IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1781 OF 2026

Arshad Jainuddin Kazi & Anr. … Applicants

V/s.

The State of Maharashtra …. Respondent

Mr. Ranjeet M. Pawar, for the Applicants.

Mr. S. S. Ghag, APP for the Respondent-State.

Mr. Pankaj Hole, PSI attached to Hinjewadi Police Station, Pune present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 7 OCTOBER 2026

P. C. :-

1. Heard Mr. Pawar, learned Counsel appearing for the Applicants and Mr. Ghag, learned APP, for the Respondent-State.

2. By this Criminal Application filed under Section 528 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the challenge is to the legality and validity of the Order dated 30th January 2026 passed by the learned Special Judge and Additional Sessions Judge, District and Sessions Court, Shivajinagar, Pune ("**impugned Order**"). The impugned Order reads as under:

> "*Perused.*
>
> *Heard.*

> *As such the provisions of MCOCA came to be invoked after release of the accused on bail,* ***to facilitate the investigation****, the re-arrest of the accused is very much essential. Hence, allowed to re-arrest the accused in this crime.*"
>
> **(Emphasis added)**

3. Mr. Pawar, learned Counsel for the Applicants, submits that the re-arrest Order was passed by the learned Special Court without issuing notice to the Applicants or hearing the Applicants. He submits that the subject FIR has been lodged for the offences punishable under Section 325 of the *Bharatiya Nyaya Sanhita, 2023* ("**BNS**"), Sections 5C, 9A and 9B of the *Maharashtra Animal Preservation Act, 1976* and Section 11 of the *Prevention of Cruelty to Animals Act, 1960*. He further submits that the Applicants were arrested on 1st September 2025 and, thereafter, Section 111 of BNS was applied with previous sanction and that the Charge-sheet was filed on 30th October 2025 and, thereafter, the Applicants were released on bail on 1st December 2025. He submits that thereafter, the provisions of Sections 3(1)(ii) and 3(4) of the *Maharashtra Control of Organised Crime Act, 1999* ("**MCOC Act**") have been applied on 26th December 2025 and the Application to re-arrest was filed on 29th January 2026 and the Order to re-arrest the Applicants have been passed on 30th January 2026. He further

submits that Section 111 of BNS and Sections 3(1)(ii) and 3(4) of MCOC Act are identical in punishment and fine amount and re-arrest for the said offence is double jeopardy. He submits that the reasons mentioned in re-arrest Application are already investigated and the Charge-sheet has been filed.

4. On the other hand, Mr. Ghag, learned APP, submits that the Order passed is in accordance with law. On instructions, he submits that now even the Charge-sheet has also been filed under the provisions of MCOC Act.

5. Perusal of the record shows that, on 1st September 2025, FIR No.636 of 2025 has been filed with Hinjewadi Police Station, for the offences punishable under Section 325 of BNS, Sections 5C, 9A and 9B of the *Maharashtra Animal Preservation Act, 1976* and Section 11 of the *Prevention of Cruelty to Animals Act, 1960*. The Applicants were arrested on 1st September 2025. When the Applicants were in custody, Section 111 of BNS was applied with the previous sanction on 11th September 2025 and the Charge-sheet was filed on 30th October 2025. Thereafter, the learned Additional Sessions Judge, Pune by Order dated 1st December 2025 passed in Criminal Bail Application No.6821 of 2025 has granted regular bail. Thereafter, the provisions of the MCOC Act

have been applied on 26th December 2025 and the Application to re-arrest the Applicants was filed by the prosecution on 29th January 2026 and the same has been immediately allowed on 30th January 2026.

6. Section 111 of BNS is regarding organised crime. The said Section has already been applied on 11th September 2025 with previous sanction and the Charge-sheet has been filed and thereafter, only the Applicants have been released on bail.

7. There is substance in the contention raised by Mr. Pawar, learned Counsel for the Applicants, that Section 111 of BNS and Sections 3(1)(ii) and 3(4) of MCOC Act, are identical in punishment and fine amount.

8. In any case, it is an admitted position that even under the provisions of MCOC Act also the Charge-sheet has been filed. Accordingly, it is not necessary to re-arrest the Accused for the investigation, as observed by the learned Special Judge under MCOC Court.

9. Accordingly, the Order dated 30th January 2026 passed by the learned Special Judge and Additional Sessions Judge, District and Sessions Court, Shivajinagar, Pune, is quashed and set aside.

10. The Criminal Application is allowed in above terms

[MADHAV J. JAMDAR, J.]