



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.6762 OF 2025**

Nilesh Ramesh Padvale ... Petitioner
versus
The State of Maharashtra ... Respondent

WITH
WRIT PETITION (ST) NO.25521 OF 2025

Yadnesh Dinkar Ambhire ... Petitioner
versus
The State of Maharashtra ... Respondent

Mr. Sudeep Pasbole, Sr. Advocate with Mr. Chinmay A. Godse, Mr. Rajan Gurnani, Ms. Janaki Patil, Mr. Nagraj Tarade i/by Mr. Vivek Thakare, for Petitioner in WP No.6762 of 2025.

Mr. Prashant Raul with Mr. Vivek Thakare, Mr. Viraj Sakhare for Petitioner in WP(ST) No.25521 of 2025.

Mr. K.C.Shinde, APP for State.

Mr. Shirish Pawar, PI, Palghar, present.

CORAM: N.J.JAMADAR, J.

DATE : 22 DECEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. By these Petitions under Article 227 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023), the Petitioners take exception to a judgment and order dated 10 December 2025 passed by the learned Additional Sessions Judge, Bhiwandi in Criminal Revision Application No.40 of 2025, whereby the learned Additional Sessions Judge was persuaded to allow the Revision Application by setting aside the

order dated 4 December 2025 passed by the learned Magistrate, Jawhar, remanding the Petitioners to Judicial Custody by refusing the prayer of the Investigating agency to extend the police custody, and cancel the bail granted to the Petitioners by the learned Magistrate by an order dated 8 December 2025 and direct the Petitioners to remain present before the learned Magistrate, Jawhar on 12 December 2025 for afresh consideration of the prayer of the investigating agency to remand the Petitioners to police custody.

3. The Petitioners are arraigned in C.R.No.281 of 2025 registered with Jawhar Police Station for the offences punishable under Sections 336, 338, 318(1), 318(4) and 3(5) of the Bharatiya Nyaya Sanhita, 2023. They were arrested on 29 November 2025. Learned Magistrate remanded the Petitioners to police custody till 4 December 2025. On that day, learned Magistrate declined to extend the police custody of the Petitioners and instead remanded them to judicial custody. The Petitioners preferred applications for bail. By an order dated 8 December 2025, learned Magistrate was persuaded to release the Petitioners on bail.

4. In the meanwhile, the Respondent, through the Police Inspector, Jawhar Police Station, preferred Revision Application against the order rejecting the prayer to extend the police custody of the Petitioners. By the impugned order, learned Additional Sessions Judge, was persuaded to allow the Revision Application observing, inter alia, that the revision was

maintainable against an order rejecting the prayer for police custody remand. The learned Additional Sessions Judge, noted that the revision application was not maintainable against the order granting bail. Nonetheless, having regard to the fact that the prayer of the Investigating Officer to give time to investigating agency to file reply to the Bail Application on the ground of pendency of the revision application before the Sessions Court was not allowed, the learned Additional Sessions Judge while quashing and setting aside the order dated 4 December 2025, rejecting the prayer for extension of the police custody, cancelled the bail granted to the Petitioners by the learned Magistrate by an order dated 8 December 2025.

5. Mr. Pasbola, learned Senior Advocate for the Petitioner in WP No.6762 of 2025, submitted that, the learned Additional Sessions Judge committed manifest error in cancelling the bail in exercise of the revisional jurisdiction. It was submitted that the learned Magistrate had ascribed justifiable reasons for grant of bail. An order for cancellation of bail cannot be passed in a light manner. Despite observing that the order granting bail is not revisable order, the learned Additional Sessions Judge ventured to cancel the bail.

6. Mr. Raul, learned Counsel for the Petitioner in WP(ST) No.25521 of 2025, supplemented the submissions of Mr. Pasbola.

7. In opposition to this, learned APP endeavoured to support the impugned order. It was submitted that, despite the fact that the Respondent-

State had preferred a revision against the order rejecting the prayer to grant police custody remand, learned Magistrate granted bail to the Petitioners in a hasty manner. Thus, the learned Additional Sessions Judge was justified in cancelling the bail as well.

8. Having heard the learned Counsel for the parties, this Court finds that, in view of the provisions contained in Section 187 of the BNSS, 2023, the Magistrate is empowered to grant police custody for a term not exceeding fifteen days in the whole, or in part, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be. Thus, even if the impugned order setting aside the order passed by the learned Magistrate dated 4 December 2025 rejecting the prayer for extension of the police custody remand is sustained, yet, the learned Additional Sessions Judge was not justified in cancelling the bail granted by the learned Magistrate, especially when a direction was given to the Petitioners to appear before the learned Magistrate, Jawhar on 12 December 2025.

9. It is imperative to note that, by the impugned order, the learned Additional Sessions Judge essentially directed the learned Magistrate to reconsider the aspect of grant of police custody. Therefore, the learned Magistrate would be equipped to pass an appropriate order on the fresh application directed to be filed by the investigating agency in regard to the

prayer for grant of police custody, if the Petitioners subject themselves to the jurisdiction of the learned Magistrate by appearing before the learned Magistrate. It is trite, the term “custody” is elastic enough to include in its fold such appearance before the Court.

10. Mr. Pasbola and Mr. Raul, learned Counsel for the Petitioners, on instructions, submitted that the Petitioners are willing to appear before the learned Magistrate on 24 December 2025 at 3.00 p.m. and, thereupon, the learned Magistrate may pass appropriate orders on the application of the IO, after providing an opportunity of hearing to the Petitioners.

11. In the aforesaid view of the matter, and the statements made on behalf of the Petitioners, the Writ Petitions deserve to be partly allowed.

12. Hence, the following order :

ORDER

- (i) The Writ Petitions stand partly allowed.
- (ii) The impugned order to the extent of cancelling the bail granted to the Petitioners stands quashed and set aside.
- (iii) Warrants of arrest issued against the Petitioners also stand quashed and set aside.
- (iv) The Petitioners shall appear before the learned Magistrate, Jawhar, on 24 December 2025 at 3.00 pm.
- (v) Learned Magistrate is requested to consider the fresh application

to be filed by the Investigating Officer for grant of police custody and, after providing an opportunity of hearing to the Petitioners, pass appropriate orders on the said application.

(vi) The parties will be at liberty to work out their remedies after learned Magistrate passes appropriate orders on the application to be filed by the IO.

(vii) It is clarified that, in the event the Petitioners do not appear before the learned Magistrate on 24 December 2025 at 3.00 pm., learned Magistrate would be free to take appropriate coercive action to secure the presence of the Petitioners.

(N.J.JAMADAR, J.)