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	<p style="text-align: center;"><b><u>IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, RAIGAD, AT ALIBAG</u></b></p> <p style="text-align: center;">( Presided Over by M. B. Attar )</p> <p style="text-align: center;"><b>Date : 27/03/2026</b> <b>Regular Cri. Case No. 8/2025</b> <b>Exh. No. 53/B</b></p> <p style="text-align: center;">(CNR No. MHRG030000292025)</p>
	Revdanda Police Station C.R. No. 164/2024, u/s 118(1), 115(2), 352 r/w section 3(5) of the Bharatiya Nyaya Sanhita, 2023
Complainant	State of Maharashtra, Through Revdanda Police Station, Taluka-Alibag, Dist. Raigad
Represented by	Ld. A.P.P. Shri. Prasad S. Patil
Accused	1. <b>Rohit Ganesh Waghmare</b> Age : 23 Yrs., Occu. : Labour
	2. <b>Ganesh Rajaram Waghmare</b> Age : 48 Yrs., Occu. : Labour
	3. <b>Raju Balu Pawar</b> Age : 50 Yrs., Occu. : Labour All R/at Walwali Adiwasiwadi, Post Malyan, Tal. Alibag, Dist. Raigad.
Represented by	Ld. Advocate Shri. Gaurav Patil

**PART 'B'**

Date of Offence	:	08/12/2024
Date of F.I.R.	:	08/12/2024
Date of Charge-sheet	:	01/01/2025
Date of Framing of Charges	:	25/03/2025
Date of Commencement of evidence	:	19/06/2025
Date on which Judgment is reserved	:	09/03/2026
Date of the Judgment	:	27/03/2026
Date of the Sentencing Order, if any	:	27/03/2026

**Accused Details**

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
1.	<b>Rohit Ganesh Waghmare</b>	No arrest	---	Offence p/u/sec. 118(1), 115(2), 352 r/w section 3(5) of the Bharatiya Nyaya Sanhita, 2023	Accused No. 1 is convicted u/s 118(1) and Accused No. 2 and 3 are acquitted.	Benefit of Probation of Offenders Act is given to Accused No. 1	---
2.	<b>Ganesh Rajaram Waghmare</b>	No arrest	---				
3.	<b>Raju Balu Pawar</b>	No arrest	---				

**LIST OF PROSECUTION /COMPLAINANT / DEFENCE / COURT WITNESSES****A. Prosecution :**

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
PW-1 (Exh.16)	Sunny Subhash Gole	Informant/ injured
PW-2 (Exh.21)	Pravin Prabhakar More	Spot panch witness

PW-3 (Exh. 23)	Subhash Suresh Gole	Eye witness and injured
PW-4 (Exh. 25)	Vijay Babasaheb Gole	Eye witness and injured
PW-5 (Exh. 29)	Dr. Soniya Vijaykumar Jadhav	Medical officer/Doctor
PW-6 (Exh. 37)	Dinesh Ramnath Pimpale	Investigating officer
PW-7 (Exh. 40)	Asha Vinod Sandankar	Eye witness
PW-8 (Exh. 41)	Sushma Vijay Gole	Witness and injured

**B. Defence Witnesses, If any :**

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
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**C. Court Witnesses, If any :**

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
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**LIST OF COMPLAINANT / PROSECUTION / DEFENCE / COURT EXHIBITS****A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	Exh. 17 and 18 (PW-1)	Complaint and Printed F.I.R.
2.	Exh. 22 (PW-2)	Spot Panchanama
3.	Exh. 30 to 34 (PW-5)	Injury certificates
4.	Exh. 38 (PW-6)	Muddemal receipt

**B. Defence :**

Sr. No.	Exhibit Number	Description
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**C. Court Exhibits :**

Sr. No.	Exhibit Number	Description
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**D. Material Objects :**

Sr. No.	Exhibit Number	Description
1.	Material Object-1	Broken glass bottle

**JUDGMENT**

(Delivered on 27/03/2026)

**01.** The accused are facing trial for offences punishable under sections 118(1), 115(2), 352 r/w section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

**BRIEF FACTS OF THE PROSECUTION CASE**

**02.** On 08/12/2024, at approximately 8:00 p.m., an alleged incident of assault took place at Village Wave, near Wave Naka, within the jurisdiction of Taluka Alibag, District Raigad.

