

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

CRIMINAL WRIT PETITION NO. 5848 OF 2025

Sunny Lodha	 Petitioner
V/s.	
The State of Maharashtra and anr.	 Respondents

**WITH
INTERIM APPLICATION (ST.) NO. 24132 OF 2025
IN
CRIMINAL WRIT PETITION NO. 5848 OF 2025**

Michael Jacob Mascarenhas	 Applicant
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In the matter between :-

Sunny Lodha	 Petitioner
V/s.	
The State of Maharashtra and anr.	 Respondents

Mr. Shrey S. Lodha a/w. Mr. Dulraj Jain and Mr. Hrutik Chavan i/b.
Mr. Sharad Goswami for the Petitioner.
Ms. Mankuwar Deshmukh, PP (Acting) a/w. Ms. Sangeeta Shinde, APP
for the Respondent – State.
Mr. Ramchandra Wagh for the Intervenor in IAST/24132/2025.
Mr. Hemraj Rajput, SP, Maharashtra Cyber, present.
Mr. Pradip Tidar, Dy.SP, Maharashtra Cyber, present.
Mr. Aditya Ghuge, Cyber Law Expert, Maharashtra Cyber, present.

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

DATED : 02nd DECEMBER, 2025

ORAL JUDGMENT : (Per : Bharati Dangre, J.) :-

. In connection with C.R.No.42/2025 on the Petitioner being
arraigned as an accused, he came to be arrested on 23/10/2025 at 14:43

hours, but being aggrieved by this arrest, by contending that it is not in accordance with the procedure prescribed in Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and is also in utter violation of the constitutional right conferred upon him under Article 21 and 22(2) of the Constitution of India, the Petitioner seeks a relief that the arrest be declared as illegal.

2) We have heard the learned Counsel for the Petitioner and perused the affidavit in reply filed by the Police Inspector attached to Nodal Cyber Police Station, Maharashtra Cyber, Mumbai who along with the affidavit, has produced on record the notice issued under Section 35(3) of BNSS, 2023 as well as the arrest panchanama reflecting the date of arrest as 23/10/2025 at 14:43 hours alongwith the Remand Report dated 23/10/2025.

3) Rule. Rule made returnable forthwith. Heard with consent of the parties.

4) It is the grievance of the Petitioner that on 22/10/2025, he visited the trial Court at Esplanade, Mumbai at around 13:00 hours upon the request of his friend – Mr. Deo Saini to observe the remand proceedings of the arrested accused – Mr. Mukesh Bhatia and at that time, the Officers attached to Respondent No.2 - Police Station accosted him and compelled him to accompany them to their Office at World Trade Center. On reaching there at 02:00 p.m., according to the Petitioner, his movements were completely restricted and he was compelled to remain in the police station

overnight. He was also questioned about his involvement in the crime of digital arrest and he provided the necessary information and co-operated with the investigation. It is the case of the Petitioner that he was purportedly issued a notice under Section 35(3) of the BNSS, 2023 for his appearance on 23/10/2025 at 06:00 a.m. However, he is shown to be formally arrested at 14:43 hours on 23/10/2025.

The contention advanced on behalf of the Petitioner is, his production before the Magistrate is beyond 24 hours and therefore, his detention/custody with Respondent No.2 is rendered illegal.

5) Dealing with the above contention, the Investigating Officer has filed an affidavit, wherein it is stated that the Petitioner was arrested on 23/10/2025 at 14:43 hours and he was produced within the statutory period of 24 hours before the Additional Chief Judicial Magistrate, 37th Court at 15:15 p.m.

A reference is also made to the Remand Report where the date of arrest is specifically reflected. The contention that he was accosted from the Court and taken to World Trade Center, is specifically denied and it is pleaded that, when the Investigating Officer alongwith his team attended the Court for remand proceedings of the arrested accused, they found a movement of a person suspicious and upon inquiry, he disclosed his name to be Sunny Lodha and therefore, he was asked to come to the police station and accordingly, he

reported to the Investigating Officer on 16:30 hours. After completing the remand proceedings, when the Investigating Officer returned to the police station, he made inquiries with him and some information is also furnished to the Investigating Officer.

On a notice under Section 35(3) of BNSS, 2023 being served, he accepted the same, clearly indicating that at 06:00 hours on 23/10/2025, he was not arrested. However, he continued to remain in the police station and when on completion of the interrogation, his role clearly surfaced, he came to be arrested at 14:43 hours on 23/10/2025 and produced before the Magistrate which is within 24 hours.

6) As far as the contention that the grounds of arrest are not sufficient enough or they do not amount to grounds of arrest, we refrain from entertaining the said contention, as we find that the grounds of arrest set out in the communication dated 23/10/2025, are specific to him and his role is specifically discerned and which, according to us, is sufficient enough to defend the remand proceedings and in fact we find that in the remand proceedings before the Magistrate, he was well-defended by his Advocate and the learned Magistrate had passed an appropriate order, remanding him to police custody till 30/10/2025.

7) Another submission raised that the Petitioner is only conversant with Hindi and English language, and it is noted that the affidavit-in-reply

categorically state that the deponent of the affidavit himself explained the grounds of arrest as contained in the communication dated 25/10/2025 in the language he understands i.e., Hindi.

In any case, as we find that the Petitioner is resident of Thane district, and hence he cannot claim ignorance of Marathi language but in any case, when the Police Inspector has deposed that the grounds of arrest were informed to him, in writing and also explained to him in Hindi language which he follow, we find no reason to presume that prejudice was caused to the Petitioner because he did not understand the grounds of arrest and the remand proceedings could not be properly defended.

8) Another ground which is pressed by the learned Counsel for the Petitioner is necessity of the arrest and at this juncture, we must record that in the wake of the affidavits placed before us referring to a cyber crime in form of digital arrest and specifically in the wake of the Hon'ble Apex Court taking serious cognizance and permitting the CBI to adopt the appropriate procedure for curbing the said menace, we find that it is a serious offence and we definitely cannot decide and pronounce upon the justiciability or the necessity of the arrest by the Investigating Officer.

9) For these reasons, finding no merit in the substance of the Petitioner, we dismiss the Writ Petition.

Rule is discharged. No order as to costs.

Interim Application (St.) No.24132 of 2025 stands disposed of
in view of dismissal of the Writ Petition.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)

PREETI
HEERO
JAYANI

Digitally signed by
PREETI HEERO
JAYANI

Date: 2025.12.05
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