

IN THE COURT OF JUDICIAL MAGISTRATE (FIRST CLASS),
32ND COURT, BANDRA, MUMBAI.

CC No. 424/PW/2026
CR No. 773/2025
Nirmal Nagar Police Station

ORDER BELOW APPLICATION OF ACCUSED - KRISHANA SHANTARAM
NAKASE FOR CANCELLATION OF PR. BOND UNDER SECTION 480(5) OF
BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS)

1. The informant has made present application under Section 480(5) of BNSS for cancellation of PR Bond granted to the accused No.1 Krishna Shantaram Nakashe. The informant submits that the accused appeared before the court on 18.11.2025 for the reason no written grounds of arrest were provided to him. He was enlarged on an interim PR Bond. The informant claims that all the pre-requisites of arrest were complied and written grounds of arrest were also given to the accused by the informant. The arrest was properly effected. Custody of the accused is necessary for the further investigation. Hence, he has prayed for cancellation of an interim PR bond with a permission to re-arrest the accused.

2. Say of accused and Ld. APP was called on the same. The accused has filed his say on 01.12.2025 and resisted the application. The accused submits that the application is misconceived, legally untenable and is a abuse of process of law. On 18.11.2025 the Investigating Officer had given an express admission that, no station diary entry was made about the service of notice under section 47. After this admission now the prosecution/state is estopped from retracting its own admission. A contradictory stand to the detriment of the accused cannot be allowed. The alleged mistake is not a mistake but is a

procedural lapse and the same cannot be cured by a retracted admission. The accused is protected by the procedural law and the case law of Hon'ble Supreme Court and also by the Article 21 of the Constitution of India. The I.O. himself has stated that the accused has appeared in the police station, whenever he is called and now he himself is making contradictory statements. The procedural compliance is the essence of law and the prayer of re-arrest is contradictory to Article -21. The application is malafide and is an attempt to rectify I.O.'s own negligence or deliberate falsehood as there is no fresh material on record to justify re-arrest. The principle of *res judicata* is applicable. The accused has followed the condition of interim bail. Hence, the application is abuse of process of law. Therefore, he has prayed for rejection of the application.

3. The Ld. APP has submitted that, in the present matter, the arrest is extremely necessary and therefore appropriate order in favour of the informant be passed.

4. Read application with say of accused and Ld. APP. Heard Ld. Advocate for the informant, Ld. Advocate for the accused and Ld. APP. They have argued as per their stands.

5. It is a matter of record that, in the bail application No.4265/2025 and as per the remand order in CR No.773/2025 it is observed that, the directions of the Hon'ble Supreme Court in ***Mihir Shah Vs. State of Maharashtra*** dated 06.11.2025 were not followed and the arrest was not justified at the time of remand. In this situation, firstly this application is not made by the prosecution or I.O. but the same is made by the informant in person. This is not a case of arrest by a private person. Therefore the question of giving reason for arrest by the informant does not arise. So also, the order is

not challenged either by the I.O. or by the informant. There is no fresh or addition material to justify the re-arrest of the accused, as prayed by the informant. The I.O. cannot be allowed to retract his admission given before the court. I do not find any merit in the application made by the informant. Hence, pass following order :-

ORDER

Application is rejected in the interest of justice.

Date: 29.04.2026

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(S.S. Parkhi),
Judicial Magistrate(First Class),
32nd Court, Bandra, Mumbai