**03.** It is alleged that at the said date and time, the informant, Sunny, was present at his garage. At that time, the accused, Rohit Waghmare, came to the garage and requested the informant to repair his motorcycle. The informant refused, stating that he only repairs four-wheelers. Thereupon, the accused Rohit Waghmare, who was in a drunken state, began abusing the informant. When the informant asked him to stop abusing and to leave the premises, the

accused's father, Ganesh Waghmare, and his relative, Raju, arrived at the spot. They also allegedly began abusing the informant and were reportedly under the influence of alcohol. Thereafter, the accused Rohit Waghmare allegedly assaulted the informant on the head with a beer bottle. All three accused then assaulted the informant by giving fist blows. Upon hearing the informant's cries, his father, mother, uncle, and aunt rushed to the spot. The accused persons also abused and assaulted them. On the basis of the aforesaid incident, the present prosecution has been initiated against the accused persons.

**04.** The informant, Sunny Subhash Gole, lodged the First Information Report, which came to be registered as C.R. No. 164/2024 for offences punishable under sections 118(1), 115(2), 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

**05.** The investigation was carried out by Assistant Sub-Inspector Shri. Dinesh Pimple. During the course of investigation, he visited the scene of offence, prepared the spot panchanama, and seized the broken glass bottle allegedly used in the commission of the offence. He also recorded the statements of the witnesses under section 181 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Upon completion of the investigation, it was revealed that the accused had committed the alleged offences. Accordingly, a charge-sheet came to be filed against the accused before the Court.

**06.** My learned predecessor had framed the charge (Exh.11)

against the accused. The contents of the said charge were read over and explained to the accused in the vernacular language, to which they pleaded not guilty and claimed to be tried. Accordingly, the matter proceeded to trial.

07. During the course of trial, the prosecution examined its witnesses and led documentary evidence in support of its case. After the completion of the prosecution evidence, the incriminating circumstances appearing against the accused in the evidence on record were put to them, as required under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Exh. 44 to 46), so as to afford them an opportunity to explain the same.

08. In their statements under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the accused denied all the incriminating circumstances appearing against them and stated that they have been falsely implicated in the present case. The defence of the accused is thus one of total denial and false implication. The accused have not led any defence evidence.

09. I have heard the learned Assistant Public Prosecutor appearing for the State and the learned defence counsel at length. I have carefully gone through the entire evidence on record, including the oral and documentary evidence adduced by the prosecution.

10. Upon consideration of the rival submissions and the material available on record, the following points arise for my determination. My findings on each of the said points are recorded

hereinafter, along with the reasons therefor.

<b>Sr. No.</b>	<b><u>Points</u></b>	<b><u>Findings</u></b>
1.	Whether the prosecution proves that on 08/12/2024, at about 8:00 p.m., at Wave Naka, Taluka Alibag, the accused, in furtherance of their common intention, voluntarily caused hurt to the informant by means of a dangerous weapon, namely a beer bottle, and thereby committed an offence punishable under Section <b>118(1)</b> read with Section <b>3(5)</b> of the Bharatiya Nyaya Sanhita, 2023?	In affirmative for accused No. 1, in negative for accused No. 2 and 3
2.	Whether the prosecution proves that on the aforesaid date, time and place the accused in furtherance of their common object voluntarily caused hurt to the informant and the witnesses and thereby committed an offence punishable under section <b>115(2)</b> read with Section <b>3(5)</b> of the Bharatiya Nyaya Sanhita, 2023?	No.
3.	Whether the prosecution proves that on the aforesaid date, time and place the accused in furtherance of their common intention, intentionally insulted the informant and witnesses and thereby gave provocation to them intending that such provocation will cause them to break public peace and thereby committed an offence punishable under section <b>352</b> read with Section <b>3(5)</b> of the Bharatiya Nyaya Sanhita, 2023?	No
4.	What order?	The accused No. 1 is convicted for the offence u/s 118(1) and No. 2 and 3 are acquitted

