

MHAH010069022025



Presented on : 14.10.2025
Registered on : 17.10.2025
Decided on : 16.04.2026
Duration : Y. M. Ds.
00 06 02

IN THE COURT OF SESSION, AHMEDNAGAR	
Presided over by S.B. Kachare, Sessions Judge.	
Criminal Revision Petition No.98 of 2025 Exh.13.	
Applicant	Shehanaj Narendra Pawar, Age - 66 Yrs, Occ. - Retired, R/o. Dhavalgiri Building No.3, Behind Rajmahal, Vinanagar, Khopoli, Tal. Khalapur, Dist. Raigad.
Represented by:	Learned Adv. Shri. Y. B. Nemanee.
<i>Versus</i>	
Non applicants 1)	Police Inspector, Kotwali Police Station, Ahmednagar.
2)	Aban Nozer Ichaporiya, Age - 61 Yrs, Occ. - Business,
3)	Balubai @ Banu Homi Ichaporiya, Age - 96 Yrs, Occ. - Retired, Both No.2 & 3 R/o. Plot No.34, Gulmohar Sattha Colony, Punammoti Nagar, Market Yard Road, Ahmednagar.
Represented by :	Learned APP Shri A.M. Ghodake for Resp.No.1, Learned Adv. Shri. S.P. Meher for Non-applicants No.2 and 3.
Date on which Judgment is reserved:	

DATE OF JUDGMENT:	
16.04.2026	

J U D G M E N T

(Delivered on 16.04.2026)

Being aggrieved by the order dated 20.09.2025 passed by the learned Additional Chief Judicial Magistrate, Court No. 3, Ahmednagar, in Criminal M.A. No. 72/2025, whereby the application filed under Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS' for the sake of brevity) is rejected, the present revision application is filed under Section 438 of BNSS.

2. The facts leading for filing this revision application in brief, are as under :

It is contended that opponent No. 3 is the mother of the revision applicant, who is 96 years old and residing with non-applicant No. 2. Opponent No. 3 had one son, namely Nozar, who died on 24/02/2024. Opponent No. 2 is the wife of the deceased and daughter-in-law of opponent No. 3. After the death of the husband of opponent No. 3, her son, late Nozar, was looking after her and taking proper care. When Nozar was suffering from illness, the revision applicant was looking after opponent No. 3. At that time, the revision applicant noticed that opponent No. 2 was not looking after her husband and opponent No. 3. At that time, the revision applicant came to know that opponent No. 2 was insisting to have a share in the house property at Ahmednagar, so also in jewelry and FD amounts, as a condition to look after opponent No. 3. At that time, there were altercations between the revision applicant and opponent No. 2. Therefore, the revision applicant was expelled from the house by opponent No. 2.

3. It is contended that opponent No. 2 and her brother did not

allow the revision applicant to contact her brother and opponent No. 3. Her brother died on 24.02.2024. When the revision applicant came to know that opponent No. 3 is not well, she had been to the house of opponent No. 2 on 17.10.2024 to meet her mother. At that time, she found that opponent No. 3 was alone sitting on a wheelchair in the balcony and she was not allowed to go outside the house. The opponent No. 2 used to remain outside the house for longer hours. The revision applicant also noticed injury marks on opponent No. 3, who appeared frightened and disclosed that she was ill-treated and assaulted by opponent No. 2 and her brother. It is further contended that again on 19.11.2024, when the revision applicant visited the house of opponent No. 2 to meet her mother, she was abused and driven out of the house. Thereafter, she approached Kotwali Police Station for lodging complaint; however, she was advised to approach the Court by filing an application for issuance of search warrant.

4. The learned trial Court, after hearing both the sides, came to the conclusion that the applicant failed to prima facie show that opponent No. 3 has been wrongfully detained, which amounts to an offence, and rejected the application vide order dated 20.09.2025. Being aggrieved by the said order, the revision applicant has preferred this revision on the various grounds as mentioned in the petition.

5. Opponents No.2 and 3 are duly served vide report dated 14.11.2025. They appeared in this matter and filed their say at Exh.11.

