

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4640 OF 2025

Nishikant Narayan Bhojane ...Petitioner
Versus
The State of Maharashtra And Anr. ...Respondents
.....
Mr. Bakul B. Bhosale for the Petitioner.
Mr. S. H. Yadav, APP for the Respondent-State.
.....

CORAM : SHIVKUMAR DIGE, J.
DATE : 24th NOVEMBER 2025

P.C.

1. The challenge in this Writ Petition is to the notice issued under Sections 126 and 130 of Bhartiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS, 2023”).
2. It is contention of learned counsel for Petitioner that the offence was registered against the Petitioner under Sections 379 & 506 r/w Section 34 of Indian Penal Code (for short “IPC”) in Crime No.11 of 2016. The Petitioner has been acquitted from the said offence by the learned Judicial Magistrate First Class, Chiplun (for short “JMFC”) on 28th May, 2018. After acquitting the Petitioner from the said offence, the Executive Magistrate, Chiplun (for short “Magistrate”) has issued notice under Sections 126 and 130 of BNSS,

2023 to the Petitioner on 7th November, 2025 under the same C.R. for which the Petitioner has already been acquitted, which is erroneous. Hence, requested to allow the Writ Petition.

3. It is contention of learned APP that the allegation against the Petitioner is that he had committed theft of sand, pursuant to which an offence came to be registered against him. Consequently, a notice was issued to the Petitioner as envisaged under the BNSS, 2023. The Petitioner is required to comply with the said notice. Learned APP further submits that the petition is manifestly premature and requested to dismiss the Writ Petition.

4. I have heard both the learned counsels, perused the impugned notice issued by the Magistrate. The notice is issued under Sections 126 and 130 of BNSS, 2023 and directed the Petitioner to appear before the Magistrate on 21st November, 2025 at 11:00 a.m. By the said notice, the Petitioner has called upon to show cause as to why a bond of Rs.10,000/- for six months should not be executed by him. He is directed to remain present before the Magistrate for recording his say. The notice refers to the offence registered in C.R. No.11 of 2016 under Sections 379 and 506 r/w Section 34 of IPC. Sections 126 and 130 of the BNSS, 2023 reads as under:

“126. Security for keeping peace in other cases.

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond or bail bond for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

130. Order to be made.

When a Magistrate acting under section 126, section 127, section 128 or section 129, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the sufficiency and fitness of sureties.”

5. This Sections provides if breach of the peace or disturbance is apprehended by any person then learned Magistrate may ask him to execute bond for keeping peace for particular period. In the present case, the Petitioner has already been acquitted from the offence for which notice is issued. When a person is acquitted from charges levelled against him, then notice under Sections 126 and 130 of the BNSS, 2023 cannot be issued to him under same crime number.

Moreover, the show cause notice is issued after lapse of seven years from acquittal, it shows that it is mechanically issued.

6. In view of the above, I pass the following order:

ORDER

- (i) Writ Petition is allowed;
- (ii) Notice dated 07.11.2025 issued in Chapter Case No.305 of 2025 pending before the Special Executive Magistrate, Chiplun is hereby quashed and set aside.

7. The Petition is allowed in the aforesaid terms and is accordingly disposed off.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)