

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.333 OF 2026

Harshwardhan @ Harshal Choudhari
Aged 37 years,
R/at Vishwajeet Apartment, Flat No.10,
Busari Colony, Kothrud, Pune. ...Applicant

Versus

1. State of Maharashtra
(Through Kothrud Police Station, Pune)
2. Sourab Shivkumar Suman
Age – 38 years, Occ. Service
R/at. C 1202, ITEO, Homes, Hinjewadi, Pune ...Respondents

Mr. S. M. M. Owais T. Jahagirdar a/w. Mr. Vahid Shaikh and Mr. Ibrahim I. Sayyed, for the Applicant.
Ms. Kranti T. Hirvale, APP, for Respondent No.1-State.
Mr. Kuldeep U. Nikam a/w. Mr. Prasad Avhad, for Respondent No.2.
Mr. Mohan Chavan, PSI, Kothrud Police Station, Pune City, Pune, present in Court.

CORAM: MADHAV J. JAMDAR, J.
DATED : 16th JUNE 2026

P. C.:

1. Heard Mr. Jahagirdar, learned Counsel appearing for the Applicant, Ms. Hirvale, learned APP appearing for Respondent No.1-State and Mr. Nikam, learned Counsel appearing for Respondent No.2.

2. By the present Criminal Application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “**BNSS**”), the Applicant is challenging the legality and validity of the order dated 29th January 2026 passed by the learned Additional Sessions Judge, Pune in Bail Application No.5697 of 2025, whereby the bail granted to the Applicant vide order dated 19th August 2025 by the learned Judicial Magistrate First Class (for short “**JMFC**”) in C.R. No.184 of 2025 was cancelled.

3. This matter was listed yesterday. When the matter was called out yesterday immediately learned APP stated that the Applicant is absconding. The learned APP pointed out earlier orders where no stay has been granted and particularly, order dated 18th April 2026 passed by a learned Single Judge wherein police were granted liberty to take appropriate steps to secure Applicant’s arrest. However, the learned Advocate appearing for the Applicant submitted that the Applicant is not absconding and the Applicant be heard on merits. He submitted that the Applicant will remain present in this Court if protection is granted. Although the said request is opposed by the learned APP and the learned Counsel of

Respondent No.2, to give fair opportunity to the Applicant, this Court passed the following order on 15th June 2026:

“1. Stand over to 16th June 2026.

2.The Applicant shall remain present in the Court tomorrow.

3.Till the next date, no coercive steps be taken against the Applicant.

4.This order is passed without prejudice to the rights and contentions of the Applicant as well as the Respondents, and more particularly, in view of the earlier orders passed by this Court.”

4. As noted hereinabove, by the earlier order dated 18th April 2026, the police were directed to take appropriate steps to secure the arrest of the Applicant and as the learned Advocate appearing for the Applicant submitted that the Criminal Application be heard on merits and that the Applicant would remain present in this Court, if limited protection is granted. The above order dated 15th June 2026 was passed in view of said submissions. However, today when the matter is called out, learned Advocate appearing for the Applicant submitted that the Applicant has already filed proceeding in the Supreme Court seeking transfer of the case. Thus, indicating that now this Court should not hear this matter till the Supreme Court decides the said Transfer Petition. When it was

pointed out to the learned Advocate of the Applicant that this was not informed to this Court yesterday and as this Court has granted limited protection to the Applicant, now this is informed to the Court and therefore, it was misrepresented to this Court that today the matter would be argued on merits and when this Court asked the learned Advocate appearing for the Applicant to produce copy of the Transfer Petition, learned Advocate appearing for the Applicant submits that the said Supreme Court proceeding is concerning some other matter and that he will make submissions.

5. Mr. Jahagirdar, learned Advocate appearing for the Applicant has raised the following contentions:

- i. He submitted that the main ground on which the bail has been cancelled is that the learned Magistrate has no jurisdiction to grant bail as Section 111(3) of the Bharatiya Nyaya Sanhita, 2023 (for short “**BNS, 2023**”) has been invoked.
- ii. He submitted that inspite of addition of Section 111(3), the learned Magistrate has jurisdiction to grant bail. To

substantiate the said contention, he relied on the following decisions:

1. *Mr. Sanjay Narhar Malshe vs. State of Maharashtra*¹
2. *Prahlad Singh Bhati vs. NCT, Delhi & Anr.*²
3. *Ambarish Rangshahi Patnigere vs. State of Maharashtra*³

iii. He submitted that before the learned Magistrate granted bail, the Applicant was in custody for 60 days and therefore, it is not necessary to cancel the bail.

iv. He further submitted that the Applicant is not involved in the crime and therefore, also the Applicant is entitled for bail.

v. He further submitted that the learned Sessions Judge while setting aside the order of the learned JMFC granting bail, has not taken into consideration the merits and therefore, the impugned order is perverse.

