

JUDGMENT (PER : GAUTAM A. ANKHAD, J.)

1. Rule. Rule is made returnable forthwith. With the consent of the parties, the Petition is taken up for final hearing and disposal.

2. The Petitioner is the mother of Ms. Kausar Yusuf Ali Jafari @ Bushi (**'Kausar/Accused'**) who is presently lodged at the Thane Central Prison. The Petitioner has filed the Writ of Habeas Corpus to declare that Kausar's arrest on 11th May, 2025 is illegal and violates her fundamental rights. This is on two grounds :-

- (i) She was detained for more than 24 hours before being produced before the learned Magistrate; and
- (ii) The reasons for arrest were not furnished to her or her family.

3. We have tried to decipher the Petitioner's case, in a poorly drafted Petition. The facts that emerge from pages 9 – 13 of the Petition are as follows :-

- (a) On 18th January 2025, a FIR was registered with the Rabodi Police Station, Thane, vide C.R. No. 39 of 2025 for the offences punishable under Sections 309(6), 3(5) and 351(3) of the Bhartiya Nyaya Sanhita, 2023 (**"BNS"**). On 9th May 2025, Kausar's brother, one Wasim Yusuf Sayyed @

Wasim Kala was arrested in relation to this Complaint. He was produced before the learned Magistrate on 12th May, 2025 and sent to police custody.

(b) On page 10 – paragraph 2 of the Petition, it is pleaded that at 6 a.m. on 9th May 2025, Kausar was arrested from Guntakal, One Town Police Station (Andhra Pradesh). We will assume that this ‘One Town Police Station at Guntakal’ exists. She was then brought to her parental home in Kalyan at 7.30 p.m. on 11th May 2025. She was produced before the learned Magistrate on 12th May, 2025 and remanded to magisterial custody. (In the same paragraph it is pleaded that Kausar was not produced before the learned Magistrate, which we will ignore for the time being) whereas on page 9 – paragraph 2 of the Petition, it is pleaded that Kausar was shown as arrested on 11th May 2025 at 15.21 hours and was brought along with Wasim also before the learned Magistrate on 12th May, 2025. This was for an alleged offence registered on 18th January, 2025.

(c) On the basis of the case set out at page 10, it was argued that Kausar was produced before the learned Magistrate after almost three days. She was not informed of her grounds for arrest. Thus, her arrest violates her fundamental rights as well as Sections 47, 48 and 58 of the BNSS. Hence this Petition.

4. Mr. Gavand, learned APP had the onerous task of clearing the confusion. To simplify matters, he relied upon :-

- (i) Affidavit-in-reply dated 14th July, 2025 filed by Santosh Ugalmugale, Assistant Police Inspector presently attached to the Crime Branch, Unit 3, Kalyan, Thane City, which explains the offence and procedure followed by the police;
- (ii) Police Case Diary for FIR No. 39 of 2025 registered with the Rabodi Police Station, Thane; and
- (iii) Police Case Diary for FIR No. 775 of 2024 registered with the Kolsewadi Police Station, Kalyan (East).

5. Mr. Gavand denied the contentions of the Petitioner and submitted that the present Petition ought to be dismissed. He submitted that the offence pertains to chain snatching and several FIRs were registered. For the present case, two FIRs are relevant, namely:-

- (i) FIR No. 39 of 2025 registered with the Rabodi Police Station, Thane for the offences punishable under Sections 309(6), 3(5), 351(3) of the BNS against unknown persons; and
- (ii) FIR No. 775 of 2025 registered with the Kolsewadi Police Station, Kalyan (East) under Section 304(2) of the BNS again on chain-snatching from the Informant.