**:: REASONS :**

**AS TO POINT NO. 1 :**

11. In the present matter, the identity of the accused is not in dispute. It is admitted that the informant and the accused are known to each other. Hence the identity of the accused stands proved. Hence, I will evaluate the evidence on the point of assault and criminal intimidation.

12. In order to prove the charge against the accused the prosecution examined the informant, Sunny Subhash Gole (PW-1). He deposed that on 08/12/2024 at around 8:00 PM, he was sitting behind his garage and was studying. At that time, Rohit Waghmare came there and told him that his bike had broken down and asked him to repair it. He told him that he does not repair two-wheelers and only repairs four-wheelers. Upon this, he started abusing him in filthy language. Thereafter he went outside and while leaving, he lifted the stones lying nearby and threw it down twice. At that time, he was under the influence of alcohol. Thereafter his father and relatives came into his garage and started abusing him. All of them were intoxicated. They pushed him and shoved him and threatened to shut down the garage. Thereafter Rohit brought a beer bottle and hit him on the left side of his head, due to which he started bleeding. On hearing his cries, his parents and uncle and aunty came there. The accused also assaulted of them. He deposed that his family

members are physically challenged. Accused also assaulted them. After this, they went to the police station. The police referred him to the hospital. After returning from the hospital, he filed a complaint against the accused. He deposed that the complaint (Exh.17) lodged by him and printed First Information Report (Exh.18) are true and correct. He also identified the Material Object No. 1 broken beer bottle

**13.** The cross-examination is mostly denial and the minor contradictions and omissions regarding the abusive words is brought on record. It was also put to the witness that the initially the beer bottle was not in the hands of accused Rohit Waghmare and the cross-examination is on the point that no beer shop is near the spot. The learned advocate emphasizes that there is delay in lodging the first information report.

**14.** Upon perusal of the oral evidence of the informant, it appears that his testimony is substantially corroborative of the First Information Report (Exh. 17). It is true that there are certain minor omissions and contradictions, particularly on the aspect that the informant had not mentioned the specific abusive words in the FIR. Further, as per the FIR, the accused Rohit had assaulted the informant with a beer bottle on his head in the presence of his parents, uncle, and aunt; however, in his evidence, it has come on record that after he was assaulted and raised cries, his family members came to the spot. These discrepancies are minor in nature and do not go to the root of the prosecution case. Except for these

minor inconsistencies, there is nothing on record to disbelieve the testimony of the informant.

15. Upon perusal of the cross-examination of the prosecution witnesses and the statements of the accused recorded under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023, it appears that the accused have merely denied the allegations in toto. No specific defence has been brought on record. Not even a bare suggestion regarding any prior enmity or previous quarrel has been put forth by the accused. A vague suggestion has been given that the informant and his family members have lodged a false and concocted complaint. However, from the cross-examination, it clearly emerges that there was no prior dispute or enmity between the informant and the accused. In the absence of any such motive, it is difficult to accept that the informant and his family members would falsely implicate unknown persons in a serious offence of assault. No plausible explanation in this regard has been offered by the accused, even in their statements under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

16. The evidence of the informant is further corroborated by the testimonies of his father, Subhash Gole (PW-3), his uncle Vijay (PW-4), and the neighbour Asha (PW-7). They had also deposed that the accused had assaulted the informant. It also appears that the spot of incident is proved through the evidence of Pravin More (PW-2)