1 2005 SCC OnLine Bom 375:2005 Cri LJ 2984

2 (2004) 4 SCC 280

3 2010 SCC OnLine Bom 1968: 2011 Cri LJ 515: (2010) 5 AIR Bom R 536

6. On the other hand, Mr. Nikam, learned Counsel appearing for Respondent No.2 raised the following contentions:

- i. He submitted that the offence is very serious and on merits the Applicant is not entitled for release on bail.
- ii. He submitted that the learned Magistrate although was aware that Section 111(3) of the BNS, 2023 has been added, still without making reference to the same, passed the order granting bail.
- iii. He submits that even assuming that the Magistrate has got power to grant bail, still the criteria which is set out in the decision of the Supreme Court in the case of *Prahlad Singh Bhati* (supra) has not been considered. He also relied on the decision of a learned Single Judge in the case of *Ishan Vasant Deshmukh alias Prasad Vasant Kulkarni vs. State of Maharashtra*⁴.
- iv. He submitted that there are about 7 cases registered against the Applicant and therefore, the Applicant is habitual

4 2010 SCC OnLine Bom 1593

criminal and therefore, Section 111(3) of the BNS, 2023 is rightly invoked.

v. He submitted that the order granting bail passed by the learned JMFC is perverse order without taking into consideration the merits of the case. He further submitted that in the impugned order dated 29th January 2026 passed by the learned Additional Sessions Judge, Pune, by which the bail granted to the Applicant is cancelled, the learned Sessions Judge has specifically observed that the learned Magistrate granted bail to the Applicant without jurisdiction, the order granting bail suffers from non-application of mind and the learned Magistrate is totally silent about the addition of Section 111(3) of the BNS, 2023.

vi. He submitted that although the learned Additional Sessions Judge has not discussed factual aspects in detail, however, the same are considered and learned Sessions Judge has held that considering the gravity of the offence, nature and seriousness of the offence, the bail granted to the accused

needs to be set aside. He submitted that the said observations are applicable to the factual aspects.

vii. He further submitted that this Court by order dated 15th September 2025 rejected Anticipatory Bail Application No.2512 of 2025 filed by the co-accused namely Ajinkya Arun Aghade (accused No.2).

7. The learned APP submitted that apart from the 7 offences which are set out on page 349 of this Application there is one more offence registered against the Applicant with Samarth Police Station, Pune bearing C.R. No.255 of 2025 under Sections 318(4), 308(2) and 351(2) of the BNS, 2023. She submits that including the present FIR, there are total 9 FIRs registered against the present Applicant.

8. Before considering the rival contentions, it is necessary to set out the FIR filed by Respondent No.2 which reads as under:

"मी, सौरभ अशोककुमार सुमन वय 38 वर्षे व्यवसाय नोकरी रा. सी 1202, आय ट्रेड होम्स हिंजवडी फेज 2 ता. मुळशी जि. पुणे. मो.नं. 9284637758

समक्ष पोलीस ठाणेत हजर राहून लिहून देतो जवाब की, मी वरील पत्त्यावर कायमचणे राहणेस असुन माझे घरी मी माझे कुटुंबासह राहणेस आहे. वरील राहत असलेले ठिकाणी माझे एकुन तीन फ्लॅट आहेत, एका मी माझी पत्नी सौ. तुलीका, एक मुलगा शौर्य एक मुलगी समायारा असे एकत्र राहतो. बाकी दोन फ्लॅट मी भाड्याने दिलेले आहेत. मी आमचे बिल्डिंगचा चेअरमन आहे. मी राहत असलेल्या ठिकाणी ई बिल्डिंग मधील फ्लॅट नं ई 1101 मध्ये रमेश अहीरे हा त्यांचे कुटुंबासह राहणेस आहे. दिनांक 30/06/2025 रोजी मी सिगापुर येथे माझे कामानिमित्त गेलो होता त्या दिवशी माझा मुलगा शौर्य सांयकाळी सोसायटी मध्ये खेळत असताना माझ्या मुलाचे अंगावर तीन ते चार भटकी कुत्री आली व्यावेळी माझ्या मुलगा खाली पडला त्यावेळी माझी पत्नी व सोसायटी मधील इतर लोकांनी त्या कुत्र्यांना माझ्या मुला पासुन दुर केले त्यावेळी माझे मुलास किरकोळ दुखापत झाली होती ही सर्व बाब माझ्या पत्नीने मला सिगापुर येथे फोन करुन सांगितले होते. त्यावेळी मी बिल्डिंगचे सिक्युटी गार्ड यांना भटकी कुत्री हटवणेस सांगितले असता काही वेळा नंतर सिक्युटी गार्ड यांनी सोसायटीचे गुरुपवर नेसेज टाकला की रमेश अहीरे व त्यांची पत्नी हिने पटक्या कुत्र्यांना हाकलने साठी सिक्युटी गार्ड यांना मनाई केली त्यामुळे मी सोसायटीचे व्हास्टअप ग्रुप वर रमेश अहीरे यांना भटक्या कुत्री हकलुन नदेने बाबत विचारणा केली होती व त्यानंतर आनचे व्हास्टअपवर यादविवाद झाले व त्यांच दिवशी मध्यरात्री मला एक अनोळखी मोबाई नंबर **9762353636** यावरुन हर्षवर्धन चौधरी यांचा फोन आला त्यावेळी मला सांगितले की, तुमचे आणी रमेश अहीरे व त्यांची पत्नी यांचे बरोबर काय तक्रार झाली आहे तसेच त्यांने मला शिवीगाळ देणेत सुरवात केली व माझ्या पत्नीं बदल अपमानजनक शब्द वापरले त्यामुळे माझे व हर्षवर्धन चौधरी यांचे फोनवर वाद झाले. त्यानंतर मला दिनांक **1/7/2025** रोजी मला समजले की माझे विरोधात रमेश अहीरे यांनी हिंजवडी पोलीस स्टेशन येथे गु.रं.न. **79/2025** भा. न्या. संहिता **352,351 (2),356 (2)**. सह अनुसुचित जाती व जमाती अत्याचार प्रतिबंध कायदा **1989** सुधारणा **2015** चे कलम **3 (1) (आर), 3 (1) (एस)** सह माहिती तंत्रज्ञान कायदा **67** अन्वये गुन्हा दाखल झालेला आहे.