6. Mr. Gavand submitted that there were several FIRs registered in and around Thane / Kalyan region in respect of similar offences. As per the directions of the Police Commissioner, the investigation was handed over to the Crime Branch Unit 3, Kalyan. Several persons including Wasim Yusuf were arrested in the course of investigation. During such investigation, it was revealed that Kausar, who was an accused in the Kolsewadi FIR No. 775 of 2025, was likely to be at Guntakal, Andhra Pradesh. On 7th May 2025, after taking the relevant permissions, a team of police officials proceeded to Guntakal, Andhra Pradesh. At Guntakal, as Kausar gave evasive responses, a notice under Section 179 of the BNSS was served on her, directing her to report before Crime Branch Unit 3, Kalyan at the earliest. The said notice is annexed to the reply affidavit. Corresponding entries were also made in the Station Diary on 7th May, 2025 prior to departure from the Crime Branch Unit and again on 10th May, 2025 after the team's return from Guntakal. It is, thus, submitted that the Accused, Ms. Kausar, was neither arrested on 9th May, 2025 nor brought from Guntakal to Mumbai/ Kalyan by the said team.

7. Meanwhile, on 11th May 2025, Wasim Yusuf, who had been arrested in FIR No. 39 of 2025, disclosed to the police that the stolen jewellery had been handed over to the Accused. It is submitted that Mr. Kiran Bhise, PSI

received information that the Accused had come to Kalyan. A search was accordingly conducted, and on the same day, the Accused was located at Vadvali village by PSI Bhise and thereafter brought to the Crime Branch Unit with the assistance of lady constable Ms. Jyotsna Kumbhare. The Accused was taken for medical examination at 15:10 hours and was arrested at 15:21 hours on 11th May, 2025. She was served with a memo setting out the grounds of arrest, which she acknowledged by signing the office copy. Her family was also informed of the grounds of arrest. On 12th May 2025, at 13:05 hours, the Accused was produced before the learned Magistrate within the stipulated period of 24 hours. It was, therefore, submitted that the Accused was arrested strictly in accordance with the procedure prescribed under the BNSS. In view thereof, Mr. Gavand contended that the Petition is without merit.

8. We have perused the record and heard the learned Counsels for the parties. We have also examined the Police Case Diaries relating to FIR No. 39 of 2025 registered at Rabodi Police Station, Thane, and FIR No. 775 of 2024 registered at Kolsewadi Police Station, Kalyan. In our view, the Petition is devoid of merit. The contradictions noted herein above are sufficient to warrant its dismissal. Nevertheless, for the purposes of this Order, we have chosen to ignore those contradictions.

9. We have examined the record. It reveals that Kausar's involvement was disclosed by her brother. The Accused was questioned by the police on 9th May, 2025 at Guntakal (A.P.) in connection with FIR No. 775 of 2024 registered at Kolsewadi Police Station. She was served with a notice under Section 179 of the BNSS in the presence of the local police and directed to report to the Crime Branch at Kalyan for further inquiry before the case IO. The office copy bears the endorsement of the SHO, Guntakal, One Town Police Station. We have also perused the Station Diary of Kolsewadi Police Station for the period between 7th and 10th May, 2025. The record makes it clear that the Accused was not arrested at Guntakal.

10. The record further shows that the Accused was arrested on 11th May, 2025 by another police team near Vadavali village in Kalyan District, which was distinct from the team that had visited Guntakal. Kausar's arrest was in connection with FIR No. 39 of 2025 registered at Rabodi Police Station, Thane. Following her arrest, she was brought to the Crime Branch office at Kalyan with the assistance of a lady constable, taken for medical examination the same day, and formally arrested at 15:21 hours on 11th May, 2025. She was, thereafter, produced before the learned Magistrate at 13:05 hours on 12th May 2025. Hence, we find no violation of Section 58 of the BNSS.

11. We also find that the Accused was furnished with the grounds of arrest, which she duly acknowledged by signing the arrest memo annexed at page 72 of the Reply Affidavit. The grounds of arrest were further communicated to the relatives of the Accused, who were present to oppose the remand Application, and their acknowledgement is annexed at page 73 of the Reply Affidavit. The learned Magistrate has recorded his satisfaction regarding compliance with Sections 47 and 48 of the BNSS. We find no reason to disbelieve the same. The learned Magistrate accordingly remanded the Accused to judicial custody. **This Petition for Habeas Corpus**, being devoid of merit, **stands dismissed**. Rule is discharged with no order as to costs.

[GAUTAM A. ANKHAD, J.]

[RAVINDRA V. GHUGE, J.]