

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

CRIMINAL WRIT PETITION NO. 3437 OF 2025

Gurneet Singh Sethi

...Petitioner

Vs.

The State of Maharashtra and Anr.

...Respondents

Gaurav Gupta on VC a/w Shashank Shubham i/by Anukul Seth	Advocate for the Petitioner
Mr. H. J. Dedhia	APP for the Respondent-State
Ms. Suchita Choudhry a/w Mr. Pranay Tuteja i/by Trilegal	Advocate for the Respondent No. 2

CORAM : S. M. MODAK, J.

DATE : 26th AUGUST 2025

P. C. :-

1. Heard learned Advocate for the Petitioner-accused and learned Advocate for the Respondent No. 2-Complainant.
2. It is true the Criminal Application No. 1107 of 2024 filed by another commercial pilot against whom there was criminal prosecution for an offence punishable under Section 138 of the Negotiable Instruments Act withdrew his application on 25.03.2025 and liberty

was granted to him to challenge the order before the Revisional court. The Respondent was expecting the similar line of action to be allowed to the present Petitioner and that is why today matter is fixed for withdrawal, if any.

3. Learned Advocate for the Petitioner-accused invited my attention to the order of issuance of the process dated 26.03.2025 passed by the Court of JMFC, Mazgaon, Mumbai. This order is passed after hearing the Petitioner as contemplated as per the proviso to Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023 Act). The submission is learned Magistrate has not dealt with submissions which are advanced before him on behalf of the Petitioner.

4. According to the Respondent-Complainant proviso to Section 223 of the BNSS 2023 Act will not be applicable to the proceeding under Section 138 of the Negotiable Instruments Act. She placed reliance on the following two judgments:

(i) *Neeti Sharma Vs. Saranjit Singh*¹

(ii) *Ashok s/o Siddappa Bankar Vs. Fayaz Aahmad s/o.*

Aurangzeb Naikar, decided by Karnataka High Court in

1 (2025) SCC Online Del 2329

Petition No. 101514 of 2025, dated 28.04.2025.

5. Its copies given to the other side. Let the Petitioner may go through the observations and address the Court on the next date.
6. Now the matter is fixed before the trial Court on 28/08/2025 for appearance. The Petitioner is commercial pilot. For him, there is some difficulty on that date. Let the Petitioner to appear before the concerned Magistrate through his learned Advocate. The Magistrate to exempt him on that date.
7. It is made clear that the Petitioner has to appear before the learned Magistrate on the adjourned date for completing the bail formalities.
8. The matter is adjourned for hearing both the sides about the applicability of the proviso to Section 223 of the BNSS 2023 Act to the prosecution under Section 138 of the Negotiable Instruments Act. Even Parties can address the Court about maintainability of this Writ Petition.
9. Stand over to **08th October 2025 for direction.**

[S. M. MODAK, J.]