17. Particularly, the testimony of Asha (PW-7) assumes importance as she is an independent witness. She has deposed that the garage of Sunny is situated adjacent to her shop. On 08/12/2024, at about 8:00 p.m., she heard the cries of the informant and immediately went to the garage. Upon reaching there, she saw that the informant had sustained an injury on his head and that a beer bottle had been broken on his head. She further stated that the family members of the informant arrived at the spot thereafter. According to her, at the time when the informant was assaulted with the bottle, only one accused was present, and subsequently, the other accused arrived at the spot. She has also identified the beer bottle. Her testimony lends independent corroboration to the prosecution case.

18. During her cross-examination she testified that she had not seen who hit the Sunny with the bottle. She testified that when she came out of her shop after hearing the cries only sunny and one person was present and no other person was present. She testified that except that two persons she had not seen the other persons.

19. Upon careful perusal of the evidence of Asha (PW-7), it emerges that her testimony indicates that only one accused was present at the time of the incident, and that the other accused arrived subsequently. Although she has not witnessed the actual act of assault, her evidence clearly establishes that the informant had sustained a bleeding injury on his head and that a broken beer bottle was lying at the spot. Thus, her testimony supports the prosecution

case to the extent of the occurrence of the incident and the resultant injury, though it does not conclusively establish the identity of all the assailants at the time of the assault

**20.** The prosecution has examined Sushma Gole (PW-8), who is the aunt of the informant and, therefore, a natural witness to the incident. She has deposed that upon hearing the cries of the informant, she immediately proceeded to the garage. Upon reaching the spot, she noticed that Sunny had sustained an injury on his head and that he was bleeding. She further stated that he had been assaulted with a beer bottle. According to her, the injured was initially taken to the police station and thereafter to the hospital for medical treatment.

**21.** However, it is significant to note that she has not supported the prosecution case insofar as the alleged assault upon her person is concerned. Thus, her testimony is partly supportive of the prosecution case and partly non-supportive.

**22.** The learned defence counsel has contended that Asha (PW-7) and Sushma (PW-8) who is stated to be a relative of the informant and neighbour, has not fully supported the prosecution case, and therefore, their evidence ought to be discarded. It is further argued that in view of such partial non-support, the accused are entitled to the benefit of doubt.

**23.** In this regard, it is necessary to examine the settled principles governing the appreciation of evidence. The maxim *falsus*

*in uno, falsus in omnibus* (false in one thing, false in everything) is not accepted as a rigid rule of law in Indian criminal jurisprudence. The Hon'ble Supreme Court has consistently held that the evidence of a witness cannot be rejected in its entirety merely because a portion of it is found to be untrue or exaggerated.

24. On the contrary, the Court is under a duty to carefully scrutinize the evidence and to separate the truthful part from the untruthful or exaggerated portion. This principle is often described as the duty of the Court to "separate the grain from the chaff." If the substratum of the prosecution case remains intact and is supported by reliable and cogent evidence, minor discrepancies or partial hostility on the part of witnesses do not render the entire prosecution case doubtful.

25. Applying the aforesaid principles to the present case, it becomes evident that although Sushma (PW-8) has not supported the prosecution with regard to the alleged assault upon her, her testimony clearly supports the core of the prosecution case, namely, that the informant had sustained a bleeding head injury and that the incident had in fact occurred at the relevant time and place. Her presence at the spot is natural and probable, and her version finds corroboration from the testimony of the informant and other witnesses. Thus, her evidence cannot be discarded in toto merely on account of partial non-support. To the extent that her testimony is consistent, reliable, and corroborative of the prosecution case, it deserves due weight and can safely be relied upon.

**26.** Now, coming to the medical evidence, it appears that, in order to prove the injuries sustained by the informant and other persons, the prosecution has examined Dr. Soniya Vijaykumar Jadhav (PW-5). She has deposed that on 08/12/2024, she medically examined Sunny Subhash Gole (informant), Jyoti Subhash Gole, Sushma Gole, Subhash Gole, and Vijay Babasaheb Gole. The informant had given a history of physical assault by a known person.

