

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

Criminal Application No. 783 of 2025

Vinod @ Vinayak Bhalerao Barve ... Applicant

V/s.

The State of Maharashtra and anr. ... Respondents.

Mr. Akshay Bankapur	Advocate for the Applicant.
Mr. H.J. Dedhia	APP for the State.

CORAM : S.M. MODAK, J

DATE : 24th July 2025.

ORAL JUDGMENT:

Heard learned Advocate Shri Bankapur for the Applicant-
under trial prisoner and the learned APP.

2. This is one of the example wherein even the District Judges who have acquired some experience deal with the issue improperly. Any Judge who is dealing with any issue is basically supposed to know what are the issues to be decided and what is the scope of enquiry to be conducted. If a Judge misses these issues and deal with the prayer, it results into undesired results.

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3. When the Applicant has prayed for direction to jail administration to produce the Applicant in the office of Sub-Registrar of Assurances, Nashik, the learned Judge decided the application as if he is dealing with a challenge to an action taken as per the provisions of SARFAESI Act and as if he is dealing with the prayer for temporary or interim bail. Why I am saying this because in an impugned order, the learned Judge in Para No.4 opined that “*not a single document is placed on record by the Applicant showing action being initiated by the SBI Bank as per the SARFAESI Act.*” Nowhere the Applicant has challenged that action.

4. The learned Judge misses point that the loan document i.e. Certificate dated 17th April 2025 sanctioning the loan is produced just to show that the Applicant is desirous of selling a flat. Similarly, the learned Judge observed “*Applicant has failed to satisfy the urgency regarding temporary interim bail.*” **Even the learned Judge has not taken care in looking at the prayer in the application.** He has nowhere prayed for grant of any kind of bail. Whatever is prayed is issuing directions to the jail administration for Applicant’s production before the Sub-Registrar Office.

5. There is Deed of Apartment on the basis of which this Applicant has purchased certain property. There are documents to show SBI Bank has granted him a loan. Now the Applicant is in need of the financial help, intends to sell that property and wants to execute the power of attorney in favour of his wife namely Mrs. Ashwini Barve.

6. When the Applicant is in judicial custody, he can only seek for a relief from the concerned Judge. One does not know whether he will be released on bail or will not be released on bail. Does it mean to say that he should wait for executing the power of attorney till he comes out from jail. This is unreasonable restriction on right to deal with the property. I am inclined to allow the petition.

7. When the Court is allowing the petition, it does not mean that Court has verified about his ownership over the property, necessity to sell the property and contents of proposed power of attorney. That is for the Applicant to take care.

8. Considering the above circumstances, the Applicant can be produced before the Sub-Registrar Office with escort. The charges

may not be levied upon the Applicant.

9. In view of that following order is passed:

ORDER

- (i) The Application is allowed.
- (ii) The order dated 7th May 2025 passed by the Court of Additional Sessions Judge, Nashik is set aside.
- (iii) The Court of Additional Sessions Judge, Nashik is directed to issue necessary directions to the Superintendent of Jail, Nashik Central Prison to produce the Applicant before the Office of Sub-Registrar of Assurances, Nashik alongwith the escort at the State cost.
- (iv) It is for the Applicant to inform the Court about the date of remaining present in the Sub-Registrar Office, Nashik.
- (v) The Court of Additional Sessions Judge is also directed to issue directions to the Sub-Registrar of Assurances, Nashik to see that power of attorney will be registered without fail subject to compliance of the rules.
- (vi) The manpower in the escort be decided by the Superintendent of jail by making necessary

correspondence.

10. **Criminal Application stands disposed of.** Copy of the order
be sent to the concerned Judge.

(S.M. MODAK, J.)