

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5654 OF 2025

Kundan Jaywant Patil

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Dr. Uday Warunjikar, Mr. Ayush Pasbola, Mr. Shubam Gharbudave, Ms. Harshada Shirsath, Mr. Sankalp Vichare and Adv. N. Tayde for Petitioner.
Mr. Ajay S. Patil, A.P.P. for Respondent-State.
Ms. Gayatri Sharma a/w Adv. Andrea Lobo i/b RDG Legal for Intervenor.
Mr. Sharad Khade, PSI, Kashmirira Police Station, present.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.**
DATE : 10th December 2025

P.C. :

1) By this Petition under Article 226 of the Constitution of India, the Petitioner is seeking registration of FIR against the prospective accused in pursuance of his complaint dated 8th October 2025, submitted to the Police Officer attached to the Kashmirira Police Station, Mira Road (East). Shri Shriram Shivaji Karande, API, attached with Kashmirira Police Station, Mira Bhayandar Vasai Virar Police Commissionerate Dist. Thane, has filed an Affidavit dated 24th November 2025. It is stated that, Ms. Surekha Narkhede has filed a complaint dated 21st August 2025 against the Petitioner and other persons and by a summons dated 4th September 2025, the Petitioner as well

as other persons were directed to attend the Kashimira Police Station. In para No. 9 thereof, it is stated that, the enquiry into the said complaint is still on going.

1.1) Section 173(3)(i) of the BNSS reads as under : (BNSS)

“(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or”

2) We regularly come across with cases wherein the police personnel and/or Police Stations within the territorial jurisdiction of this Court are conducting preliminary enquiries leisurely as per their own whims and caprices and in utter disregard to the mandate of law, i.e. Section 173(3)(i) of BNSS, reproduced hereinabove.

2.1) We have also noticed that, under the garb of preliminary enquiry and though it is mandated to be conducted within a period of fourteen days, it continues for months together. The Police Officers are conducting it in utter disregard to the mandate of law. Either the police personnel are not aware of the fact that, the Government of India, has enacted Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and it came into effect from 1st July 2024 or they are deliberately not following the mandatory provisions of law for the reasons best known to them.

2.2) In view thereof, we deem it appropriate to have the view of the Home Department, Government of India in that behalf, as to whether the

dtg

55-Wp-5654-2025.doc

BNSS, is applicable to all the Police Stations within the territorial jurisdiction of this Court and if so why it has not been followed strictly and sincerely.

3) In view thereof, we grant leave to the Petitioner to implead Union of India through its Home Department, as party Respondent.

3.1) Amendment be carried out forthwith and in any event during the course of the day.

3.2) After the amendment is carried out, issue notice to newly added Respondent No. 8, returnable on 19th December 2025.

3.3) Hamdast permitted.

3.4) In addition to Court notice, we permit the Petitioner to give intimation to the office of the learned Additional Solicitor General of India, Western Region, of the present Order, for his valuable assistance in the matter.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)