दिनांक 05/07/2025 रोजी दुपारी 12.00 वा. हर्षवर्धन चौधरी यांनी माझी पत्नी सौ. तुलीका हिचे मोबाईन नं 8178557032 या फोन करून मला तुमच्या पतीशी बोलायचे आहे असे सांगितले त्यानंतर हर्षवर्धन चौधरी यांनी मला बावधन येथील इराणी कॅफे येथे भेटणेस बोलावले तेथे आमची भेट झाली त्यांनी मला माझेवर दाखल गुन्ह्या बाबत सांगितले व सदर गुन्ह्यांमध्ये मला पंधरा वर्षांची शिक्षा होईल अशी भिती दाखवली व रमेश आहीरे व त्यांची पत्नी यांचेशी माझे चांगले संबंध आहेत तु जर मला 1 कोटी रुपये दिले तर तुझ्यावर दाखल गुन्हा मागे घेता येईल परंतु जर तु पैसे दिले नाही तर पंधरा वर्षे शिक्षा भोगणेस तयार रहा त्यावेळी हर्षवर्धन चौधरी यांचे बोलण्याने माझ्या मनात मिती निर्माण झाली त्यावेळी मी त्यांना विनती केली की मी एवढे पैसे देऊ शकत नाही त्यावेळी हर्षवर्धन चौधरी यांनी सांगितले की सोसायटी मध्ये तुझे तीन फ्लॅट आहेत जर आता तुम्ही मला पाच लाख रुपये दिले तर पुढचे बोलणे मी चालू ठेवेन त्यावेळी मी घाबरून त्यांना ए.टी.एम मधून जावून माझे व माझे पत्नीचे अकाऊंट वरून 1,50,000/- (एक लाख पन्नास हजार रुपये काढले तेथुन आम्ही चांदणी चौकात चालत चालत बोलत आलो तेथे त्याने माझे कडून ते 1,50,000/- रुपये घेतले त्यानंतर परत दिनांक 06/07/2025 रोजी त्यांनी मला दुर्गा कॅफे भुसारी कॉलनी येथे बोलावून घेतले व कोथरुड येथील एच.डी. एफ.सी बँक चे ए.टी.एम. वरून 40,000/- रुपये व माझ्या खिशात असलेले कैश 10,000/- रुपये जबरदस्तीने माझे कडून काढून घेतले असे मिळून हर्षवर्धन चौधरी यांनी माझ्या कडून 2,00,000/- (दोन लाख फक्त) रुपये घेतले. त्यानंतर दिनांक 12/07/2025 रोजी हर्षवर्धन चौधरी यांनी मला भेटणेस बोलावले त्यावेळी त्यांचे सोबत अजिंक्य अडाडे हे होते त्यांनी अजिंक्य अडाडे यांची ओळख सायबर व फॉरिनसिक एक्सपर्ट अशी ओळख करून दिली त्यावेळी हर्षवर्धन चौधरी यांनी माझ्या कडून पस्तिस लाख रुपयांची मागणी केली करून ते चार दिवसात देणेस सांगितले थे पार सदर रक्कम वेळेत दिली नाहीतर आम्ही पोलीसांना सांगुन तुम्हाला अटक करून जेल मध्ये जमा करावयास सांगु अशी मिती दाखवली तसेच तुम्ही पक्कम दिली नाहीतर स्नेहा आहीरे हे तुमच्यावर भा.द. सं. कलम 376,354,4 504 प्रमाणे गुन्हा करणेचे तयारी

आहेत असे सांगुन मला भिती दाखवली व हर्षवर्धन चौधरी व अजिंक्य अधाडे यांनी पस्तीस लाख पैकी पंचविस लाख आगोदर द्यावे लागतील व उर्वरीत रक्कम मुढच्या दोन दिवसांत देणेस सांगितले त्यावेळी मी माझ्याकडे एवढे पैसे लगेच नाहीत असे सांगितलेवर हर्षवर्धन चौधरी व अजिंक्य अधाडे यांनी सांगितले की दहा लाख रुपये आता लगेच दे व उर्वरीत मंधरा लाख रुपये सात दिवसा नंतर देणेस सांगितले त्यावेळी मी त्यांना माझी एवढे पैसे देणेची ऐपत नाही असे सांगितले त्यावेळी विनवणी करुन ते दोघेजन वीस लाख रुपयाक मांडवली करणेस तयार झाले व त्यावेळेच हर्षवर्धन चौधरी यांनी अजिंक्य अधाडे यांना पंच्याऐशी हजार रुपये वेगळे द्यावे लागतील असे फुल आणि फायनल रक्कम **21,00000/-** (एकविस लाखां) रुपयाची मागणी केली व त्यासाठी पाच दिवसांची मुदत दिली व त्यांने माझी दिल्ली पर्यंत ओळख आहे व मी माझी मर्सिडिस गाडी अशा पध्दीतीने सेटलमेंट करुनच घेतली आहे असे सांगितले

