

ANAND
SUDHAKAR
SUDAME

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3740 OF 2025

WITH

WRIT PETITION NO. 3744 OF 2025

WITH

WRIT PETITION NO. 3745 OF 2025

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Date: 2025.07.22
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Chandrakant C. Shah

.Petitioner

Versus

The State of Maharashtra

.Respondent

Mr. Chandrakant Shah, Petitioner-in-person present

Mr. B. V. Holambe – Patil, APP, for the Respondent – State in W. P.
Nos. 3740 & 3744 of 2025

Ms. R. S. Tendulkar, APP, for the Respondent – State in W. P. No.
3745 of 2025

CORAM : S. M. MODAK, J.

DATE : 16.07.2025

P. C.

1. Heard the Petitioner-in-person.
2. This Court (Coram : Shivkumar Dige, J.) vide Order dated 27.03.2025 passed in a group of Petitions filed by the present Petitioner directed the trial Court to expedite the trial of the Petitioner without granting unnecessary adjournments. Those cases are Case Nos. 27 of 2020, 81 of 2020 and 120 of 2019. These are all

private complaints filed by the present Petitioner and they are pending before the learned JMFC, 27th Court, Mulund, Mumbai.

3. The Petitioner – Complainant by way of a pursis, produced a copy of the Order passed by this Court dated 27.03.2025. Learned Magistrate vide Order dated 27.06.2025 passed the following Order :-

“Complainant present in person. Exh. 9 Complainant filed pursis. Seen Order below Exh. 1. Called say of the Accused. Adjourned for say.”

4. The only grievance raised in this Petition is that there is no provision in the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) of calling say of the Accused prior to issuance of process and in fact, three complaints are pending . In those three complaints, process is not issued.

5. The contention of the Petitioner is that the learned Magistrate presuming that the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) are applicable has called say of the Accused. That is why there is a prayer to set aside the said Order dated 27.06.2025 and further, prayer to direct the learned Magistrate to follow the procedure under the provisions of the Cr. P. C..

6. When it is asked to the Petitioner as to whether he has made a submission before the learned Magistrate that it is not BNSS but Cr.P.C. is applicable, he submitted that oral submission was made. Be that as it may, that is not reflected in

the roznama. It is for the learned Magistrate at first instance to decide whether BNSS is applicable or Cr.P.C. is applicable. So the Petitioner has to raise his grievance before the learned Magistrate. With these observations, the following Order is passed.

O R D E R

- (i) The Petitioner is at liberty to make a submission about applicability of the Cr.P.C. before the learned Magistrate.
 - (ii) Let the learned Magistrate to decide this issue.
 - (iii) The Order calling say of the Accused on 27.06.2025 is set aside.
7. The Petitions stand disposed of.

(S. M. MODAK, J.)