**27.** On examination of the informant Sunny Gole, she found a laceration over the head measuring 4 x 5 cm, linear in nature. She further deposed that the informant narrated to her that he had been assaulted on the head with a glass bottle. She opined that the injury was simple in nature and was caused within 12 hours prior to examination. The patient was treated by suturing the wound and was thereafter discharged with medicines. Importantly, Dr. Soniya Jadhav has specifically opined that the injury sustained by the informant was possible by broken glass bottle shown to her. She has further deposed that the injury certificate of Sunny Gole (Exh. 30) and the injury certificates at Exh. 31 to 34 are true and correct.

**28.** She also examined Jyoti Subhash Gole, who had sustained an abrasion over the right elbow measuring 2 x 3 cm. Further, she examined Sushma Gole, who had sustained an abrasion over the right thumb. She also examined Subhash Gole and Vijay Babasaheb however, no injuries were found on their persons.

**29.** Upon overall consideration of the medical evidence, it

clearly emerges that the informant Sunny had sustained a lacerated wound on his head. The evidence also indicates that Jyoti Gole sustained an abrasion on her right elbow and Sushma Gole sustained an abrasion on her right thumb. Thus, the medical evidence supports the prosecution case to the extent that injuries were indeed sustained by the informant and some of the witnesses.

**30.** During cross-examination, the defence attempted to challenge the nature of the injury by suggesting that the informant had suffered a lacerated wound and not an incised wound. It was suggested that if a person is assaulted with a glass bottle, an incised wound is more likely, whereas if the person is struck with an unbroken glass bottle, the injury would be blunt in nature, resulting in a laceration. The witness was also cross-examined on the aspects of the nature, colour, and characteristics of the injury.

**31.** However, from the evidence on record, it is clear that the Doctor has maintained that the injury found on the informant is possible if he is struck with a glass bottle, i.e., Material Object No. 1. The medical opinion, therefore, does not contradict the prosecution case. Thus, the medical evidence clearly establishes that the informant had sustained a head injury and the same is consistent with and corroborative of the ocular evidence of the informant and other witnesses.

**32.** The learned advocate for the accused had pointed out several lacunae therein and submitted that the informant as well as

the witnesses are closely related to each other. According to him, all the witnesses are family members of the informant and, therefore, their evidence cannot be relied upon as they are interested witnesses.

33. Upon perusal of the record, it appears that the witnesses include the parents, relatives, and a neighbour of the informant. It further appears that the place of occurrence is adjacent to or in close proximity to the house of the informant. In such circumstances, the presence of these witnesses at the spot cannot be said to be unnatural. On the contrary, it is quite probable that upon hearing the cries of the informant, they immediately rushed to the spot.

34. The cross-examination conducted on behalf of the accused does not disclose any prior enmity between the witnesses and the accused so as to falsely implicate him in the present case. Moreover, it has come on record that after the incident, a scuffle took place between the family members of the informant and the accused, resulting in injuries to the mother and aunt of the informant. This circumstance further corroborates the presence of the witnesses at the scene of offence.

35. Merely because the witnesses are related to the informant, their testimony cannot be discarded on that ground alone. Relationship per se does not render a witness "interested" unless it is shown that the witness has a motive to falsely implicate the accused. In the absence of such material, the evidence of these

witnesses cannot be rejected outright. Hence, the arguments advanced by the learned advocate for the accused on this point are not acceptable.

36. The learned advocate for the accused has also argued at length on the issue of delay in lodging the First Information Report. He has relied upon the judgment of the Hon'ble Apex Court in ***Hari Singh vs. State of Madhya Pradesh, (2019) 8 SCC 677***, to contend that unexplained delay in lodging the FIR is fatal to the prosecution. I have carefully perused the said judgment. It appears that the case pertained to an offence punishable under Section 302 of the Indian Penal Code, and the delay in lodging the FIR was considered along with other deficiencies in the prosecution case. The benefit was granted to the accused not solely on the ground of delay, but on a cumulative assessment of the evidence.

