

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

WRIT PETITION NO. 945 OF 2026

Zaid Ismail Patel and Ors.

... Petitioners.

V/s

The State of Maharashtra and Ors.

...Respondents.

Mr. Tanveer Aziz Patel, advocate for the petitioners.

Ms. M.M. Deshmukh, I/C. Public Prosecutor with Mr. S.V. Gavand, Addl. Public Prosecutor for the respondent no.1-State.

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 6TH MARCH 2026

PER, GAUTAM A. ANKHAD, J.

The petitioners are complainants/victims who claim to have been cheated by a financial scheme run by the accused Kothari Jewellers and its partners. A completely misconceived petition has been filed by them, seeking the following reliefs:-

“A. That this Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate writ, order or direction transferring investigation of the offence u/s 420, 406, 409 and 34 of the Indian Penal Code and u/s 3 and 4 of the MPID Act arising out of the FIR No. 448 of 2024 registered at Panvel City Police Station from the Respondent to the Economic Offences Wing (EOW), Mumbai or CID Mumbai or any independent investigation agency outside the jurisdiction of Mr. Milind Bharambe, the Commissioner of Police, Navi Mumbai, Addl CP-Deepak Sakore and DCP EOW-Mr. Sachin Gunjal and Order Fresh Investigation/Re-Investigation.

B. That this Hon'ble Court may be pleased to call for all the investigation papers especially the Case diaries from the Respondent in connection with the FIR No. 448 of 2024 registered at Panvel City

Police Station and examine how the Sr.PI Mr. Sanjay Patil and New IO API Mr. Nandkumar Koli suddenly change the stand after 1.6 years and comes to the opinion that the arrest of the absconding Accused is not required in the present huge economic offence and filed chargesheet hastily in order to evade the arrest of the accused misdirecting the informant and victims about the stage of investigation and chargesheet.

C. That this Hon'ble Court may be pleased to initiate the investigation against Mr. Milind Bharambe, the Commissioner of Police, Navi Mumbai, Mr. Sanjay Patil - Senior Police Inspector, EOW Navi Mumbai and IO-API Nandkumar Koli, Addl CP - Deepak Sakore and DCP Crime - Mr. Sachin Gunjal, ACP EOW Prerana Katte and other officers responsible and they may be added as accomplice accused for colluding with the accused and evading the arrest of the accused.

D. This Hon'ble Court may kindly direct the Respondent No.1 and 2 Principal Secretary, Home Department and DGP Maharashtra to initiate investigation and take appropriate action against Sr.PI Sanjay Patil, IO API -Nandkumar Koli, CP-Mr. Milind Bharambe, Addl CP -Deepak Sakore, DCP EOW - Mr. Sachin Gunjal and ACP EOW - Prerana Katte for colluding with the accused and evading the arrest of the absconding accused in a huge MPID economic offence.

E. That this Hon'ble Court may be pleased to call for the Call Data Records (CDR) along with Tower location of Middle Man Mr. Sanghavi from Jalgaon (Mobile: 9823555501) along with CDR of the Sr.PI Sanjay Patil, IO API - Nandkumar Koli, Addl CP-Deepak Sakore, DCP Crime - Mr. Sachin Gunjal and CP - Milind Bharambe, ACP EOW - Prerana Katte from July 2024 to 21.01.2026 to show the malpractices committed by the biased Investigation Agency.

F. That this Hon'ble may kindly direct the Respondent -Investigation Agency to immediately arrest the accused.”

2. In brief, the petitioners contend that C.R. No. 448 of 2024 was registered on 16th July 2024 for offences punishable under Sections 409, 420 and 406 of the Indian Penal Code, 1860, read with Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. Being an

economic offence, the case was transferred to the Economic Offences Wing-2, Navi Mumbai. The accused have been absconding since July 2024, and a Look Out Circular was issued against the accused in November 2024. The accused filed applications for anticipatory bail, which have been rejected by all Courts, including the Hon'ble Supreme Court of India.