त्यानंतर हर्षवर्धन चौधरी व अजिंक्य अधाडे यांनी मला चांदणी चौकात बोलावुन घेतले व त्यांनी सांगितले की आम्ही चैतन्य बार मध्ये रमेश आहीरे यांना भेटुन चर्चा केली जर मी **21,00000/-** (एकवीस नाव फक्त) रुपये ठरलेल्या वेळेवर दिले नाही तर स्मेश आदीरे व त्यांची पत्नी ए.सी.पी ऑफिस मध्ये जावुन पोलीसांचेवर दबाव टाकुन तुम्हाला अटक करणेस लावुन असे बोलुन परत माझे मनात भिली निर्माण केली व तसेच दिनांक **16/07/2025** पर्यंत मला **21,00000/-** (एकविस लाख रुपये देणेची धमकी दिली. मला मिती दाखवुन मांडो कडून **2,00000/-** (दोन लाख) रुपये घेतले व आता देखील माझे मोबाईलचे व्हाॅसअपवर कॉल व मेसेज करुन मला दुसरा अॅट्रासिटीचा गुन्हा दाखल करणेची धमकी देत आहे म्हणुन माझी **1) हर्षवर्धन चौधरी 2) अजिंक्य**

आघाडे यांचे विरोधात कायदेशिर तक्रार आहे.”

(Emphasis added)

The English translation of the same is as under:

“I, Saurabh Ashokkumar Suman, age : 38 years, occupation : Service, residing at C-1202, I Trade Homes, Hinjewadi Phase 2, Taluka Mulshi, District Pune, Mobile No. 9284637758, by remaining personally present in the Police Station, give my Complaint-Statement in writing, as under :

*I am permanently residing at the above-mentioned address alongwith my family members. **I have my total three flats in the building wherein I am residing.** My wife Sau. Tulika, one son by name Shourya, one daughter Samayara are residing jointly in one flat and **I have given remaining two flats on rental basis.** I am the Chairman of our building's Society. Ramesh Ahire is residing alongwith his family in Flat No. E-1101 in E Wing of the building wherein I am residing.*

On the date 30.06.2025, I had gone to Singapore for my work. On that day, in the evening, while my son by name Shourya was playing in the society premises, three to four stray dogs attacked my son and at that time, my son fell down. At that time, my wife and other residents of the society saved my son from the attack of the said dogs. However, my son had sustained minor injuries at that time. Thereafter, my wife had narrated this entire incident on telephone to me at Singapore. Thereupon, I asked the building's security guards to drive away the said stray dogs. After sometime thereafter, the said security guard sent one message on Society's group mentioning that Shri Ramesh Ahire and his

wife prevented the Security guard to drive away the said stray dogs and therefore, I had asked Ramesh Ahire on the said Whatsapp group of the Society about not allowing to drive away the said stray dogs. As a result, we had altercation of words in the said Whatsapp group. **Thereafter, in the midnight on that day itself, I received a phone call of Harshvardhan Choudhary from one unknown mobile number i.e. 9762353636 asking me as to what matter had taken place between myself and Ramesh Ahire and his wife. Moreover, he started hurling abuses at me and uttered insulting words about my wife and therefore, quarrel took place between me and Harshvardhan Choudhary on telephone. Thereafter, on the date 01.07.2025, I learnt that an offence vide C. R. No. 79/2025 has been registered against me under sections 352, 351 (2), 356(2) of the Bharatiya Nyaya Sanhita read with sections 3(1) (R), 3 (1) (S) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015) read with section 67 of the Information Technology Act with Hinjewadi Police Station in pursuance of the complaint lodged by Ramesh Ahire.**

On the date 05.07.2025, at 12 pm., Harshvardhan Choudhary telephoned my wife Sau. Tulika on her mobile number i.e. 8178557032 and told her, "I want to talk to your husband". Thereafter, Harshvardhan Choudhary called me to meet him in Irani Cafe at Bavdhan and we met there. At that time, he told me about the offence registered against me and scared me by saying: "You would be sentenced to undergo punishment for 15 years in the said offence" and further told me: "I have good relations with Ramesh Ahire and his wife and if you give me Rs.1 crore then, the

offence lodged against you can be withdrawn but if you fail to give the said amount, be ready to undergo 15 years punishment". At that time, I got scared because of the talks with Harshvardhan Choudhary and therefore, I requested him at that time that I can not give this much amount. Thereupon, Harshvardhan Choudhary told me: "You have three flats in the said society and if you give me Rs.5 lakhs right now then, I would continue further conversation with you". Thereupon, out of fear, I went to the ATM and withdrew the amount of Rs.1,50,000/- (One Lakh Fifty Thousand only) from the account of myself and of my wife and thereafter, we, while talking, came on foot at Chandani Chowk and at the said place, he took the said amount of Rs.1,50,000/- from me. Thereafter, again on the date 06.07.2025, he called me at Durga Cafe, Bhusari Colony and forcibly took cash of Rs.40,000/- from my account by getting withdrawn the same from the HDFC ATM at Kothrud and Rs.10,000/- from my pocket. Thus, Harshvardhan Choudhary took total amount of Rs.2,00,000/- (Rupees Two Lakhs only) from me.

