

(2026) 08 BOM CK 3491

In the Bombay High Court

Case No : Writ Petition No. 3585 of 2026

Sunil Machindra Garade & Ors.

APPELLANT

Vs

The State Of Maharashtra

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Constitution of India — Articles 226 and 227

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528, 249 and 250, 232, 250(1)

Citation : (2026) 08 BOM CK 3491

Hon'ble Judges : Ashwin D. Bhobe, J

Bench : Single Bench

Advocate : Mr. Suhas Rohile, Mr. V. B. Konde-deshmukh

Final Decision : Disposed Of

Judgement

1. Heard Mr. Suhas Rohile, learned Advocate for the Petitioners and Mr. V. B. Konde-deshmukh, learned APP for the Respondent – State.
2. Rule. Rule is made returnable forthwith. Heard finally with the consent of the parties.
3. By the present Petition filed under Articles 226 and 227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, Petitioners are assailing the order dated 18.05.2026 passed by the Additional Sessions Judge, Vadgaon Maval, Pune ("Sessions Court") in Sessions Case No. 86 of 2026 ("impugned Order"), which ordered the framing of charges and recorded the plea of the Petitioners pursuant to the impugned order.
4. Mr. Suhas Rohile, learned Advocate for the Petitioners, submits that the Petitioners (Accused) in Crime No. 31 of 2026 were produced before the Sessions Court in Sessions Case No. 86 of 2026 on 18.05.2026. He submits that 18.05.2026 was the first date of appearance.
5. Mr. Suhas Rohile, learned Advocate for the Petitioners, submits that upon the

Petitioners being produced before the Sessions Court, without being notified and without any opportunity of hearing, the charge was ordered to be framed on 18.06.2026.

6. Mr. Suhas Rohile, learned Advocate for the Petitioners, therefore submits that the impugned Order has been passed in total breach of Sections 249 and 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023. He further submits that the Petitioners have not only been denied an opportunity of hearing before the framing of the charge but also the right to file an Application for discharge, which right can be exercised by the Accused within 60 days. He therefore requests the quashing of the impugned Order and grant of leave to file an Application for discharge.

7. Mr. V. B. Konde-deshmukh, learned APP for the Respondent – State, on instructions, does not dispute that 18.05.2026 was the first date in Sessions Case No. 86 of 2026 on which the Petitioners were produced before the Sessions Court and that the charge was ordered to be framed on that very date.

8. Mr. V. B. Konde-deshmukh, learned APP, however, sought to support the impugned Order by submitting that, as the Petitioners-Accused were in jail, the Sessions Court framed the charge on 18.05.2026 itself to expedite the hearing and commence the trial.

9. Perused the records.

10. Incontestably, the Petitioners (Accused) in Sessions Case No. 86 of 2026 were not afforded a hearing or an opportunity to make submissions before the order dated 18.05.2026 was passed.

11. As submitted by Mr. Suhas Rohile, learned Advocate for the Petitioners, they were not even notified that 18.06.2026 would be the date for appearance and also for framing of charge. This itself has resulted in prejudice to the Petitioners.

12. Further, the 60-day period from the date of commitment of the case under Section 232 of BNSS 2023, which contemplates a right to file an Application for discharge, had not expired as on 18.06.2026.

13. On the lone ground that the Sessions Case No. 86 of 2026 before the Sessions Court on 18.06.2026 was the first date of hearing (Appearance of the Accused); it was indisputably not listed for framing of charge, and the Petitioners were not afforded an opportunity of hearing before the impugned Order was passed. The impugned Order is liable to be quashed and set aside and the matter remanded to the Session Court.

14. Mr. V. B. Konde-deshmukh, learned APP for Respondent – State, does not oppose the grant of leave to file an application for discharge. However, he states that such an application should be filed on or before the next date fixed in Sessions Case No. 86 of 2026.

15. Considering the submissions made by Mr. Suhas Rohile, learned Advocate for

the Petitioners, that the Petitioners would have exercised the right under section 250(1) of BNSS 2023 by filing an application for discharge, had they been notified that the matter was being taken up for framing of charge, as they were well within the 60 days contemplated therein, at the request of Mr. Suhas Rohile, and in view of the no objection by Mr. V. B. Konde-deshmukh, learned APP the Petitioners are granted leave to file an Application for discharge on or before the next date fixed in Sessions Case No. 86 of 2026. If the Petitioners do not to file the application for discharge on or before the next date, failing which the Petitioners shall be deemed to have waived the said right, the Petitioners shall be deemed to have waived the said right.

16. In view of the above, the impugned order and the consequential plea, if any, recorded are set aside.

17. The proceedings before the Sessions Court are remitted to the stage of Sections 249 and 250 of the BNSS.

18. In view of the above, the following order was passed:-

(i) The impugned Order dated 18.03.2026 in this Petition as well as the charge framed against the Petitioners stand quashed and set aside.

(ii) The proceedings in Sessions Case No. 86 of 2026 before the Sessions Court are remitted to the stage of Sections 249 and 250 of the BNSS.

(iii) Petitioners are at liberty to file an Application for discharge on or before the next date fixed in Sessions Case No. 86 of 2026. If filed, the same shall be considered in accordance with law.

(iv) The Sessions Court shall pass an order on framing of charge after providing an effective opportunity of hearing to the Prosecution and the Petitioners in accordance with law. The Petitioners shall not seek any adjournment before the Session Court on the date fixed by the Session Court for hearing on framing of charge.

(v) No order as to costs.

19. Rule made absolute in the above terms.

20. Writ Petition No. 3585 of 2026 is disposed.