

MHPA190000722026 	S.C.C. No.46/2026
	State V/s. Shaikh Jumman

ORDER BELOW EXH.1

Perused the case record. The accused is charge-sheeted for the offence punishable under Section 122 & 124 of The Maharashtra Police Act.

2) On perusal of record it appears that the accused was found on public place (open place) in suspicious condition. Further, it is not the case of prosecution that at the relevant time the accused was found armed with dangerous instrument, having his face covered or otherwise disguised, with intent to commit offence. So, also the accused was not found in dwelling house or other building or board any vessel or boat. There is no document filed on record by the Investigating Officer that the accused is habitual thief.

3) In order to attract Section 122 of The Maharashtra Police Act, 1951, the prosecution is burdened to prove that the accused is found in dwelling-house or other building or on board any vessel or boat, in between sunset and sunrise, and failed to satisfactorily account for his presence at the said spot. However, in the present case, it is alleged by the prosecution that at the time of incident the accused was found on public place (open place) and not in the dwelling house or other building. Hence, considering factual aspects of this matter, it is apparently seen that the ingredients essential for attracting the provision under Section 122 of The Maharashtra Police Act, 1951 are

(2)

not attracted, to record plea of the accused and to proceed further in the matter. Hence, it can be seen that even if the case proceed against the accused, the end result would be the acquittal of the accused.

4) Therefore, I am of the view that to proceed with the present matter is futile exercise. Hence, to avoid fruitless proceeding, it would be just and proper to invoke the power given under Section 258 of the Code of Criminal Procedure, 1973, to stop the proceeding and to release accused. Considering peculiar facts and circumstances of this case, I am inclined to pass following order -

-: : ORDER : -

1. Proceeding is stopped vide **Section 258** of the **Cr.PC./ 281** of the **Bhartiya Nagarik Suraksha Sanhita, 2023**.
2. The accused is hereby discharged.
3. The custody of seized motorcycle shall be given its registered owner, after appeal period is over.

(Smt. P. C. Phatale)

Date : 05/06/2026.

Judicial Magistrate F.C., Manwat.

(3)

<u>CERTIFICATE</u>		
I affirm that the contents of this PDF file Judgment/ Orders are same word for word as per original Judgment/ Order.		
Name of the Stenographer	:-	Ajinkya Diliprao Dhakne, Stenographer (Grade-III).
Court Name	:-	C.J.J.D. & J.M.F.C., Manwat.
Date	:-	05/06/2026
Judgment/Order signed by Presiding Officer	:-	05/06/2026
Judgment/Order Uploaded on	:-	05/06/2026