Thereafter, on the date 12.07.2025, Harshvardhan Choudhary called me to meet him. At that time, Ajinkya Aghade had accompanied him. He introduced Ajinkya Aghade as Cyber and Forensic Expert. At that time, Harshvardhan Choudhary demanded the amount of Rupees Thirty Five Lakhs from me and asked me to give the said amount within four days and scared me by saying: "If you do not give the said amount within the aforesaid period, we will ask the Police to arrest you and to put you in jail". He further threatened me by saying: "If you do not give the said amount

then Sneha Ahire is prepared to lodge an offence against you under sections 376, 354 and 504 of the Indian Penal Code” and thus, scared me. At that time, Harshvardhan Choudhary and Ajinkya Aghade asked me to give the amount of Rupees Twenty Five Lakhs from out of the said amount of Rupees Thirty Five Lakhs and to give remaining amount within further two days. Thereupon, I told them at that time: “As of now, I do not have that much amount”. Thereupon, Harshvardhan Choudhary and Ajinkya Aghade asked me to give the amount of Rupees Ten Lakhs right now immediately and to give the balance of Rupees Fifteen Lakhs after seven days. At that time, I told them that it is beyond my capacity to give this much amount. Thereupon, I requested them and both of them became ready to settle the matter in Rupees Twenty Lakhs. At that time itself, Harshvardhan Choudhary told me that I would have to give the amount of Rupees Eighty Five Thousand to Ajinkya Aghade separately and demanded Rs.21,00,000/- (Rupees Twenty One Lakhs) as full and final settlement amount and gave me the period of five days for the same. He further told me: “I have ties upto Delhi and I have taken my Mercedes Car by arriving at settlement in this manner itself”.

Thereafter, Harshvardhan Choudhary and Ajinkya Aghade called me in Chandani Chowk and told me: “We met Ramesh Ahire in Chaitanya Bar and discussed with him” and further told me: “If I fail to pay the amount of Rs.21,00,000/- (Rupees Twenty One Lakhs) within the period as decided earlier then, Ramesh Ahire and his wife would approach the Office of the ACP and by pressurizing the Police, they would make the Police to arrest

you". By saying this, he again created fear in my mind and threatened to give the amount of Rs.21,00,000/- (Rupees Twenty One Lakhs) by the date 16.07.2025. He, by scaring me, took the amount of Rs.2,00,000/- (Rupees Two Lakhs) and even now, he, by calling me and sending messages on whatsapp of my mobile phone, is threatening me that another offence under the Atrocity Act would be lodged against me. Hence, I lodge a legal complaint against 1) Harshvardhan Choudhary; 2) Ajinkya Aghade."

(Emphasis added)

9. Thus, main allegations against the Applicant are as follows:

05.07.2025 (Around 12:00 PM)

- Harshwardhan Choudhari telephoned the complainant's wife, on her mobile phone and told her that he wants to talk to her husband. Thereafter the Applicant called the Complainant to meet him at Irani Cafe, Bavdhan.
- The Applicant informed the Complainant about the offence registered against him.
- The Applicant threatened the Complainant by stating that the Complainant would be sentenced to undergo punishment for 15 years in the said offence.
- The Applicant further stated he has good relations with Ramesh Ahire and his wife and if the Complainant gives the Applicant Rs.1 crore then, the offence lodged against the Complainant can be withdrawn but if the Complainant fails to give the said amount, then he shall be ready to undergo 15 years punishment.
- When the complainant expressed his inability to pay, the Applicant stated to the Complainant that the Complainant has three flats and if the Complainant

gives the Applicant Rs.5 lakhs immediately then the Applicant shall continue conversations with the Complainant.

- The complainant alleges that, out of fear, he withdrew Rs.1,50,000/- and handed over the said amount to the Applicant - Harshwardhan Choudhari at Chandani Chowk.

06.07.2025

- The Applicant called the complainant to Durga Cafe, Bhusari Colony.
- The Applicant forcibly took cash of Rs.40,000/- withdrawn from HDFC ATM, Kothrud. He also took Rs.10,000/- from the complainant's pocket.
- According to the complainant, Harshwardhan Choudhari thereby took a total amount of Rs.2,00,000/- from him.

12.07.2025 – Meeting with Ajinkya Aghade

- The Applicant demanded Rs.35 lakhs and asked the complainant to pay the amount within four days.
- The Applicant threatened the Complainant that if the Complainant fails to give the said amount within the aforesaid period, then he will ask the Police to arrest the complainant and to put the complainant in jail.
- He further threatened that if the Complainant does not give the said amount, then Sneha Ahire is prepared to lodge an offence against the Complainant under sections 376, 354 and 504 of the Indian Penal Code.
- The Applicant- Harshwardhan Choudhari and Ajinkya Aghade demanded Rs.25 lakhs immediately out of the said Rs. 35 lakhs and the balance Rs.10 lakhs within a period of 2 days thereafter.
- The complainant expressed inability to pay and offered to settle the matter for Rs.20 lakhs.
- The Applicant allegedly further stated that the complainant would have to pay Rs.85,000/- separately to Ajinkya Aghade. The Applicant

demanded Rs.21,00,000/- as full and final settlement amount and granted five days' time.

