

	Age :- 30 years, Occ. :- Agriculture, R/o. Shirgaon, Tal. Shahuwadi, Dist. Kolhapur.
Represented by	Shri. R. S. Joshi, the Ld. Advocate for accused person.

Part 'B'

(Para 44(ii) of Chapter VI of Criminal Manual)

Date of offence	23/10/2025 to 30/10/2025
Date of FIR	30/10/2025
Date of Chargesheet	29/12/2025
Date of Framing of Charges	07/01/2026
Date of commencement of evidence	03/02/2026
Date on which Judgment is reserved	10/06/2026
Date of the Judgment	09/07/2026
Date of the sentencing Order, if any	Nil

DETAILS OF THE ACCUSED

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, CrPC.-
1.	Vijay Madhukar Gurav	22/12/2025	-	Sections 331(3), 331(4), 305, 62 of the Bharatiya Nyaya Sanhita, 2023.	Acquitted	--	--

J U D G M E N T
(Pronounced in open Court)

Accused is facing trial of the offence punishable under sections 331(3), 331(4), 305, 62 of the Bharatiya Nyaya Sanhita, 2023 (for short hereinafter referred as "B.N.S.").

02) The case of the prosecution is that on dated 23/10/2025, at about 11:30 am to 30/10/2025, at about 09:45 am, the accused committed lurking house trespass or house breaking with the intent to commit a crime, after sunset and before sunrise, by removing the roof of a locked house of the informant namely, Sanjaykumar Gangaram Mahadik, at Karambele, Foujdarwadi, Tal. Sangmeshwar, Dist. Ratnagiri.

03) The informant namely, Sanjaykumar Gangaram Mahadik lodged FIR against the accused unknown person in Deorukh Police Station, on the basis of which, C. R. No. 122/2025 was registered. Shri. Sachin Namdev Kamerkar, Police Head Constable/1430, Deorukh Police Station, carried out investigation. During investigation, he recorded spot panchanama and recorded statements of important witnesses. After investigation, he filed chargesheet No. 55/2025, against the present accused.

04) The accused is in Magisterial Custody. After production of the accused person by the jail authority, I framed charge against accused under sections 331(3), 331(4), 305, 62 of

the B.N.S. below Exh. No. 06. The contents of the charge were read over and explained to accused in his vernacular, to which, he pleaded not guilty vide Exh. No. 07 and claimed to be tried. In the statement recorded under section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "B.N.S.S." hereinafter), below Exh. Nos. 42, accused took defence of denial and false implication in the crime.

05) Heard the Ld. APP. Shri. A. L. Daddekar and the Ld. Advocate for the accused person, Shri. R. S. Joshi. Perused the record.

06) Following points arise for determination along with findings and reasons thereon are as under :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Whether the prosecution proves that on dated 23/10/2025, at about 11:30 am to 30/10/2025, at about 09:45 am, the accused committed lurking house trespass or house breaking with the intent to commit a crime, by removing the roof of a locked house of the informant namely, Sanjaykumar Gangaram Mahadik, at Karambele, Foujdarwadi, Tal. Sangmeshwar, Dist. Ratnagiri and thereby committed an offence punishable under section 331(3) of the B.N.S. ?	... No.

2)	Whether the prosecution proves that on above mentioned date, time and place, the accused person committed lurking house trespass or house breaking with the intent to commit a crime, after sunset and before sunrise and thereby committed an offence punishable under section 331(4) of the B.N.S. ?	... No.
3)	Whether the prosecution proves that on above mentioned date, time and place, the accused person committed theft in the house of the informant and thereby committed an offence punishable under section 305 of the B.N.S. ?	... No.
4)	Whether the prosecution proves that on above mentioned date, time and place, the accused person attempted to commit theft in the house of the informant and thereby committed an offence punishable under section 62 of the B.N.S.?	... No.
5)	What order ?	... Accused person is acquitted.

REASONS

As to the point No. 01 to 04 :-

07) As these points are inter-related to each other, to avoid repetition, I am discussing them together. Sanjaykumar (PW1) stated in his examination-in-chief that his native place is Karambele-Sangameshwar, Tal. Sangameshwar, Dist. Ratnagiri and due to work, he live in Chiplun. He does come and go to Karambele for festivals. On 22/10/2025, he came to Karambele for celebrating “*Bhaubeej*” and on 23/10/2025, he returned to Chiplun. His nephew namely, Manish Madhukar Mahadik lives near his house in Karambele, next to the bus stop. He had asked him to keep watch on his house.

08) Sanjaykumar (PW1) stated further in his examination-in-chief that on dated 30/10/2025, he called him and told that the back door of his house is open. He asked him whether he has come to the home and further told that the household utensils were kept in the front yard of the house. Then, he immediately, rushed to Karambele and checked. The lock on the front door was in order and the back door of the house was open. After that, by unlocking the front door, he went inside the house, and saw that the window in the hall was broken and the wooden panel on the lower side of the hall door was broken. There is a basement room on the left side of the hall and it's roof had been removed and a ladder had been put in, to enter the house. All the cupboards in the house were open, clothes were lying in disarray. He saw that

food had been prepared in the kitchen. The kitchen utensils were still there and a salt jar, a bowl, a plate and candles, an Aadhaar card, a SIM card and jeans were kept in the front yard.

