

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 6080 OF 2025****WITH****INTERIM APPLICATION (STAMP) NO. 25199 OF 2025**

Shailesh Kantilal Makani

.....Petitioner

Vs.

The State Of Maharashtra & Ors.

.....Respondents

Mr. Sachindra Shetye a/w Adv. Mr. Yogesh Birajdar for the Petitioner.
Mr. Rajiv Chavan, Senior Advocate a/w Mr. Rohan Mahadik, Mr. Sunil Lahane, Mr. Amit Kamble, Ms. Mekhala More, Ms. Bharvi samel, Ms. Nikitha Butty, Ms. Asmi Desai and Ms. Sonam Pandey i/by the Juris Partners for the Applicants.
Mr. Vinod Chate APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 22nd DECEMBER, 2025.**

PC:-

1) In pursuance of Order dated 4th December, 2025, the Commissioner of Police, Navi Mumbai Police Commissionerate has filed a detailed Affidavit dated 17th December, 2025.

1.1) The question posed by us in paragraph No.2 of Order dated 4th December, 2025, is answered in paragraph No.8 thereof. The Commissioner of Police has categorically stated that, it is the statutory

mandate under Section 173(3)(i) of BNSS. It is further stated that, there is no willful disobedience of the provisions of BNSS. In paragraph No.9, it is stated that the Police Commissionerate shall ensure that preliminary enquiries are completed within the statutory time frame in future, barring exceptional circumstances duly recorded in writing.

2) We are not in agreement with the said statement made by the Commissioner of Police. A bare perusal of Section 173 of BNSS indicates that, no exceptional circumstance is carved out or stated in the said provision for completion of the enquiry. It is the mandate of law that, the said preliminary enquiry has to be completed within a period of 14 days under the general law. According to us, as per the general rule, the exceptional circumstances can be, war or natural calamity and none else. If the provisions of Section 173 are liberally construed, it will defeat the basic intention of the legislature in enacting the same. According to us, it is the mandate of law, the outer limit is of 14 days.

2.1) According to us, *prima facie* the said provision is mandatory and no discretion is given to the Enquiry Officer for extension of 14 days.

3) Learned APP on instructions further submitted that, necessary Notice has already been issued to the concerned police Officer for not completing the enquiry within 14 days. That, the enquiry into the complaint of the Petitioner dated 15th September, 2025 is completed and the police have reached to the conclusion that the dispute between the parties

is of civil nature.

4) In view thereof, Mr. Shetye, learned counsel appearing for the Petitioner seeks leave to withdraw Petition with liberty to file a private complaint before the jurisdictional Magistrate on the basis of his complaint dated 15th September, 2025.

4.1) Leave and liberty granted.

5) Disposed off as withdrawn with aforesaid liberty.

6) In view of the disposal of Writ Petition, Interim Application (Stamp) No.25199 of 2025, does not survive and is also disposed off.

(**RANJITSINHA RAJA BHONSALE J.**)

(**A.S. GADKARI, J.**)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
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MASHALKAR
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