- The Applicant further stated that he has ties upto Delhi and he has taken his Mercedes Car by arriving at settlement in this manner itself.

Subsequent Meeting at Chandani Chowk

- The Applicant and Ajinkya Aghade allegedly informed the complainant that they met Ramesh Ahire in Chaitanya Bar and discussed with him. **They further stated that if the Complainant fails to pay the amount of Rs.21,00,000/- within the period as decided earlier then, Ramesh Ahire and his wife would approach the Office of the ACP and by pressurizing the Police, they would make the Police to arrest the applicant.**
- The Applicant, by scaring the Complainant, took Rs.2,00,000/- from him.
- The Applicant continued to threaten the Complainant through telephone calls and WhatsApp messages, stating that another offence under the Atrocity Act would be lodged against him.

(Emphasis added)

10. Thus, it is very clear that very serious allegations are made against the Applicant.

11. It is significant to note that apart from the other material on record, during investigation, the police have found the details of WhatsApp Chats sent by the Applicant and Respondent No.2 to each other. The relevant WhatsApp Chats are on page 143, which read as under:

“6/07/2025, 11:38 am - Harshall Chaudhary: You insulted me on the basis of my caste and issued threats to me while on speakerphone, in front of people's. Furthermore, you intimidate me by claiming to have personal contacts with the senior political leader nitin gadkari. I am filing an FIR against you under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act

16/07/2025, 2:24 pm +91 92846 37758: Why are you filing false complaint today as we discussed already till today evening I will arrange 5 lacs plus 6 lacs if the cheque gets cleared today, by today evening only. And rest I will give you by tomorrow EOD.”

(Emphasis added)

12. Thus, it is clear that the Applicant on 16th July 2025 at 11:38 a.m., has sent a message to Respondent No.2 stating that the Respondent No.2 has insulted him on the basis of caste and issued the threats to him by keeping the mobile on speaker phone mode in front of the people and therefore, the Applicant would be filing FIR against Respondent No.2 under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. To these messages, Respondent No.2 has responded by saying that why the Applicant would be filing a false complaint and as discussed already, by said evening he would

arrange Rs.5,00,000/ plus to Rs.6,00,000/- if the cheque gets cleared by that day evening and the rest would be given on the next day. This is significant since as per the FIR, amount to be paid was decided as Rs.21,00,000/-. The only response of the present Applicant to these WhatsApp Chats was question mark. Thus, these WhatsApp Chats clearly supports the prosecution case that the Applicant is extorting money from Respondent No.2 by threatening to lodge FIR under the stringent provisions of the S.C.S.T. Act.

13. Thereafter, again the Applicant has sent WhatsApp message to Respondent No.2 stating that by using extremely offensive and casteist remarks, Respondent No.2 has targeted the Applicant and that Respondent No.2 has sought his help therefore, he was helping but hereinafter he would not help Respondent No.2. Thereafter, the Applicant has blocked the contact.

14. These WhatsApp Chats are also supported by the transcript of the conversation between the Applicant and Respondent No.2, which is produced at page 267 to 271. In the said conversation, Respondent No.2 is talking about mental torture which the Applicant has subjected to Respondent No.2. There is reference in

the said conversation about the deposit of cheque and encashment of the same. In fact, in the said conversation there is reference of sale of flat belonging to Respondent No.2.

15. As noted earlier, the FIR records that the Applicant had made demand of Rs.1 crore and further suggested Respondent No.2 to sale one of his flats and then pay the money. Thus, the transcript of the said conversation also *prima facie*, supports the case in the FIR.

16. In this background of the matter, it is required to consider the order of the learned JMFC. The learned JMFC has mentioned that the offence is under Sections 308 (2), 308(3) and 351(2), (3) and (5) of the BNS, 2023 and that the offence is triable by the same Court i.e. by the learned JMFC. The order of the learned JMFC is dated 19th August 2025. However, on 6th August 2025, Section 111(3) of the BNS, 2023 has been added as at that time, 7 offences have been registered against the Applicant. Section 111 of the BNS, 2023 is regarding organised crime, which reads as under :

“111. Organised crime.— (1) Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes, trafficking of persons, drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom, by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime. ...

(3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(Emphasis added)

17. Thus, it is very clear that the order dated 19th August 2025 passed by the learned JMFC is totally illegal and perverse as the learned JMFC has completely ignored that the offence under Section 111(3) of the BNS, 2023 has been added. The punishment is not less than 5 years but which may extend to imprisonment for life.

18. Perusal of the order of the learned JMFC clearly shows that serious allegations made against the Applicant are not taken into consideration. Even it is not taken into consideration that there are 7 offences already registered against the Applicant and therefore, the Applicant is habitual criminal.

