

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

CRIMINAL WRIT PETITION NO. 1012 OF 2026

BASAVRAJ
GURAPPA
PATIL

Ajit M. Prasad

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

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Ms. Lakshmi Raman a/w Sanjali Bidwe i/by Datta Mane, Advocates for the Petitioner.

Mr. S. V. Gavand, Additional Public Prosecutor for Respondent No.1-State.

Mr. K. G. Mhatre i/by Mahtre and Associates, Advocates for Respondent Nos.3 and 4.

API Kalidas Surve, Unit-3, GC-1, EOW, Mumbai is present.

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**CORAM : SHREE CHANDRASHEKHAR, CJ &
SUMAN SHYAM, J.**

DATE : 5th MAY 2026.

P.C. :

The petitioner states that he is aged about 78 years and a Non-Resident Indian, residing at London, U.K. He is seeking a direction for expeditious hearing of the complaint bearing C.C. No. 1058/PW/2016 pending before the Additional Chief Judicial Magistrate, 47th Court, Esplanade, Mumbai in a time bound manner.

2. The petitioner states that he appointed Mr. Premal Patel as his Special Power of Attorney holder on 13th February 2007 with a specific power vesting in him to sign and execute any transaction with Ms. Linda who had purchased Flat No.302 at Vandana Apartment, Janki Kutti, Juhu Church Road, Juhu, Mumbai – 400 059 from M/s Vikas Developers after paying the full consideration amount. She was

working with Indian Airlines and on account of her travel engagements handed over the keys of the flat to Mrs. Susheela Shah. Ms. Linda was diagnosed with Hypertension Progressive Degenerative Arthritis and she left India in March 1992. The aforesaid property was, therefore, sold to the petitioner by virtue of an agreement for sale dated 7th August 2007. Before that, a public notice was published on 5th June 2007 in Mid-Day newspaper putting the public at large on notice regarding sale of the said property. On behalf of the petitioner, his Power of Attorney holder executed the deed with Mr. Salim Shaikh on 29th January 2007 who was appointed by Ms. Linda. The petitioner has given the details of the transaction through which the consideration amount was paid and agreement for sale dated 7th August 2007 was executed for the said property.

3. Without going into the further details of the case, it will suffice to indicate that Suit No.2035 of 2010 (on transfer, Suit No.0103289 of 2024) came to be instituted by the petitioner seeking a declaration of his title. In the meantime, a complaint was filed on 23rd December 2009 by Ms. Linda on the basis of which a First Information Report was lodged on 22nd October 2010 against the respondent nos.2 to 4 *vide* First Information Report No.310 of 2010 at Juhu Police Station; The investigation of the said case was taken over by the Economic Offences Wing which re-registered the crime as First Information No.66 of 2010. After the investigation, a charge-sheet was laid and the case was posted for framing of the charge against the accused persons.

4. Mr. S. V. Gavand, the learned Additional Public Prosecutor tenders a copy of order dated 4th April 2026 by which Discharge Application jointly filed by Rajesh Narayan Prasad Agarwal and Surendra Narayan Prasad Agarwal, the respondent nos.3 and 4, has

been dismissed. Mr.K. G. Mhatre, the learned counsel appearing for the respondent nos.3 and 4 states that a revision petition *vide* Criminal Revision Application No.100287 of 2026 has been filed against the said order dated 4th April 2026.

5. Ms. Lakshmi Raman, the learned counsel for the petitioner draws our attention to the particulars of witnesses who are cited in the charge-sheet by the police and submits that it is necessary that the trial in C.C. No.1058/PW/2016 is conducted expeditiously because nine witnesses are senior citizens and one of them has crossed the age of 86 years. Ms.Lakshmi Raman further submits that Abdul Wahid Abdul Majid Shaikh who is aged about 86 years of age was the Notary Public and his evidence is quite crucial for the prosecution. Out of 24 witnesses, about 10 witnesses are official witnesses being Branch Manager of HDFC Bank, SBI Commercial and International Bank, UCO Bank, FSL Officer and Investigating Officers. The learned counsel for the petitioner further states that the petitioner is aged about 78 years and the respondent no.3 has also crossed the age of 61 years.

6. In the background of the aforesaid facts, the learned counsel for the petitioner submits that it is in the interest of the prosecution and the parties to litigation that the trial in C.C. No.1058/PW/2016 is conducted on day to day basis.

7. Ordered accordingly.

8. Having regard to the mandate under section 309 of the Code of Criminal Procedure, 1973 corresponding to section 346 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the trial Judge shall conduct the trial in C.C. No.1058/PW/2016 expeditiously and shall not adjourn the hearing without sufficient reason to be recorded in writing notwithstanding the pending criminal revision application filed

by the respondent nos.3 and 4, who may take steps for expeditious hearing of the said revision petition filed by them.

9. As to the prayer made at clause (b) under paragraph no.37 to allow the petitioner to use and occupy the Flat No.302, Vandana CHS, Janki Kutir, Juhu Church Road, Mumbai, the said prayer cannot be adjudicated in the present proceeding in view of the pendency of Suit No. No.2035 of 2010 (on transfer, Suit No.0103289 of 2024). Ms.Lakshmi Raman, the learned counsel for the petitioner strenuously argued that the petitioner has no place to stay in India except Flat No.302, Vandana CHS, Janki Kutir, Juhu Church Road, Mumbai and that is the reason he is not able to come back to India. We therefore permit the petitioner a liberty to file an appropriate application for the appointment of a Receiver and his appointment as the Agent of the Receiver, who may permit him to stay in his flat. This liberty is given to the petitioner in view of the changed circumstance that the police has now found prima facie truth in the complaint against the accused persons and a charge-sheet has been filed. We further find that there are indisputable materials on record to establish payment of the consideration amount by the petitioner. Mr.K.G. Mhatre, the learned counsel for the respondent nos.3 and 4 submits that an application for the appointment of a Receiver was dismissed on a previous occasion. However, we are inclined to give a liberty to the petitioner to move a fresh application for the appointment of a Receiver etc. for the reasons stated hereinabove.

10. With the aforesaid observations and directions, Writ Petition No.1012 of 2026 is allowed.

[SUMAN SHYAM, J.]

[CHIEF JUSTICE]