

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

CRIMINAL WRIT PETITION NO. 3173 OF 2025

Suhel Lalani

...Petitioner

Versus

State Of Maharashtra & Anr

...Respondents

Adv. S. R. Ghodke a/w. Adv. Rakesh Sonar, Adv. Ramchandra Wagh i/b. Adv. Narayan G. Rokade for the Petitioner.

Mr. J. P. Yagnik, Add. PP for the Respondent-State.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 16TH MARCH 2026.

P.C. :

1. A Leave and License Agreement dated 1st March 2021 was executed by the Petitioner in favour of Respondent no. 2. The said agreement expired by efflux of time on 28th February 2023. According to the Petitioner, Respondent no. 2 defaulted in payment of license fees after the initial four months and despite expiry of the agreement, continued to occupy the premises without any subsisting legal right. In these circumstances, the Petitioner through his Power of Attorney holder Mr. Javed Lallani, lodged FIR no. 378 of 2023 dated 6th June 2023 with Yerawada Police Station, Pune for offences punishable under Sections 34 and 448 of the Indian Penal Code, 1860. As a counter blast, Respondent no. 2 instituted Commercial Suit no. 19 of 2023 before the Commercial Court at Pune seeking specific performance of an alleged oral agreement to sell the premises. It is the Petitioner's case that there is no such oral agreement and no interim protection has been granted in favour of

Respondent No. 2 in the said suit.

2. During the pendency of the aforesaid proceedings, FIR no. 178 of 2025 was registered on 14th March 2025 at Yerawada Police Station, Pune against Respondent no. 2 and others for offences punishable under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956 and Sections 143 and 3(5) of the Bharatiya Nyaya Sanhita, 2023. In connection therewith, the Investigating Officer filed an application dated 3rd April 2025 before the learned Judicial Magistrate First Class, Pune seeking an order for sealing of the subject premises. The Petitioner is not an accused in the said FIR. By order dated 8th April 2025 and without issuing notice to the Petitioner, the learned Magistrate allowed the said application by a cryptic, one-line order directing sealing of the premises.

3. Aggrieved by the said order sealing of the premises, Respondent no. 2 preferred Criminal Revision Application no. 211 of 2025 before the learned Additional Sessions Judge, Pune. The present Petitioner filed an Intervention Application in the said Revision seeking rejection of the revision application and opposing grant of any interim relief.

4. By the impugned order dated 29th April 2025, the learned Additional Sessions Judge set aside the Magistrate's order. The Revisional Court noted the Petitioner's objection that no notice had been issued to him and that possession ought to be restored to him as owner. The learned Judge, however observed that under Section 18 of the Immoral Traffic (Prevention) Act, a notice may be issued either to the owner or to the occupier and further held that the question

of handing over possession to the Petitioner did not arise for consideration in the revision proceedings. Since the order dated 8th April 2025 of the learned Magistrate was found unsustainable, it was set aside by the Revisional Court. As a consequence, the premises stood de-sealed.

5. The principal grievance of Mr. Ghodke, the learned counsel for the Petitioner is that notice ought to have been given by the learned Magistrate before passing the order sealing the premises and that the possession of the property ought to have been handed over by the Revisional Court to the Petitioner. Instead it permits Respondent no. 2 to continue in occupation of the premises.

6. In my view, the contention is devoid of merit for more than one reason. Firstly, a perusal of the Intervention Application filed by the Petitioner in the revision proceedings indicates that no substantive prayer was made seeking restoration of possession. The reliefs in the Intervention Application are quoted:

“A. Reject/Dismiss the interim application of stay in above noted Cri. Rev. Appl. No. 211/2025 filed by the Petitioner/Accused.

B. Reject/Dismiss the above noted Cri. Rev. Appl No. 211/2025 filed by the Petitioner/Accused.

C. Pass any other just and equitable orders in the interest of justice.”

7. The reliefs were confined to opposing the revision and seeking dismissal thereof. Secondly, the scope of the revision was limited to examining the legality and correctness of the Magistrate’s order directing

sealing of the premises. The Revisional Court was not seized of any adjudication concerning title or entitlement to possession. Thus, the Revisional Court rightly refrained from enlarging the scope of the proceedings beyond the legality of the sealing order. The issue of possession between the owner and the erstwhile licensee is essentially a civil dispute and falls within the domain of the competent civil court.

8. In these circumstances, no interference is warranted with the impugned order dated 29th April 2025 passed by the learned Additional Sessions Judge. However, since the leave and license agreement has already expired by efflux of time on 28th February 2023 and since the Respondent no. 2 continues to be in illegal possession of the property and since the civil suit appears to have been filed to harass the Petitioner, I grant liberty to the Petitioner to file an appropriate application either in the pending civil suit or adopt any independent proceedings as may be available in law, to recover the possession from Respondent no. 2. If any such application or proceeding is instituted, the concerned Court shall decide the same on its own merits and in accordance with law, as expeditiously as possible. Criminal Writ Petition No. 3173 of 2025 stands disposed of in the aforesaid terms.

[GAUTAM A. ANKHAD, J.]