19. In this background of the matter, it is relevant to note the observations of the learned Additional Sessions Judge in paragraph No.14, which reads as under:

“14] On going through the above said section, it reveals that if the offence is punishable with imprisonment for life and the offence is exclusively triable by the Sessions Court, the Magistrate have no jurisdiction to entertain and decide the bail application. If the person who is woman or is sick or infirm or child, then only Magistrate can entertain bail application. Herein this case, the respondent/accused is not fall within any category of explanation, therefore, in my bail to opinion, Magistrate granted respondent/accused No.1 without jurisdiction. It is the basic principle that the order granting bail suffers from non application of mind. Then, the Court can cancel the bail of the accused. In case at hand, the learned Magistrate is totally silent about the addition of section 111(3) of the BNS, 2023. Further more, the Magistrate hold that offence is triable by this Court, itself shows that learned Magistrate has not applied the mind. He didn't consider that the offence is exclusively triable by the Sessions Court and the punishment prescribed for additional section of 111(3) is

imprisonment for life. Considering the gravity of the offence, nature and seriousness of the offence, the bail granted to the accused needs to be set aside. Hence, I proceed to pass the following order.”

(Emphasis added)

20. Thus, it is clear that the order of the learned JMFC is totally illegal and perverse.

21. To substantiate the contention that the learned JMFC has jurisdiction to grant bail even in sessions triable case, the learned Counsel of the Applicant has relied on the decisions in the case of *Prahlad Singh Bhati* (supra) of the Supreme Court. In the said decision, this aspect has been considered in detail. The relevant paragraphs are paragraph Nos.6 to 9, which read as under:

“6. Even though there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of Session yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail. Even in a case where any Magistrate opts to make an adventure of exercising the powers under Section 437 of the Code in respect of a person who is suspected of the commission of such an offence, arrested and detained in that connection, such Magistrate has to specifically

negate the existence of reasonable ground for believing that such an accused is guilty of an offence punishable with the sentence of death or imprisonment for life. In a case where the Magistrate has no occasion and in fact does not find, that there were no reasonable grounds to believe that the accused had not committed the offence punishable with death or imprisonment for life, he shall be deemed to be having no jurisdiction to enlarge the accused on bail.

7. Powers of the Magistrate, while dealing with the applications for grant of bail, are regulated by the punishment prescribed for the offence in which the bail is sought. Generally speaking if punishment prescribed is for imprisonment for life and death penalty and the offence is exclusively triable by the Court of Session, the Magistrate has no jurisdiction to grant bail unless the matter is covered by the provisos attached to Section 437 of the Code. The limitations circumscribing the jurisdiction of the Magistrate are evident and apparent. Assumption of jurisdiction to entertain the application is distinguishable from the exercise of the jurisdiction.

8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the

legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

9. In the instant case while exercising the jurisdiction, apparently under Section 437 of the Code, the Metropolitan Magistrate appears to have completely ignored the basic principles governing the grant of bail. The Magistrate referred to certain facts and the provisions of law which were not, in any way, relevant for the purposes of deciding the application for bail in a case where the accused was charged with an offence punishable with death or imprisonment for life. The mere initial grant of anticipatory bail for lesser offence, did not entitle the respondent to insist for regular bail even if he was subsequently found to be involved in the case of murder. Neither Section 437(5) nor Section 439(1) of the Code was attracted. There was no question of cancellation of bail earlier granted to the accused for an offence punishable under Sections 498-A, 306 and 406 IPC. The Magistrate committed an irregularity by holding that “I do not agree with the submission made by the learned Prosecutor inasmuch as if we go by his submissions then the accused would be liable for arrest every time the charge is altered or enhanced at any stage, which is certainly not in the spirit of law”. With the change of the nature of the offence, the accused becomes disentitled to the liberty granted to him in relation to a minor offence, if the offence is altered for an aggravated crime. Instead of referring to the grounds which entitled the respondent-accused the grant of bail, the Magistrate adopted a wrong

approach to confer on him the benefit of liberty on allegedly finding that no grounds were made out for cancellation of bail.”

(Emphasis added)

22. Thus, what the Supreme Court has said that although there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of Session yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail. The Supreme Court has further observed that if the learned Magistrate opts to make an adventure of exercising the powers under Section 437 of the Code in respect of a person who is suspected of the commission of such an offence, arrested and detained in that connection, such Magistrate has to specifically negate the existence of reasonable ground for believing that such an accused is guilty of an offence punishable with the sentence of death or imprisonment for life. In a case where the Magistrate has no occasion and in fact does not find, that there were no reasonable grounds to believe that the accused had not committed the offence punishable with death or imprisonment for life, he

shall be deemed to be having no jurisdiction to enlarge the accused on bail.

23. Learned Advocate of the Applicant has more particularly relied on following observations of the Supreme Court in the case of ***Prahlad Singh Bhati*** (supra) and submitted that the Magistrate will have no jurisdiction to grant bail only if both the punishments are prescribed i.e. for imprisonment for life and death:

*“Generally speaking if **punishment prescribed is for imprisonment for life and death** penalty and the offence is exclusively triable by the Court of Session, the Magistrate has no jurisdiction to grant bail unless the matter is covered by the provisos attached to Section 437 of the Code.”*

(Emphasis added)

The said submission is without any basis as the Supreme Court was considering scope of Section 437. Said Section provides that a person shall not be so released by Court other than High Court or Court of Session if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life. The same is also clear from the observations made in ***Prahlad Singh Bhati*** (supra) in paragraph 6

to the effect that even though there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of Session yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail.