37. The learned advocate has further relied upon the judgment in ***State of Himachal Pradesh vs. Rajesh Kumar @ Munnu, 2025 SCC OnLine SC 577***, wherein it was held that *unexplained delay in lodging the FIR may prove fatal to the prosecution. That case, however, pertained to an offence under Section 376 of the Indian Penal Code, and the delay assumed significance in the absence of corroboration to the testimony of the prosecutrix.*

38. Coming to the facts of the present case, the delay in lodging the FIR stands reasonably explained. The evidence on record shows that the informant was first referred to the hospital by the

police for medical examination, and only after returning from the hospital was the complaint lodged. The informant has duly explained this aspect in his testimony. In such circumstances, a delay of approximately 18 hours cannot be said to be fatal to the prosecution case.

39. The learned advocate for the accused has further contended that there are material contradictions and omissions in the evidence of prosecution witnesses, and that in the absence of reliable and cogent evidence, the accused is entitled to be acquitted. In support of this contention, reliance has been placed on ***M. M. Rajan vs. State of Kerala*** (Criminal Appeal No. 1085 of 2010).

40. Further reliance has been placed on ***State of Telangana vs. K. Sanjeev*** (Criminal Appeal No. 1443 of 2017), wherein it has been held

*“That where there is no unbroken chain of circumstances pointing unerringly towards the guilt of the accused, and where the prosecution evidence suffers from material contradictions and lack of corroboration, the benefit of doubt must go to the accused.”*

41. However, it is well settled that minor contradictions and omissions, which do not go to the root of the prosecution case, cannot be made a ground to discard the entire evidence. The court is required to assess whether such discrepancies are material in nature

and whether they create a reasonable doubt regarding the veracity of the prosecution case. In the present case, the alleged contradictions do not appear to be of such magnitude as to demolish the core of the prosecution story.

42. It is the settled position of law that, in cases of circumstantial evidence, the evidence must be so conclusive that it excludes any hypothesis other than the guilt of the accused. The Hon'ble Apex Court in the case of **Sharad Sarada Vs. State of Maharashtra** had given the five golden rules in the case of circumstantial evidence but this case is not on the basis of circumstantial evidence but on the basis of direct evidence the informant and the witnesses are the eye witnesses and the injured therefore the case law based on the circumstantial evidence is not applicable to this case.

43. The learned A.P.P. has relied upon the judgment of the Hon'ble Apex Court in *Ravinder Kumar vs. State of Punjab*, AIR 2001 SC 3570. In the said judgment, it has been held that delay in lodging the First Information Report, by itself, cannot be a ground to doubt the prosecution case. The Hon'ble Court has observed that

*” Having regard to the prevailing conditions in India, it would be unrealistic to expect villagers to rush to the police station immediately after the occurrence. Human nature being what it is, the kith and kin of the*

*victim, who have witnessed the incident, cannot be expected to act with mechanical promptitude in lodging the report. At times, being grief-stricken due to the calamity, it may not immediately occur to them to approach the police. It is but natural, in such circumstances, for them to take some time before proceeding to the police station to lodge the report.”*

44. Considering the evidence relied upon by both the prosecution and the defence on the point of delay, it appears that the question as to whether delay is fatal to the prosecution depends upon the facts and circumstances of each case. The effect of such delay has to be assessed in the light of the overall evidence on record, including the presence of corroborative material, and the testimony of injured and independent witnesses. Mere delay, in the absence of prejudice to the accused or any indication of fabrication, cannot be treated as fatal to the prosecution case.

45. Considering the arguments advanced by the learned advocate for the accused and the learned A.P.P., and upon appreciation of the evidence on record, it appears that the delay in lodging the First Information Report is not fatal to the prosecution case.

