

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

CRIMINAL WRIT PETITION NO. 6304 OF 2025

Mohammad Zuber Mohammad Niyaz Hashmi Petitioner

V/s.

The State of Maharashtra and Ors. Respondents

Mr. Vinod Sangvikar a/w. Mr. Shubham Sonawale and Mr. Siddheshwar Galonde i/b. Mr. Ram Karode for the Petitioner.

Mr. S.R. Agarkar, APP for the Respondent – State.

Mr. Yuvraj Dande, Sr.P.I., Wagholi Police Station, Pune city, present.

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

DATED : 03rd DECEMBER, 2025

P.C. :-

1) In response to our Order dated 01/12/2025, Mr. Agarkar, learned APP has placed before us a compilation of documents to justify the detention of the Petitioner from 20/11/2025 till 29/11/2025.

In an attempt to do so, what is placed before us is the proceedings of Chapter Case No.70/2025 instituted on 20/11/2025 by the Special Executive Magistrate, Zone – IV, Pune City.

The Chapter proceedings emanate from a complaint filed by one Rohit Gajmal who is also the Complainant at whose instance C.R.No.633/2025 was registered and the Petitioner alongwith other persons came to be

arrested as in the brawl that took place in the college amongst the students, the Complainant - Rohit Gajmal had sustained head injury.

It is in this C.R., the Petitioner secured an Order of bail from the learned JMFC, Court No.6, Pune on 19/11/2025 and today, an additional affidavit is filed by the Petitioner, stating that he complied with the conditions of bail as he deposited an amount of Rs.5,000/- as cash security and was permitted to furnish surety till 04/12/2025 and the cash security was deposited in the Court on 19/11/2025. Similarly, a hamdast envelope was also deposited with the Jail Authorities, Central Prison, Yerwada but for the Chapter proceedings, he ought to have been freed, on complying with the conditions of bail.

2) The statement of Rohit Gajmal which is the basis of the Chapter proceedings, refer to the registration of C.R.No.633/2025 at his instance and the complaint state that while he along with his friends were in the college, he gathered information that the accused in the offence are likely to be released on bail and they are going to involve themselves in a further squabble to take revenge of they being sent to jail and therefore, he apprehended threat to his life and requested for preventive action. This prompted the Special Executive Magistrate to initiate the Chapter proceedings under Section 130 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

3) We are rather amazed to find that the proceedings of Chapter IX

have been taken resort to merely on an apprehension expressed by a Complainant in the subject C.R. that on being released on bail, the accused persons are likely to revenge the act and without adhering to the requisite provisions which permit initiation of the chapter proceedings.

4) We have already expressed in our order dated 01/12/2025 that the allegations in the Petition are serious and now with the documents placed before us, we are convinced that, the Court must take a serious cognizance of the same as merely because the power is available under the Code of Criminal Procedure, we will not allow any Officer to exercise the power *dehors* the procedure to be followed and without even verifying whether the Petitioner has criminal antecedents so as to resort to the said proceedings.

It is also informed to us by Mr. Agarkar, on instructions, that because he did not furnish bail, he was detained till 29/11/2025, and on 29/11/2025 some police personnel only furnished the bail bond.

5) In the aforesaid circumstances, we direct Mr. Somay Munde, the Special Executive Officer, Zone IV, Pune City i.e., Respondent No.3 in the Petition justifying the detention of the Petitioner from 19/11/2025 to 29/11/2025 being supported by the necessary documents to be placed on affidavit.

6) Let the affidavit be filed within a period of three days from today, list the Petition on **09/12/2025**.

A photocopy of the compilation of documents is placed on record and the original is returned to the learned APP.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)

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