3. Mr. Tanveer Patel, the learned counsel for the petitioners submits that despite the accused are absconding since July 2024, and the respondent-police authorities have not taken adequate steps to secure their arrest. It is further alleged that attempts were made by the police to negotiate a paltry settlement on behalf of the accused, which was refused by the petitioners. The learned counsel submits that on 21st January 2026, the police hastily filed a charge-sheet before the jurisdictional Court only to avoid effecting the arrest of the accused. According to the petitioners, during the hearing of anticipatory bail applications, the police had sought custodial interrogation, whereas in the charge-sheet it is stated that arrest is not required. Mr. Patel submits that all along the police had indicated and informed the petitioners that the accused would be arrested. This U-turn and the failure of the police to arrest the accused demonstrates the collusion between the accused and the investigating agency. On these grounds, the transfer of the investigation is sought.

4. Ms. M.M. Deshmukh, the learned In-charge Public Prosecutor and Mr. S.V. Gavand, the learned Additional Public Prosecutor oppose the petition and submit that the investigation has been conducted in accordance with law and sufficient material has been

collected on the basis of which a charge-sheet has been filed. It is submitted that no case is made out for the transfer of the investigation.

5. It is an undisputed fact that a final report has been filed before the jurisdictional Court. The report under Section 173(2) of the Code of Criminal Procedure, 1973 (corresponding to Section 193(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023) is only the opinion of the Investigating Officer that sufficient material exists to proceed against the accused. The jurisdictional Court is not bound by such an opinion. Under the statutory scheme, the Magistrate may accept the report or direct further investigation or even take cognizance if the police opines otherwise. Only after a charge-sheet is filed, the matter enters the domain of judicial scrutiny. The law is well settled that investigation and adjudication operate in distinct spheres. In *State of Bihar v. J.A.C. Saldanha*¹, the Hon'ble Supreme Court has held that once investigation is completed and charge-sheet is filed requesting the Court to take cognizance of the offence, the adjudicatory function of the judiciary to determine whether or not an offence has been committed commences. Further, the parameters governing the transfer of investigation are well defined. In *Sujatha Ravi Kiran v. State of Kerala*², the Hon'ble Supreme Court has held that extraordinary powers directing transfer of investigation to a specialized agency such as the CBI are to be exercised sparingly and only in exceptional circumstances. Mere allegations of influence or apprehension of collusion, without substantive material, are insufficient to justify such a transfer.

¹ (1980) 1 SCC 554

² (2016) 7 SCC 597

6. In the present case, apart from bald allegations, no material has been placed on record to demonstrate that the investigation is tainted, perfunctory or actuated by mala fides. The mere fact that the accused has not been arrested does not vitiate the investigation. Arrest is not mandatory in every case. It is settled law that an arrest cannot be made in a routine manner merely because an offence is alleged. In *Joginder Kumar v. State of U.P.*³, the Hon'ble Supreme Court held that merely because an arrest can be made because it is lawful, it does not mandate that arrest must be made. The police officer must be satisfied about the necessity and justification of such arrest on the basis of some investigation. The stand taken by the police during anticipatory bail proceedings and the filing of charge-sheet cannot, by itself, establish collusion. The necessity of arrest depends on the requirements of the investigation. Transfer of investigation from the State police to another agency has serious institutional implications and is not to be ordered lightly. Such directions are generally issued only where compelling circumstances exist, such as involvement of high-ranking officials or demonstrable failure of the investigative process. No such extraordinary circumstance is shown. Lastly, if the petitioners are aggrieved by the contents of the charge-sheet or the manner of investigation, they have efficacious statutory remedies, including filing of a protest petition before the concerned Court. In view of the above, no case is made out for transfer of investigation or for issuance of any writ as prayed for. Accordingly, Writ Petition No. 945 of 2026 stands dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

BHARAT
DASHARATH
PANDIT

Digitally signed by
BHARAT
DASHARATH PANDIT
Date: 2026.03.18
15:00:33 +0530

³ (1994) 4 SCC 260