2022, was pleased to quash the said FIR, categorically holding that the prosecution was false, frivolous, and an abuse of the process of law. In light of the aforesaid background, it is submitted that the present FIR is nothing but a counterblast and a continuation of the same pattern of harassment, particularly in view of the proceedings initiated by the petitioner against the police authorities, which are pending consideration before higher judicial forums. The conduct of the investigating agency clearly reflects mala fide intent and an attempt to tarnish the reputation of the petitioner. Learned counsel submits that even if the entire prosecution case is taken at its face value, the essential ingredients of the alleged offence under Section 6 of the Chhattisgarh Gambling (Prohibition) Act, 2022 are not made out against the petitioner. There is no material to show that the petitioner was running, managing, or in any manner connected with a gaming house. As such, the petition deserves to be allowed and the impugned FIR deserves to be quashed.

9. On the other hand, learned Government Advocate appearing for the respondents/State opposes the submissions made by learned counsel for the petitioner, but fairly admits that the present petitioner has been implicated on the basis of memorandum statement of co-accused Hariram Verma.

10. We have heard learned counsel for the parties, perused the impugned FIR and other documents appended with the petition.
11. The Supreme Court in the matter of **State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335** held as under: -

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1)Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2)Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3)Where the uncontroverted allegations made

in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4)Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5)Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6)Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7)Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an

arbitrary jurisdiction on the court to act according to its whim or caprice.”

12. The Supreme Court in the matter of **Manoj Kumar Sharma and others v. State of Chhattisgarh and others, (2016) 9 SCC 1**

held as under:-

“35. While discussing the scope and ambit of Section 482 of the Code, a similar view has been taken by a Division Bench of this Court in *Rajiv Thapar and others vs. Madan Kal Kapoor* (2013) 3 SCC 330 wherein it was held as under:-

“29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution’s/complainant’s case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the

material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity

of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5 If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such

exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused.”

13. In the matter of **Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673**, the Supreme Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. It was held as under:

“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”

(emphasis supplied)

14. Relying upon the decision in **Paramjeet Batra** (supra), the Supreme Court in **Randheer Singh v. State of U.P., (2021) 14 SCC 626**, observed that criminal proceedings cannot be taken recourse to as a weapon of harassment.
15. The undisputed position which emerges from the record is that the present petitioner has been implicated in the crime in question solely on the basis of the memorandum statement of co-accused, namely Hariram Verma, recorded during police custody.
16. It is well-settled that a memorandum or confessional statement of a co-accused, by itself, does not constitute substantive evidence and cannot be made the sole basis for implicating another accused. Such a statement can be relied upon only to the limited extent of discovery of a fact, if any, in terms of the relevant provisions of evidence law. In the present case, admittedly, no recovery or discovery has been made pursuant to the said memorandum statement so as to lend it any evidentiary value.
17. Apart from the said statement, no independent material has been brought on record by the prosecution to connect the petitioner with the alleged offence. No recovery has been made from the petitioner, no incriminating articles have been seized, no independent witness has supported the prosecution case, and no technical evidence such as Call Detail Records has been produced to establish any nexus between the petitioner and the

co-accused. Even as per the prosecution story, the petitioner was not present at the place of occurrence.

- 18.** This Court also finds substance in the submission of learned counsel for the petitioner regarding the procedural illegality in the investigation. The arrest memo indicates that the petitioner was arrested at 11:00 hours on 01.05.2025, whereas the memorandum statement is shown to have been recorded at 10:30 hours on the same day. This apparent inconsistency renders the alleged memorandum highly doubtful and casts serious suspicion on the fairness of the investigation. Recording of such a statement prior to formal arrest is not legally sustainable and further erodes its admissibility.
- 19.** Further, on the aspect of targeted harassment, the material placed on record indicates that externment proceedings initiated against the petitioner in the year 2019 were rejected by the competent authority for lack of substance. It is also not in dispute that in an earlier case, i.e., FIR No. 0876 dated 21.12.2021 registered at Police Station City Kotwali, Balodabazar, this Court had quashed the criminal proceedings vide order dated 06.08.2025 passed in CRMP No. 1024/2022, holding the prosecution to be false and an abuse of the process of law.
- 20.** The aforesaid background lends credence to the contention of the petitioner that the present case is a continuation of a pattern of malicious prosecution. The manner in which the petitioner has

been implicated, without any legally admissible evidence, and solely on the basis of a custodial statement of a co-accused, indicates a mala fide exercise of power by the investigating agency.

21. Even if the entire prosecution case is taken at its face value, this Court finds that the essential ingredients of the offence under Section 6 of the Chhattisgarh Gambling (Prohibition) Act, 2022 are not made out against the petitioner. There is no material to show that the petitioner was running, managing, or in any manner connected with a gaming house.
22. In view of the foregoing analysis, this Court is of the considered opinion that continuation of criminal proceedings against the petitioner would amount to an abuse of the process of law and would result in a miscarriage of justice.
23. Accordingly, the petition is **allowed**. The impugned FIR bearing No. 0425/2025 registered at Police Station City Kotwali, Balodabazar for offence under Section 6 of the Chhattisgarh Gambling (Prohibition) Act, 2022, along with all consequential proceedings arising therefrom, insofar as they relate to the present petitioner, are hereby quashed.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice