

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

CRIMINAL WRIT PETITION NO. 4499 OF 2025

Yashwant Chunilal Mody And
Ors.

...Petitioners

Vs.

The State of Maharashtra and Anr.

...Respondents

Senior Advocate Shri Girish Kulkarni i/by Adv. Omkar Ghag	Advocate for the Petitioners
Smt. G. S. Rao	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 22nd AUGUST 2025

P. C. :-

1. Heard learned Senior Advocate Shri Kulkarni for the Petitioners.
2. The Court of the JMFC Borivali has issued process against these Petitioners for the offence punishable under Sections 3(f),(i),(j), 5, 6, 11 read with 13 and 14 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ('MOFA Act'). It was issued on 19.11.2024. A

copy of the complaint dated 07.05.2024 is on page no. 35. He made various submissions on the point of lack of the necessary averments in the complaint, absence of any involvement of accused no. 3-Sanjay and the present status of the Company is wound up. He also made submissions that in pursuance to the issuance of the process, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 will be applicable, notice to the proposed accused was not issued.

3. At this juncture, I am issuing notice on the last submission. I read the order. It does not mention that notice was issued to the proposed accused prior to the issuance of process to the proposed accused. Hence, issue notice to the Respondent No. 2 returnable on 10th October 2025.

4. Additionally, private notice is allowed and service affidavit be filed.

5. The Petitioners have appeared before the trial Court. Let them furnish the bail formalities. Once it is over, learned Judge to exempt them.

[S. M. MODAK, J.]