24. In this particular case, the learned JMFC although aware that Section 111(3) of the BNS, 2023 has been added, has completely ignored the same. Apart from that, the order of the learned JMFC dated 19th August 2025 do not show that the learned Magistrate has recorded satisfaction that no offence under Section 111(3) of the BNS, 2023 has been committed and that there is no ground to believe that the offence is committed under Section 111(3) of the BNS, 2023. The said requirement as per ***Prahlad Singh Bhati*** (supra) is the mandatory requirement.

25. In this case, Section 111(3) of the BNS, 2023 has been added, as during investigation the police have found that there are 7 offences registered against the Applicant. The details of the same

are set out in the police report dated 6th August 2025. The details of those 7 cases are as follows:

Sr. No.	Police Station	C.R. No.	Sections invoked
1.	Yerwada Police Station, Pune	317/2023	354(C), 354(D), 500, 504, 506 of the Indian Penal Code, 1860.
2.	Lashkar Police Station, Pune	34/2022	354(D), 500, 504, 506 and 509 of the Indian Penal Code, 1860.
3.	Bolinj Police Station, Mira Bhayandar	129/2025	316(2), 318(4), 351(2) and 352 of the Bharatiya Nyaya Sanhita, 2023
4.	Kothrud Police Station, Pune	103/2022	354(D), 500, 504, 506, 507 and 509 of the Indian Penal Code, 1860.
5.	Parksite Police Station, Mumbai	165/2025	318(4) and 316(2) of the Bharatiya Nyaya Sanhita, 2023
6.	Khar Police Station, Mumbai	217/2025	318(4), 316(2), 352, 351(2), 61(2), 79, 356(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023
7.	Ravet Police Station, Pune	494/2024	352, 351(2), 351(3), 352(4), 79, 3(5) of the Bharatiya Nyaya Sanhita, 2023

26. The learned APP has submitted that in fact, there is one more offence which is registered against the Applicant and the same is not included in the above details. The said offence is registered at Samarth Police Station, Pune bearing C.R. No.255 of 2025 registered under Section 318(4), 308(2) and 351(2) of the BNS, 2023.

27. Thus, as observed by the learned Sessions Judge, the order of the learned Magistrate is without jurisdiction, as only if the learned JMFC records the satisfaction that no case is made out under Section 111(3) of the BNS, 2023, the learned JMFC will not get jurisdiction to consider the Application seeking bail in view of the law laid down by the Supreme Court in the case of ***Prahlad Singh Bhati*** (supra). There is no such satisfaction recorded by the learned JMFC. Thus, the order passed by learned JMFC is illegal and without jurisdiction.

28. There is some substance in the contention raised by the learned Counsel appearing for the Applicant that the learned Sessions Judge has not considered the merits as can be seen from paragraph No.14 of the said order.

29. However, the factual aspects are already set out hereinabove. This is a very serious case where the Applicant is involved in very serious crime of extortion under Section 308(2) and (3) of the BNS, 2023 and criminal intimidation under Section 351(2) of the BNS, 2023. The Applicant by threatening the Respondent No.2 that complaint would be filed against him under the S.C.S.T. Act, has extorted huge amount. There are total 9 offences registered against the Applicant including the present offence. Thus, organised crime under Section 111(3) of the BNS, 2023 is attracted.

30. The learned Sessions Court has also recorded some reasons in paragraph Nos.4, 12 and 14. The learned Sessions Court has observed that considering the gravity of the offence bail granted to the accused needs to be set aside.

31. The parameters of granting bail are well established. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which

conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. The learned JMFC has completely ignored all these well established parameters. If the case of the Applicant is examined on the touchstone of these parameters, then it is clear that no case is made out for grant of bail. The offence is very serious of extortion by threatening to file case under stringent provisions of the S.C.S.T. Act. There is strong prima facie case as set out hereinabove. The Applicant is involved in 8 other cases. The Applicant was absconding for considerable period. Thus, there is no reasonable possibility of securing the presence of the accused at trial.

32. Thus, in the facts and circumstances, no case is made out for interference in the impugned order.

33. Accordingly, the Criminal Application is dismissed.

34. At this stage, the learned Counsel appearing for the Applicant seeks continuation of the order passed by this Court yesterday i.e. on 16th June 2026. It is required to be noted that the learned Additional Sessions Judge, Pune passed the order dated 29th January 2026 cancelling the bail granted by the learned JMFC to the Applicant and granted 7 days protection to the Applicant. At no point of time this Court has granted any protection. The Applicant's conduct is noted by the learned Single Judge in the order dated 18th April 2026 and the learned Single Judge directed the police to take steps to arrest the Applicant. After this Court granted limited protection yesterday, today the hearing of this Application was tried to be delayed by making false statement that the Transfer Petition is filed in the Supreme Court.

35. In any case, as observed hereinabove, there are 8 cases registered against the Applicant, apart from the present case. The Applicant is habitual criminal. There is likelihood that the Applicant will abscond.

36. Accordingly, no case is made out for grant of any protection.

37. The Criminal Application is dismissed.

[MADHAV J. JAMDAR, J.]

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