

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

**CRIMINAL WRIT PETITION NO.4759 OF 2025**

|                                   |                  |
|-----------------------------------|------------------|
| Simran Singh Sehgal,              | ]                |
| R/of Sion-Koliwada, Mumbai        | ] .. Petitioner  |
| <i>Versus</i>                     |                  |
| 1. The State of Maharashtra,      | ]                |
| Through Home Department           | ]                |
| 2. The Commissioner of Police,    | ]                |
| Mumbai Polie HQ, Mumbai           | ]                |
| 3. Deputy Commissioner of Police, | ]                |
| Zone IV, Matunga, Mumbai          | ]                |
| 4. Bhoiwada Police Station,       | ]                |
| Through Sr. PI, Dadar, Mumbai     | ] .. Respondents |

Mr. Shakil Ahmed with Ms. Arati Roy, Advocates for the Petitioner.  
Mr. K.V. Saste, Additional Public Prosecutor for Respondent  
Nos.1 to 4.  
Mr. Nitin Mahadik, P.I., Bhoiwada Police Station, Mumbai is  
present.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &  
GAUTAM A. ANKHAD, J.**

**DATE : 20<sup>TH</sup> SEPTEMBER 2025.**

**Per, Gautam A. Ankhad, J.**

The petitioner has filed the present Writ Petition seeking the  
following reliefs :-

*“a) Issue a writ of mandamus or any other appropriate writ, order or direction, commanding the Respondent No.2 (Commissioner of Police, Mumbai) and Respondent No.4 (Bhoiwada Police Station) to forthwith register a First Information Report (FIR) against Mr. Anil Kuril, Mr. Rahib Jafri, Mr. Javed Jafri, and their associates under the appropriate provisions of the Bharatiya Nyaya Sanhita, 2023, including but not limited to Sections 115 (Hurt), 131 (Assault with intent to dishonor), 351 (Criminal Intimidation), and 352 (Intentional Insult), as well as Section 92 of the Rights of Persons with Disabilities Act, 2016, based on the Petitioner's complaints, particularly the representation dated 21<sup>st</sup> April 2025 (Exhibit 'J') and the legal reminder dated 16<sup>th</sup> June 2025 (Exhibit 'L');*

- b) *Issue a writ of mandamus or any other appropriate writ, order or direction, commanding the Respondents to provide immediate and effective police protection to the Petitioner, his employees, and his business premises;*
- c) *Issue a writ of certiorari or any other appropriate writ, order or direction, to quash and set aside any and all preventive notices, including those dated 10/06/2022 (Exhibit 'B') and 30/03/2025 (Exhibit 'T'), issued against the Petitioner;*
- d) *Issue a direction that the investigation into the aforesaid FIR be transferred to an independent agency or, in the alternative, be monitored by a senior police officer not below the rank of Assistant Commissioner of Police, to ensure a fair and impartial investigation;*
- e) *Pending the hearing and final disposal of this Petition, be pleased to grant interim reliefs directing the Respondents to provide immediate police protection to the Petitioner and his shop and to restrain the accused persons from coming within 200 meters of the Petitioner;*
- f) *Pass such other and further orders as this Hon'ble Court may deem just and proper in the interest of justice."*

2. The petitioner, a person with physical disability engaged in a small business of selling car accessories, states that since 2022 he has been subjected to harassment, intimidation, and public humiliation on several occasions by his neighboring shopkeeper. He states that complaints were lodged with the police on multiple occasions, including on 13<sup>th</sup> June 2022, 13<sup>th</sup> March 2024, 21<sup>st</sup> April 2025, and 16<sup>th</sup> June 2025. His grievance is that despite disclosing cognizable offences, Respondent No. 4 has failed to register a First Information Report. Aggrieved thereby, the petitioner has approached this Court.

3. We have heard Mr. Shakil Ahmed, learned counsel for the petitioner. With respect to prayer (a), upon a query from the Court as to why an application under Section 175(3) of the Bharatiya

Nagarik Suraksha Sanhita, 2023 (“BNSS”) has not been filed, Mr. Ahmed submitted that although such a remedy is available, his client is nevertheless entitled to maintain the present petition under Article 226 of the Constitution of India. We are unable to accept this contention. In our view, where a person is aggrieved by the refusal of the police to register an FIR, the proper course is to invoke the remedy under Section 175(3) of BNSS before the learned Magistrate. After considering such an application, the Magistrate is empowered to direct registration of the FIR and to ensure a proper investigation. The petitioner cannot bypass this statutory remedy and directly invoke the writ jurisdiction of this Court. It is well settled, as held by the Hon’ble Supreme Court in *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage*, (2016) 6 SCC 277:

- “2. This Court has held in *Sakiri Vasu v. State of U.P.*<sup>2</sup>, that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, *prima facie*, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in *Sakiri Vasu* case<sup>2</sup> because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. *We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.”*

In our view, nothing exceptional has been demonstrated in the present case to warrant by-passing the statutory remedy and invoking the writ jurisdiction of this Court. The petitioner, if so advised, may avail himself of the remedy under Section 175(3) of the BNSS. We clarify that filing of the present petition will not be held against the petitioner. If such an application is filed, it shall be decided by the learned Magistrate in accordance with law and on its own merits.

4. With respect to prayer (b), upon a query from the Court as to whether the petitioner seeks police protection and is willing to bear the requisite charges, Mr. Ahmed submitted that his client is not prepared to do so. In view thereof, prayer (b) also does not merit consideration.

5. Writ Petition No.4759 of 2025 is dismissed with the above liberty.

**[ GAUTAM A. ANKHAD, J. ]**

**[ CHIEF JUSTICE ]**