MEERA MAHESH JADHAV
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5741 OF 2026

Hitesh Chhotalal Solanki ...Petitioner

Versus

State Of Maharashtra ...Respondent

Mr. Sahil Tejwani, Mr. Aditya Navpute and Mr. Gaurav Tejwani i/b AKT Legal for Petitioner.
Ms M. M. Deshmukh APP for State.
PSI T. S. Pawar, Alandi Police Station, Pimpri Chinchwad, present

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CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.

DATE : 19th NOVEMBER 2026.

JUDGMENT (PER SARANG V. KOTWAL J.)

1. The Petitioner is seeking his release from Thane Central Jail in connection with the case bearing No.PW/44/2026 pending before the Learned Judicial Magistrate First Class, Vikhroli, Mumbai. The Petitioner is also praying for setting aside two orders passed by the said Court on 7th July 2026, issuing non bailable warrant against him and the order dated 15th July 2026 remanding the Petitioner to Magisterial Custody.

2. Heard Mr. Sahil Tejwani, Learned Counsel for the Petitioner and Ms. Deshmukh, Learned APP for the Respondent.

3. Rule. Rule is made returnable forthwith by consent of the parties.

4. There is a brief history behind this Petition. The Petitioner has multiple

Meera Jadhav

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criminal antecedents as follows:

(i) C.R. No.76 of 2013 registered at Bhosari Police Station under Sections 406, 420, 465, 467, 468, 471 and 34 of IPC.

(ii) C.R. No.168 of 2021 registered at Alandi Police Station under Sections 406, 420, 465, 467, 468, 471 and 34 of IPC.

(iii) C.R. No.473 of 2023 registered at Chaturshringi Police Station under Sections 420, 465, 467, 468, 471 and 34 of IPC.

(iv) C.R. No.360 of 2025 registered at Vashi Police Station under Sections 3(5), 318(4), 336(2), 336(3), 338, 340(2) of the BNS.

The aforesaid case before the Court of JMFC, Vikhroli arises out of C.R. No.1234 of 2025 registered at Pant Nagar Police Station under Sections 305(a), 331(4) read with Section 3(5) of BNS.

5. It is undisputed that in all these cases, the Petitioner is granted bail. However, C.R. No.168 of 2021 and C.R. No.1234 of 2025 are the offences which require consideration in this particular Petition. Learned APP assisted the Court by inviting our attention to the affidavits filed by the Jail Superintendent and the Investigating Officer in C.R. No.1234 of 2025 of Pant Nagar Police Station. The relevant orders are annexed to the Petition and to the two affidavits in reply filed by these two authorities. Therefore, there is no dispute about the record which is annexed in this Petition.

6. As far as C.R. No.168 of 2021 of Alandi Police Station is concerned, the Petitioner was granted bail by the Learned Judicial Magistrate First Class, Court No.1, Rajguru Nagar-Khed, vide the order dated 19th September 2026.

Meera Jadhav

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It is not necessary to refer to the merits of that case. The important point is that he was granted bail on 19th September 2026 in that connection. This date is important because he continued to remain in custody in connection with C.R. No.168 of 2021 when his bail application was allowed at the first instance by the Learned JMFC Vikhroli, in connection with C.R. No.1234 of 2025.

7. As mentioned earlier, in connection with C.R. No.1234 of 2025, the Additional Sessions Judge, Mumbai granted bail to the Petitioner vide order dated 4th May 2026 on certain conditions. The Petitioner was directed to furnish PR Bond of Rs.1,00,000/- with one solvent or two sureties of the like amount on certain conditions. The Petitioner took some time to furnish the sureties but finally he could furnish the sureties and the release order was issued by the JMFC, 50th Court, Vikhroli, Mumbai, on 26th May 2026, addressed to the Superintendent, Thane Central Prison, Thane.