46. Now, coming to the role played by each of the accused, it

is evident that all the accused are facing trial for the offence punishable under Section 118(1) of the *Bharatiya Nyaya Sanhita, 2023*. It further appears that accused Nos. 2 and 3 are additionally charged with the aid of Section 3(5) of the said Act, which pertains to acts done in furtherance of common intention. Therefore, it becomes necessary to evaluate whether accused Nos. 2 and 3 shared the common intention to assault the informant and other witnesses.

47. In this regard, the evidence of PW-7 assumes significance. She has categorically deposed that accused Nos. 2 and 3 arrived at the spot at a later point of time. This version is corroborated by the testimony of the informant, who has also stated that accused Nos. 2 and 3 came subsequently and that the assault by means of a beer bottle was inflicted solely by accused No. 1.

48. Thus, the crucial question that arises is whether accused Nos. 2 and 3 shared a common intention with accused No. 1. Though the informant has deposed that accused Nos. 2 and 3 assaulted him by fist and hand blows, no corresponding injuries have been brought on record to substantiate this claim. Furthermore, there is no medical or other reliable evidence indicating that any injuries were sustained by the other witnesses. The mother of the informant, who is alleged to have sustained injuries, has not been examined by the prosecution. In the absence of such evidence, the prosecution has failed to establish the alleged assault by accused Nos. 2 and 3.

49. On the other hand, as regards the injury sustained by the informant, the evidence clearly indicates that the same was caused by accused No. 1. There is no cogent or convincing material on record to demonstrate that accused Nos. 2 and 3 shared any common intention with accused No. 1 so as to attract the provisions of Section 3(5) of the *Bharatiya Nyaya Sanhita*.

50. Therefore, upon an overall appreciation of the evidence on record, it can be safely concluded that the prosecution has successfully proved the charge under Section 118(1) of the *Bharatiya Nyaya Sanhita, 2023* against accused No. 1. However, the prosecution has failed to prove the charges against accused Nos. 2 and 3 beyond reasonable doubt.

51. Hence, Point No. 1 is answered in the **affirmative** insofar as accused No. 1 is concerned, and in the **negative** insofar as accused Nos. 2 and 3 are concerned.

**As to Point No. 2 and 3 :**

52. Considering the evidence on record it appears that the prosecution has failed to prove the charge under Section 115(2) and 352 of the *Bharatiya Nyaya Sanhita*. There is no satisfactory evidence on record to establish that the accused persons either provoked or intentionally insulted the informant or the witnesses in a manner attracting the said provision. Accordingly, Point Nos. 2 and 3 are answered in the **negative**.

**AS TO POINT NO. 4 :**

53. Considering the overall evidence on record, and in particular the testimony of the informant, it clearly emerges that Accused No. 1, Rohit Waghmare, assaulted the informant. Accordingly, the offence punishable under Section 118(1) of the Bharatiya Nyaya Sanhita, 2023 stands proved against Accused No. 1.

54. From the evidence on record, it is evident that Accused No. 1 assaulted the informant. Hence, I hold Accused No. 1 guilty of the offence punishable under Section 118(1) of the Bharatiya Nyaya Sanhita, 2023.

55. Upon recording the finding of guilt, I proceed to hear the accused on the point of sentence.

56. I have heard the accused in person on the question of sentence. The accused submitted that he is the sole earning member of his family and requested that leniency be shown while imposing the sentence.

57. I have also heard the learned Advocate for the accused. He submitted that a lenient view may be taken considering the circumstances of the case, and prayed that the accused be granted the benefit of probation under the Probation of Offenders Act.

58. I have heard the learned Assistant Public Prosecutor for the State. He submitted that the offence is serious in nature and warrants imposition of maximum punishment. He further submitted

that a deterrent sentence should be awarded so as to prevent such incidents in future.

