

rajshree

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.5360 OF 2025**

Jagdish Manoharlal Jain	Petitioner
V/S	
State of Maharashtra & Ors.	Respondents

Mr.Pankaj Jain a/w Tejashree Kamble and Pradeep Purohit i/b
P.D.Jain & Co. for the Petitioner.

Ms.Sangeeta Shinde, APP for the State.

API Hanumant Waghmode from Bandra Police Station, present.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATE : 9th DECEMBER, 2025.

P.C.

1 The Writ Petition filed by the next friend of one Ms.Baby Shaikh seek issuance of Writ of Habeas Corpus for her production and for securing her release from detention centre or from the custody of respondent/agency.

2 Heard the learned counsel for the Petitioner and the learned APP representing the State.

We have perused the pleadings in the Petition alongwith the specific stand adopted by the Respondents in the Affidavit in Reply.

A restriction order dated 30/09/2025 produced before us reveal that Ms.Baby Shaikh, being referred to as a foreign national, on being found to have contravened the provisions of the Immigration and Foreigners Act, 2025 and Rules and order made thereunder by it, as she secured entry in India through Indo-Bangladesh border, and in view of the likelihood that she may abscond or indulge in undesirable activities, it was deemed necessary that her movements are to be regulated and restricted for the enforcement of the provisions of the Act of 2025.

By invoking the power conferred under Section 7 (2)(f)(ii) and (iii) of the Act of 2025 read with Immigration and Foreigners Order, 2025, Foreign Regional Registration Office (FRRO), Mumbai in pursuance of the Notification of the Government of India, Ministry of Home Affairs, dated 01/09/2024 had directed to restrict her movements at the premises/locations indicated and that she shall not leave the premises without written permission from the undersigned authorities. The place of restriction is indicated as Bandra Police Station, Mumbai.

3 The learned counsel for the Petitioner, has specifically urged that the methodology adopted in passing the restriction order is unknown to law, but we do not agree to his submission.

Our attention was invited to the Affidavit affirmed by the Assistant PI attached to Bandra Police Station, and on its reading, we find that the Adhar Card as well as other documents on the basis of which she claim that she is resident of India since more than 20 years itself is found to be doubtful. Apart from

this, our attention is also invited to the statement of the detenee recorded during the course of investigation and we find it full of discrepancies which do not match with the documents on which she rely including the birth certificate showing date of birth as 31/12/1985.

The Respondent has placed before us the communication from the Office of Bongaon Municipality, North 24th Pargana, as regards verification of birth certificate, where it is clarified that the birth certificate in question was not issued by the Sub Registrar of Birth and Death, Bongaon Municipality.

As as far as the information collected regarding verification of she being resident of the address given by her, either temporary or permanent, the Gram Panchayat had issued a communication to the Sr. Police Inspector, Bandra Police Station that no such person named had ever permanent or temporary residence at the said address.

A doubt is also expressed about the Passport which has been issued in favour of Ms.Baby Shaikh on 13/02/2024 as according to the learned APP, the police report upon the requisition being forwarded by the Passport Office is in the negative, but despite this, passport is issued to her.

Her own statement which is recorded and the documents which are collected create doubt about her nationality and this is the specific reason that an FIR came to be registered against her, and she came to be arrested, and her Bail Application came to be rejected by the JMFC and another Bail Application is pending before the Sessions Court.

4 As far as the question of detention is concerned, since in the wake of the order dated 30/09/2025 she is directed to be detained in the detention centre, pending such an enquiry, according to us, her detention cannot be said to be unauthorized. However, subsequent to the offence being registered, she came to be arrested and presently she is in judicial custody.

Needless to state that she is entitled to invoke such remedy as is available for securing her release from Judicial Custody.

5 In the wake of the above, since we are not convinced that the detention of the Petitioner in the detention centre is illegal, as there is serious doubt about her identity and nationality, which is presently under investigation, we dismiss the Writ Petition.

[SHYAM C. CHANDAK, J]

[BHARATI DANGRE, J]