

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5238 OF 2025**

Chandrashekar Mukund Padhye & Anr ..Petitioners
Versus
Madhukar Patilbuva Sangamnere & Ors ...Respondents

**WITH
WRIT PETITION NO. 5249 OF 2025**

Chandrashekar Mukund Padhye & Anr ..Petitioners
Versus
Ramdas Kashinath Ugale & Ors ...Respondents

Mr. Ashok B. Tajane, for the Petitioners in both Petitions.
Mr. Kiran Shinde, APP, for the Respondent-State in both Petitions.

CORAM: N. J. JAMADAR, J.
DATE : 13th OCTOBER 2025

ORAL ORDER:

1. Heard Mr. Tajane, the learned Counsel for Petitioner in both Petitions.
2. The challenge in these Petitions is to the identical orders dated 4th September 2025 passed by the learned Additional Sessions Judge, Niphad, whereby the learned Sessions Judge has partly allowed Application for interim relief during the pendency of the Criminal Misc Applications purportedly filed for seeking condonation of delay in filing

the Appeal against the order dated 21st March 2025, passed by the Sub Division Officer, Niphad, in Criminal S.R. No. 2 of 2024 and 3 of 2024 under Section 164 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (“BNSS”).

3. By the impugned order the learned Sessions Judge was persuaded to grant interim stay to the orders passed by the SDO, Niphad on 21st March 2025, to restrain the Respondent-Applicants in Criminal MA Nos. 26 of 2025 and 27 of 2025, from causing obstruction to the possession of the Petitioners over the subject land.

4. The learned Additional Sessions Judge was of the view that the material on record *prima facie* indicates that the Applicants in Criminal MA No. 26 of 2025 and 27 of 2025 were in possession of the subject land and the Petitioners were seeking the assistance of the police to obtain the possession of the subject land. The learned Additional Sessions Judge, therefore, considered it expedient to stay the execution, operation and implementation of the prohibitory order passed by the SDO under Section 164 of the BNSS.

5. Mr. Tajane, the learned Counsel for the Petitioners, would urge that the learned Additional Sessions Judge has recorded incorrect findings. The learned Additional Sessions Judge misread the documents to draw a *prima facie* inference that the Respondents were in possession of the subject land. Since the very tenability of the Appeals was in

dispute, the learned Additional Sessions Judge could not have granted interim stay to the execution and operation of the orders passed by the SDO under Section 164 of the BNSS.

6. Mr. Tajane further informed the Court that, in the intervening period, by subsequent order dated 3rd October 2025, the learned Additional Sessions Judge has permitted the Respondents-Applicants in Criminal MA Nos. 26 of 2025 and 27 of 2025 to convert the Appeals into Revision Applications. The learned Additional Sessions Judge opined that there was no delay in preferring the Revision Applications. Now the Revision Applications are listed for hearing on 17th October 2025.

7. Evidently, the challenge in these Petitions is to the interim orders passed by the learned Additional Sessions Judge in the proceedings assailing the order passed by the SDO under Section 164 of the BNSS. The substantive proceedings are yet to be decided by the learned Sessions Judge and are kept for adjudication on 17th October 2025. This Court finds that the learned Additional Sessions Judge has adverted to the material which, in the opinion of the learned Sessions Judge, *prima facie* indicates that the Respondents were in possession of the land in respect of which the dispute likely to cause a breach of peace has arisen.

8. The submission of Mr. Tajane was that the aforesaid inferences are based on misreading of the documents. Attention of the Court was

invited to the communication dated 23rd July 2025 addressed by the SDO to the Assistant Police Inspector, Saikheda Police Station, wherein it is recorded that the Petitioners were pursuing the authorities to restore the possession in pursuance of the orders passed by the SDO. Mr. Tajane would urge that, it was the opinion of the SDO and the Petitioners could not have been bound by the said assessment of the SDO.

9. *Prima facie*, the aforesaid communication discloses that the Petitioners were seeking police assistance to obtain possession. Thus, the learned Additional Sessions Judge does not seem to have erred in taking a view on the matter. Moreover, the substantive proceedings are yet to be decided by the learned Additional Sessions Judge. At this stage, this Court does not find it expedient in exercise of the supervisory jurisdiction to interfere with an interim order of stay passed by the learned Additional Sessions Judge.

10. It would be appropriate that the substantive proceedings assailing the legality, propriety and correctness of the order passed by the SDO under Section 164 of the BNSS are decided by the learned Additional Sessions Judge, expeditiously.

11. Since the said proceedings are listed before the learned Additional Sessions Judge on 17th October 2025, the learned Additional Sessions Judge is requested to make an endeavour to hear and decide

those proceedings as expeditiously as possible and preferably within a period of two months from 17th October 2025.

12. All contentions of all the parties, including the issue of tenability of the said proceedings, before the learned Additional Sessions Judge, are kept open for consideration.

13. The learned Additional Sessions Judge is requested to decide those proceedings without being influenced by the impugned orders and the observations of this Court.

14. Petitions disposed.

[N. J. JAMADAR, J.]