59. I have given my anxious and thoughtful consideration to the submissions advanced by the accused, his learned Advocate, and the learned A.P.P. on the question of sentence. It appears from the record that the incident occurred in a sudden fit of anger and was not premeditated. There is no material to suggest any prior intention on the part of the accused to assault the informant.

60. It is also pertinent to note that the accused is about 23 years of age and does not have any prior criminal antecedents. His young age is a significant mitigating circumstance. The absence of previous criminal conduct indicates that the accused is not a habitual offender and there exists a possibility of his reformation. Further, the circumstances in which the offence was committed suggest that it was a sudden act rather than a calculated one. There are no aggravating factors on record that would justify the imposition of a harsh or deterrent punishment.

61. In view of the above mitigating circumstances, particularly the young age of the accused, absence of criminal antecedents, and the nature of the incident, I am of the considered opinion that sentencing the accused to imprisonment would not serve the ends of justice. Instead, it would be appropriate to extend the benefit of the Probation of Offenders Act, thereby giving the accused an opportunity to reform and reintegrate into society.

**62.** It is also evident that due to the assault, the informant suffered injuries and incurred medical expenses. The incident has also caused hardship to his family members. Therefore, it would be just and proper to award compensation to the victim under Section 397(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, to partly redress the loss and hardship suffered by him.

**63.** Considering the nature of the incident, which was not premeditated, the age of the accused, the absence of any prior criminal record, and the reformatory object underlying the Probation of Offenders Act, I find it appropriate to release Accused No. 1 on probation upon execution of a bond of good behaviour for a specified period. At the same time, in order to balance the interests of the victim, compensation is required to be awarded to the informant to meet the ends of justice. Accordingly, for the reasons stated above, and as to Point No. 4, I proceed to pass the following order:

**:: ORDER ::**

1. Accused Nos. 2 and 3 are hereby acquitted of the offences punishable under Sections 118(1), 115(2), and 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, in terms of Section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
2. Accused No. 1 is acquitted of the offences punishable under Sections 115(2) and 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, in terms of

Section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

3. Accused No. 1, Rohit Ganesh Waghmare, is hereby convicted for the offence punishable under Section 118(1) of the Bharatiya Nyaya Sanhita, 2023, in terms of Section 271(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023. However, instead of sentencing him to imprisonment, he is ordered to be released on probation upon execution of a bond for good behaviour under Section 4 of the Probation of Offenders Act.
4. Accused No. 1 is directed to execute a bond for good behaviour in the sum of ₹15,000/- (Rupees Fifteen Thousand only), with a surety in the like amount, with a condition that he shall appear and receive the sentence as and when called upon by the Court within a period of one year, and in the meantime, shall maintain peace and good behaviour.
5. Accused No. 1 is further directed to deposit compensation of ₹5,000/- (Rupees Five Thousand only) in this Court under the provisions of Section 395(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
6. The amount of compensation, if recovered, shall be paid to the informant, Sunny Subhash Gole, after the expiry of the appeal period.
7. In compliance with Section 481(1) of the Bharatiya

Nagarik Suraksha Sanhita, 2023, each of the accused shall execute a Personal Bond and a Surety Bond in the sum of ₹15,000/- (Rupees Fifteen Thousand only) each, which shall remain in force for a period of six months.

8. A copy of this judgment shall be furnished to Accused No. 1 free of cost forthwith.
9. Accused No. 1 is informed that he has the right to prefer an appeal against this judgment within the prescribed period.
10. The bail bond of Accused No. 1 stands cancelled.
11. The bail bonds of Accused Nos. 2 and 3 stand cancelled.
12. The muddemal property, i.e., broken glass bottle (Material Object No. 1), shall be destroyed after the expiry of the appeal period.

(Judgment dictated and pronounced in open Court.)

Alibag.  
Date : 27/03/2026.

( **M. B. Attar** )  
Chief Judicial Magistrate,  
Raigad-Alibag.