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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1664 OF 2026

AND

CRIMINAL APPLICATION NO. 1665 OF 2026

Venkata Bhaskara Rao Maddala ...Applicant

Vs.

State of Maharashtra and Anr. ... Respondents

AND

CRIMINAL APPLICATION NO. 1673 OF 2026

AND

CRIMINAL APPLICATION NO. 1674 OF 2026

Gajendran S. ...Applicant

Vs.

State of Maharashtra and Anr. ... Respondents

Ms. Priyanka Dubey a/w. Saurabh Kamble, Vikrant Pandey and Adnan Khan i/b Hedgehog and Fox LLP, for the Applicant.

Mr. Yashpal Thakur a/w. Nimeet Sharma and Mr. Vinit Vaidya i/b MZM Legal LLP, for the Respondent No.2.

Ms. Savita M. Yadav, APP for State in APL-1664-2026.

Ms. D.P Jadhav, APP for the State in APL-1665-2026.

Mr. S.V. Walve, APP for the State in APL-1673-2026 & APL-1674-2026.

CORAM: MADHAV J. JAMDAR, J.

DATE : 8th SEPTEMBER, 2026

P. C.:

1. In these applications filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 482 of the Criminal Procedure Code, 1973), the Applicants are challenging orders dated 31st July 2026 and 10th August 2028 as also 17th August 2026 by which application for exemption of the Applicant

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i.e., accused has been rejected, non-bailable warrants were issued and accused were directed to attend the Court for recording statement in-person as their advocate was not ready to record the statement on his behalf.

2. A chart provided by learned counsel appearing for the Applicants setting out the impugned orders in each of the Criminal Applications are set out hereinbelow for ready reference :

Sr. No.	Name of Applicant	Application Nos.	Summons Case No.	Accused No.	Order Dated
1	Venkata Bhaskar Rao	APL/ 1165/2026 & APL/1664/2026	10560/2016 2216/2017	A-6/A-7	31-07-2026 & 17-08-2026
2	Gajendran S.	APL/ 1674/2026 & APL/1673/2026	10560/2016 2216/2017	A-3/A-4	31-07-2026 & 17-08-2026

3. Learned counsel appearing for the Applicants submits that the Applicant-Venkata Bhaskara Rao Maddala is a senior citizen of 86 years and the Applicant-Gajendran S is a senior citizen of 82 years. She relies on the judgment of the Supreme Court in the case of **Basavaraj R. Patil & Others Vs. State of Karnataka and Others** ¹

1 (2008) 8 SCC 740

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and more particularly paragraph Nos. 21 to 26 and submitted that if Questionnaire under Section 313 of Code of Criminal Procedure, 1973 is given, the Applicant is ready to comply with the same.

4. Learned counsel appearing for the Respondent No.2 has no objection for said course of action. However, he relied on a judgment of learned Single Judge in the case of **Prakash Chimanlal Sheth Vs. T. Ramalingam Nadar @ Ramalingam Thirivium Nadar & Ors.** ² and more particularly certain observations made in paragraph No. 31 of the same. He states that the Applicants be directed to comply with the requirements as set out in the said judgment of **Prakash Chimanlal Sheth** (supra).

5. The relevant part of paragraph 31 of **Prakash Chimanlal Sheth** (supra) read as under:-

“31. In the case of Basavaraj R. Patil And Others V/s. State of Karnataka And Others (supra) the Court dealt with questions, when a criminal Court completes prosecution evidence (other than in summons cases) is it

2 Criminal Application No. 490 of 2020 dt. 14-09-2022

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indispensably mandatory that the accused himself should be questioned ? Can not the court allow the Advocate to answer such questions on behalf of the accused atleast in some exigent conditions ? Since the two Judges Bench in Usha K. Pillai V/s. Raj K. Srinivas and Others (supra) held that there is no alternative to it permissible under law, reference was made to larger Bench. One of the contentions raised by the appellants was that if the Court did not put questions under Section 313 of the Code there is no reason for the complainant to be aggrieved thereof because the prejudice can be caused only to the accused due to non-compliance with the said provision. The other contention was that no criminal Court can be rendered absolutely powerless to deal with situation like this, i.e. if the accused is in such a far away country and when he has to incur a expenditure and long journey solely for the purpose of answering the Court questions, he himself pleaded that his counsel may be allowed to answer such question on his behalf. The Court analyzed scope of Section 313 of the Code. The Court however, considered the fact

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whether with revolutionary change in technology of communication and transmission and the improvement in facilities for legal aid, is it necessary that in all cases the accused must answer by personally remaining present in Court. It was observed that one category of offences which is specifically exempted from rigour of Section 313(1)(b) of the Code is summons case. Other offences generally belong to a different category among which are included offences punishable with varying sentences from imprisonment of three years upto imprisonment for life and death penalty. Even in cases involving less serious offences, can not the Court extend a helping hand to an accused who is placed in a predicament deserving such a help ? A pragmatic and humanistic approach is warranted in regard to such special exigencies. The word 'shall' in clause (b) to Section 313 (1)(b) of the Code is to be interpreted as obligatory on the Court and it should be complied with when it is for the benefit of the accused. But if it works to his great prejudice and disadvantage the Court should in appropriate cases eg. if the accused satisfies the Court

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that he is unable to reach the venue of the Court, except by bearing huge expenditure or that he is unable to travel the long journey due to physical incapacity or some such other hardship,relieve him of such hardship and at the same time adopt a measure to comply with the requirements in Section 313 of the Code in substantial manner. If the Accused who is already exempted from personally appearing in the Court makes an application to the Court praying that he may be allowed to answer the questions without making his physical presence in Court on account of justifying exigency the Court can pass appropriate orders thereon, provided such application is accompanied by an affidavit shown by the accused himself containing the matters, viz. a narration of facts to satisfy the Court of his real difficulties to be physically present in Court for giving such answers. An assurance that no prejudice would be caused to him, in any manner, by dispensing with his personal presence during such questioning. An undertaking that he would not raise any grievance on that score at any stage of the case. If the Court is

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satisfied of the genuineness of the statements made by the accused, it is open to the Court supply the questionnaire to his Advocate and fix the time within which the same has to be returned duly answered by the accused together with properly authenticated affidavit that those answers were given by the accused himself. If he does not wish to give any answer to any questions he is free to indicate that fact. If the accused fails to return questionnaire with answers he shall forfeit his right to seek personal exemption from Court during such questioning. If the above course is adopted in exceptional exigency it would not violate the legislative intent envisaged in Section 313 of the Code.”

(Emphasis added)

6. Ms. Dubey, learned counsel appearing for the Applicants, on instructions, states that the Applicants have no objection for said course of action. As learned counsel appearing for the Applicants has no objection for following the procedure as laid down in paragraph 31 of **Prakash Chimanlal Sheth** (supra), Mr. Thakur,

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learned counsel of the Respondent No.2, on instructions, states that the applications be allowed by consent.

7. Accordingly, by consent of parties, the following order is passed :-

I. The impugned orders as set out in paragraph No. 2 above in the chart are quashed and set aside.

II. The respective Applicants shall file applications supported by affidavit as contemplated in paragraph No. 31 of **Prakash Chimanlal Sheth** (supra) within a period of 10 days from today.

III. If such applications are filed, learned Trial Court is requested to decide the same in accordance with law expeditiously.

8. The Applications are disposed of in above terms.

[MADHAV J. JAMDAR, J.]