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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3766 OF 2026

Ajit Genba Dagade .. Applicant
Versus
State of Maharashtra .. Respondent

.....

- Mr. Rachit Khamparia a/w N.V. Sharma, Mohammad Sayyed & Pandurang Andhale, Advocates for Applicant
- Ms. Rajeshree V. Newton, APP for State
- Mr. Shailesh Kharat a/w Mr. Vinod Kendre, Mr. Govind Mundhe, Mr. Parthraj Ware & Mr. Bharat Shinde, Advocates for Intervenor / First Informant
- PSI, Manjari Police Station

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 9, 2026

P. C.:

1. Heard Mr. Khamparia, learned Advocate for Applicant; Ms. Newton, learned APP for State and Mr. Kharat, learned Advocate for Intervenor / First Informant.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in connection with Crime No. 98/2026 registered with Manjari Police Station, Pune on 06.07.2026 for the offences punishable under Sections 62(2), 108, 111(2), 318(4), 319(2), 336(3), 338, 340(2), 351(2) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. On 07.10.2026 after hearing the learned Advocates appearing for the parties, this Court passed the following order:-

> *"1. Heard Mr. Khamparia, learned Counsel for the Applicant and Ms. Newton, learned APP for the Respondent – State.*
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> *2. Case of the Applicant stems from the fact that the Applicant is not named in the FIR, but has been arrested illegally. Learned Advocate has drawn my attention to page No. 65 which is the remand report dated 05.08.2026. Next he has drawn my attention to page No. 68 which is the Section 47(1)(2) notice which is issued to him on 05.08.2026 and the time is kept blank. Next he has drawn my attention to page No. 70 which is the Section 35(3) notice issued to him on 05.08.2026. Prima facie, case of the Applicant is squarely covered by the decision of this Court in the case of* ***Omkar Balkrushna Gade & ors. vs. The State of Maharashtra*** *decided by this Court on* ***10.09.2026*** *in* ***B. A. No. 2899 of 2026****. Paragraph No. 8 of the said decision, wherein the facts are absolutely identical to the facts before me in the present case, reads thus:-*
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> > *"8. However, in viewof non compliance of the provisions of subsections(3), (4) and(6) of Section 35 of the BNSS, the arrestof both the Applicants on the same date and at the same time while simultaneously handing over notices under the above Section 35 BNSS to them is therefore, illegal. Sub-section (6) categorically states that where such person at any time fails to comply with the terms of the notice, (issued under Section 35(3) of the BNSS) or is unwilling to identify himself, the Police Officer may, subject to such orders asmay have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice."*
>
> *3. In that view of the matter, the prosecution shall immediately take instructions and apprise the Court about the veracity of the submissions made by the learned Advocate which are quoted herein above and inform the Court accordingly on next date.*
>
> *4. List the matter on* ***09.10.2026****, First On Board."*

4. Today, learned APP pursuant to the said order has placed before the Court a report dated 08.10.2026. The said report is entirely on the merits of the matter. The order which is reflected above *prima facie* calls upon the prosecution to explain its role with regard to issuance of the notices under Sections 35(3) and 46(2) of BNSS, which are

appended to the Bail Application. The report which is placed before me is entirely on the merits without a semblance of a sentence or word with regard to the action of the prosecution with regard to issuance of the aforesaid two statutory notices under the provisions of the BNSS. The case of the Applicant is, therefore, covered by the decision of this Court as being that of an illegal arrest as determined by this Court in the case of ***Omkar Balkrushna Gade & Ors. (supra).*** In that view of the matter, I am inclined to consider the present Application of the Applicant.

5. At this juncture, Mr. Kharat, learned advocate appearing on behalf of the Intervenor / first informant enters appearance and persuades me to allow him to intervene. Insofar as the present issue is concerned for grant of bail, I need not even hear the first informant because of the exigency shown by the prosecution in arresting the Applicant without following the due process of law. Nevertheless, I have heard Mr. Kharat.

6. Mr. Kharat would submit that the Applicant is indicted in a serious offenses i.e. abetment of suicide and siphoning of family funds including forgery and cheating. Mr. Kharat may be absolutely right but that can only be applicable and possible if the prosecution follows the due process of law. In the present case, once it is *prima facie* seen that the arrest of the Applicant is illegal, the Court will have to step in

because the rule of law pervades and prevails in this Country which the prosecution should know. In that view of the matter, the Applicant is entitled to be released on bail forthwith. Hence, the Applicant is granted bail on the following terms and conditions:-

(i) Applicant is directed to be immediately released on bail from prison in connection with Crime No. 98 of 2026;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount;

(iii) Applicant shall report to the Investigating Officer at concerned Police Station, once every month on the first Sunday of the month between 10:00 a.m. to 12:00 p.m.;

(iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if he does so it will entitle the prosecution to apply for revocation of this order;

(v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vi) Applicant shall not influence any of the witnesses or

tamper with the evidence in any manner;

(vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and

(viii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

7. Needless to state that the above observations will not come in the way of trial as they are *prima facie* in nature based on the submissions made and the material placed before this Court.

8. Bail Application is allowed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

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RAVINDRA MOHAN AMBERKAR

Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2026.10.09 20:50:23 +0530