6. It is contended by the opponents No. 2 and 3 that the allegations made in the revision application are false, baseless and not supported by any prima-facie material. It is their contention that the present revision application is not maintainable under the provisions of

the BNSS and is liable to be rejected. It is further contended that opponent No. 3 is not under any unlawful detention and is residing with opponent No. 2 out of her own free will. All allegations regarding ill-treatment, assault, neglect, or administration of wrong medicines are specifically denied. According to them, opponent No. 3, who is of advanced age, is being properly taken care of and is receiving appropriate medical treatment.

7. It is further contended that relations between the applicant and opponent No. 3 were strained since long due to the applicant's inter-caste marriage, and the applicant had not been attending to her mother. On the contrary, it is alleged that the applicant is acting with a malafide intention to claim property and money. It is also contended that opponent No. 3 has voluntarily expressed her desire to reside with opponent No. 2 and has even affirmed the same by way of affidavit. The applicant was also given an opportunity to meet opponent No. 3. Hence, there is no question of wrongful confinement. Accordingly, it is submitted that the learned trial Court has rightly rejected the application and the present revision, being devoid of merits, deserves to be dismissed with costs.

8. Opponent No.1 is a formal party. As such, matter is finally heard.

9. Following points arise for my determination and I have recorded my findings thereon as under :

	POINTS		FINDINGS
1)	Whether the impugned order suffers from legality, correctness and propriety ?	:	No.
2)	What order ?	:	As per final order.

-- REASONS --**As to Point No.1 :**

10. Section 100 of BNSS, corresponding to Section 97 of Cr.P.C., contemplates the issuance of a search warrant in cases where a person is wrongfully confined. The essential ingredient for invoking the said provision is the existence of wrongful confinement. In the case of *Pramod Kamble V/s. Jyoti Kamble*, 2012 (5) AIR Bombay R 878, wherein it has been held that under Section 97 of the Cr.P.C., for search of a person wrongfully confined, only when such confinement amounts to an offence, a search warrant is issued. In the case of *Purushottam Vamanrao Thakur V/s. Warsha Narendra Thakur*, 1993 (3) Bombay CR 587, wherein it has been held that for a search warrant under Section 97 of the Cr.P.C., the person must be wrongfully confined and such confinement must amount to an offence.

11. It is also well settled that action under Section 97 of Cr.P.C. is intended to meet emergency situations involving illegal confinement and not to adjudicate civil disputes between the parties. It is also well settled that questions relating to custody cannot be treated as proceedings under Section 97 of Cr.P.C., and such issues must be decided by the competent civil court under guardianship laws.

12. Undisputedly, in the present case, opponent No. 3, who is 95 to 98 years old, is residing with opponent No. 2, who is none other than the daughter-in-law of opponent No. 3. Opponent No. 3 has filed an affidavit on record denying the allegations made in the application. After the demise of the husband of opponent No. 2, opponents No. 2 and 3 have started residing at Mumbai.

13. It is also an admitted fact that from the date of marriage of opponent No. 2, opponent No. 3 has been residing with opponent No.

2. Therefore, it is submitted that by no stretch of imagination can it be said that opponent No. 3 is wrongfully confined by opponent No. 2 so as to amount to an offence.

14. The affidavit of opponent No. 3 is placed on record by opponent No. 2, which itself falsifies the case of the revision applicant. Even for the sake of argument, if it is accepted that opponent No. 2 has not allowed the revision applicant to meet opponent No. 3, that cannot be a ground to invoke Section 97 of Cr.P.C. The revision applicant has an efficacious remedy to approach the competent Court under the provisions of the Guardians and Wards Act. Therefore, there appears no perversity or illegality in the order passed by the learned trial Court. Consequently, point No. 1 is answered in the negative.

As to Point No.2 :

15. In view of point No.1, revision application deserves to be dismissed. Hence, following order is passed -

-- ORDER --

- 1) **Criminal Revision Application No.98/2025**, is dismissed.
- 2) Inform the learned trial Court accordingly.
- 3) Proceeding is closed.

(Dictated and pronounced in open Court)

(S. B. Kachare)

Sessions Judge, Ahmednagar.

Date : 16.04.2026.

CERTIFICATE FOR UPLOADING TO CIS.

I affirm that the contents of this PDF file judgment are same word to word, as per the original.

Name of Steno : Sakib N. Pirjade, Steno gd. II.

Name of Court : Sessions Court, Ahmednagar.

Judgment date : 16.04.2026.

Order signed by the : 16.04.2026.

P.O.

Order uploaded on : 16.04.2026.