Therefore, he was not only granted bail in connection with C.R. No.1234 of 2025 of Pant Nagar Police station but release order was also issued on 26th May 2026. However, he could not come out of jail because he was still in custody in connection with C.R. No.168 of 2021 of Alandi Police Station. We have already pointed out that he was granted bail only on 19th September 2026, in that connection.

8. In the meantime, the case was listed before the Learned JMFC, Vikhroli on 7th July 2026 in respect of C.R.No.1234 of 2025 of Pant Nagar Police Station. On that date, the Petitioner obviously could not remain

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present because he was already in custody. The Learned JMFC Vikhroli recorded the following Order:-

"The case is UTP. Accuse No.2 Hitesh Solanki is absent on called. Informant is present. Hence issue NBW against Accused No.2."

Thus, it can be seen that though he was granted bail and even the released order was passed, the Learned JMFC, Vikhroli, issued NBW against the Petitioner on 7th July 2026 for no fault of the Petitioner.

9. The Police Officers followed that order and tried to execute the NBW. They submitted a report dated 13th July 2026 before the Learned JMFC, 50th Court, Vikhroli, mentioning that the Petitioner was in Thane Central prison in connection with the other offence, i.e., C.R. No.168 of 2021 of Alandi Police Station. The Learned JMFC, Vikhroli then issued directions to the Superintendent of Jail, Thane vide his order dated 14th July 2026 asking the Superintendent to produce the Petitioner before that Court on 15th July 2026. On that date, the Petitioner was produced before the Court and then without referring to the bail order, the Learned JMFC directed him to be remanded in Magisterial Custody till 23rd July 2026. Since then, the Petitioner continues to remain in custody in connection with the case before the Learned JMFC, 50th Court Vikhroli, Mumbai in connection with C.R. No.1234 of 2025 of Pant Nagar Police Station.

10. During his continued detention, the Petitioner was granted bail on 19th September 2026 in connection with C.R. No.168 of 2021 of Alandi Police station, as we have mentioned earlier. We are informed that he has

Meera Jadhav

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completed the formality on 6th October 2026 of furnishing the sureties in that connection and the release order is passed. However, he still cannot be released from jail because Magisterial custody is granted to him in connection with C.R.No.1234 of 2025 of Pant Nagar Police Station.

11. The facts referred to hereinabove are undisputed, as is accepted by the Learned APP. Therefore, it is quiet clear that the Learned JMFC was not right in ignoring the earlier bail order granted in favour of the Petitioner in connection with C.R. No.1234 of 2025 of Pant Nagar Police Station. Learned JMFC further erred in issuing NBW against the Petitioner though he was in custody in some other case and he could not remain present before the Court. Learned JMFC also erred in granting Magisterial Custody remand to the Petitioner in connection with C.R. No.1234 of 2025. Hence, the Petitioner remains in custody though he is granted bail in both these offences. This situation needs to be corrected. The Petitioner deserves to be released from custody. Hence the following order:

ORDER

(i) The Petition is allowed in terms of prayer clause (ii), which reads as follows:

> "ii. This Hon'ble Court may be pleased to issue appropriate writ/s / orders and set aside the order passed by the Ld. J.M.F.C. dated 15.07.2026 remanding the Petitioner to M.C.R. along with the order dated 07.07.2026 issuing a Non Bailable Warrant against him."

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(ii) Since the Petitioner has already complied with the directions including furnishing the sureties in connection with C.R. No.1234 of 2025 of Pant Nagar Police Station and C.R. No.168 of 2021 of Alandi Police Station, he shall be released subject to the conditions imposed on him by the Competent Courts granting him bail in both these offences.

(iii) In the aforesaid terms, the Petitioner be released forthwith, if not required in any other case.

(iv) The Petition is disposed of.

(v) Rule is made absolute in the aforesaid terms.

(RANJITSINHA RAJA BHONSALE, J.) (SARANG V. KOTWAL, J.)

Meera Jadhav

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