

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.546 OF 2026

Pratik Milind Patankar

... Applicant

Versus.

The State of Maharashtra and Anr

... Respondents

SHARADA
RANGNATH
WAHULE

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Mr. Bomesh R. Bellam a/w Adv. Neel A. Paralikar a/w Ms. Isha R. Singh,
Advocates for the Applicant.

Mrs. Poonam P. Bhosale, APP for Respondents-State.

PSI Ashwini More, BKC Police Station, is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATED : 30th MARCH 2026

Oral Order:

1. Heard Mr. Bomesh Bellam, learned Advocate for the Applicant and Mrs. Poonam Bhosale, learned APP for Respondents-State.

2. This Application under Section 528 of BNSS is filed by the Applicant seeking to quash the FIR No. 154 of 2025 registered at BKC Police Station, Bandra, Mumbai (hereafter "impugned FIR"), for offences under Sections 281 and 125 of Bharatiya Nyaya Sanhita, 2023 (hereafter "BNS"), along with the charge sheet registered as Case No. PS/6172/2025, pending before the Judicial Magistrate First Class, 71st Court, Bandra, Mumbai (hereafter "Magistrate"), arising out of the impugned FIR.

3. The prosecution case in the impugned FIR/charge sheet is that the Applicant was found riding his motorcycle bearing No.MH-03 DP 4525 recklessly and negligently at a location where the police had set up a cordon (Nakabandi). The allegations state that the Applicant's actions could endanger the lives of both the Applicant and of vehicles travelling in the opposite direction. The Applicant was apprehended, and the impugned FIR was registered.

4. Mr. Bomesh Bellam, learned Advocate for the Applicant, submits that the allegations in the impugned FIR, along with the material on record taken at face value, still do not attract the ingredients of Sections 281 and 125 of BNS. He submits that the impugned FIR is vague and lacks specific details regarding the manner or reasons for accusing the Applicant of reckless and negligent driving of his motorcycle. He therefore requests that the impugned FIR and the chargesheet be quashed.

5. Mrs. Poonam Bhosale, learned APP for Respondents-State, submits that the material on record indicates the Applicant was rash and negligent in driving his motorcycle.

6. Heard arguments and perused records with the assistance of the learned Advocates.

7. Section 281 BNS 2023 was previously Section 279 of IPC, while

Section 125 of BNS was previously Section 336 of IPC.

8. Apart from the allegation in the impugned FIR that the Applicant was found riding his motorcycle recklessly and negligently at a location where the police had set up a cordon (Nakabandi), there is no other material on record to demonstrate the ingredients required to constitute the offence under Section 281 and 125 of BNS. The Respondent does not even claim that the Applicant was overspeeding. Material collected upon registration of the impugned FIR does not reveal anything to suggest that, due to the alleged rash driving by the Applicant, anyone's life was endangered or likely to be harmed or injured

9. This Court, in the case of *Khizzer Akhtar Shah Vs. The State of Maharashtra*¹, similar to the present case, has observed in paragraph no.8 as follows:-

“8. On going through the aforesaid penal provision, it is implicit that the requisite ingredients to constitute the said offence are rash or negligent driving or riding a vehicle, on any public way, in a manner so rash or negligent which may cause danger to human life or likely to cause hurt or injury to any other person. In the charge sheet which has been filed, there is no material whatsoever to show existence of ingredients which constitute the alleged offence under Section 279 of IPC. It is pertinent to note that the alleged incident had occurred while the Police were conducting Nakabandi. It is not the case of the Police that the Applicant did not stop the vehicle at the scene of alleged offence. It is

1 2016 SCC OnLine Bom 8159

also necessary to note that the incident had allegedly occurred at about 0030 hours in the night and the charge sheet does not disclose anything to indicate that due to the alleged rash driving by the Applicant, either the life of anybody was endangered or was likely to cause hurt or injury to any other person. It is also necessary to consider that during Nakabandi, it would not be possible for a reason to drive a vehicle so recklessly or negligently. Hence, there was no evidence to substantiate charge under Section 279 of IPC. Statements of none of the witnesses disclose that anyone had actually seen the Applicant driving rashly and negligently”.

10. This Court, in the case of ***Vikram Raghubir Das and Others Vs. State of Maharashtra***² has referred to the case of Khizzer Akhtar Shah (supra) and followed its decision. In paragraph no.12 it is observed as follows:-

“12. The observations are applicable to the present facts before us. None of the ingredients of both these Sections applied by the investing officer is made out in the entire charge-sheet. It is not even mentioned as to what was the speed of those vehicles and as to how they endangered anybody’s life. The basic minimum information is missing from the entire charge-sheet. The action of the Police Officers in this case is totally unjustified. It amounts to abuse of process of law. Making somebody face the allegations of the cognizable offence and then making him face the entire trial is quite onerous and oppressive. In the present case, it is not justified at all. It is an abuse of process of law. Unless it is absolutely necessary, lodging of F.I.R. in such cases can be

2 2025 SCC OnLine Bom 2344

avoided. Therefore, we are inclined to allow this petition and quash the proceedings qua the Petitioners. ...”

11. Accepting the accusations in the impugned FIR and the collected material at face value still does not establish the ingredients of the offences under Sections 281 and 125 of the Bharatiya Nyaya Sanhita, 2023. The decisions in *Vikram Raghuvir Das (supra)* and *Khizzer Akhtar Shah (supra)* would assist the case of the Applicant.
12. Making the Applicant face trial on the basis of the above material on record would amount to an abuse of the process of law. Guided by the principle laid down by the Hon’ble Supreme Court of India in the case of *State of Haryana v. Bhajan Lal*³, this is a fit case to exercise powers under Section 528 of BNSS to prevent abuse of the process of law.
13. This Application is allowed in terms of the prayer clause (a) and (b). Consequently, the impugned FIR and the charge sheet arising out of the impugned FIR are quashed.
14. There shall be no orders as to costs.
15. Criminal Application No. 546 of 2026 is disposed of.

(ASHWIN D. BHOBE, J.)

3 1992 Supp (1) SCC 335