09) Sanjaykumar (PW1) stated further in his examination-in-chief that he called his nephew and the neighbors there. Then, he went to the police station and filed the complaint. Then, the complaint was shown to the witness by the prosecution, to which, he stated that it's contents are true and it bears his signature. The complaint is at Exh. No. 10. Then, the police came to his house and recorded spot panchnama in the presence of Manish Mahadik and Makarand Panchal. One-two other villagers were present during the panchnama. The police had seized the Aadhaar card, SIM card and blue jeans found there and sealed them. Then, the seized muddemal i.e. Aadhaar card, SIM card of Jio company and blue jeans, were shown to him, to which, he identified. Hence, Article 'A', 'B' and 'C' was given to it respectively.

10) Sanjaykumar (PW1) stated further that the signatures of the panch and himself were taken on the panchnama. Then, the spot panchnama was shown to the witness by the prosecution, to which, he stated that it's contents are true and it bears his signature. The complaint is at Exh. No. 11. He stated further that during the panchnama, fingerprint examiners and a dog squad from the forensic department also came. They found fingerprints on the food bowl. The ladle (an object used to stir food) and spoon were also taken from the forensic department. They did not

seal them. The police had drawn a map of the spot and they had also taken photographs there.

11) Sanjaykumar (PW1) stated further that on 23/12/2025, the police had called him saying that they had arrested the accused namely, Vijay Madhukar Gurav. The police brought the accused and came to his house. At that time, the accused told him and the police, about what he had done there. Further, the witness identified the said accused during his testimony.

12) In cross-examination, Sanjaykumar (PW1) admitted that an Aadhaar card and SIM card, jeans pant are not mentioned in the complaint vide Exh. No. 10 and the accused is not the owner of it. He further admitted that the accused has no connection with the said items. Further, he admitted that his house is adjacent to Devrukh Sangameshwar Road and there is a Karambele stop near his house. Further, he denied the adverse suggestions put to him by the defence side.

13) Makarand (PW2) stated in his examination-in-chief that on 30/10/2025, Police Officer Sachin Kamerkar had called him for recording a panchnama of theft at the house of Sanjay Kumar Mahadik. At that time, three teams- a dog team, a fingerprinting team and a third team were present alongwith the police. They went to the house of Sanjay Kumar Mahadik. The clothes were scattered. There were utensils used for cooking food

in the kitchen. The complainant showed them the scene of the incident. The roof of the house was removed and the house was entered. There weas kitchen utensils, a candle, glass, an adhar card, Sim card of Jio company and jeans pant.

14) Makarand (PW2) stated further that the police recorded the panchnama in between 09.45 pm to 11.00 pm and seized that an adhar card, Sim card and jeans pant. The kitchen utnesils was taken by the fingerprint examiners. The police drawn the map and took his signatures. Then, the spot panchnama vide Exh. No. 11 and the spot map were shown to the witness. He stated that they are the same and berars his signatures. The spot map is exhibited at Exh. No. 13. Then, the photographs were shown to him.

15) In cross-examination, Makarand (PW2) admitted that the timing of the panchanama as stated in his chief-examination, is not mentioned in the spot panchnama. He further admitted that the police did not take the photographs of that Adhar card, Sim card and jeans. He further admitted that the jeans pant is not shown in the spot map vide Exh. No. 13. Further, he denied the adverse suggestions put to him by the defence side.

16) Manish (PW3) stated in his examination-in-chief that on 30/10/2025, in morning, he had gone to the side of the informant's house to take a walk. The informant namely, Sanjaykumar Gangaram Mahadik is his uncle. He saw the utensils

in the courtyard of his house and the back door of his house was open. Then, he called his uncle and told him that the back door of the house was open. His uncle told him not to go inside. Hence, he waited there for his uncle. After that, he went the police station alongwith his uncle and Police Patil-Mr. Khake. Then, the police came and inspected the place. After that, they went to the police station again and filed a complaint.

17) Manish (PW3) stated further that in night time, the police took the dog squad, forensic and fingerprint squad and came there. They started further work there. The dog squad was taken for a walk there. The fingerprint squad inspected the fingerprints there. The police recorded panchnama in between 11:00 pm and 11:30 pm there. There was a plate, a pot, a spoon, a salt jar, etc. in the courtyard of the house. The said utensils were on a wooden bed in the courtyard. A SIM card was lying below the said bed. Two candles were lying nearby. There was a jeans and an Aadhaar card on the edge of the courtyard. The police seized the said SIM card, Aadhaar card and jeans from there. The clothes were lying in disarray inside the house. The roof of the room had been removed. The materials of the cupboard inside the house were scattered. It was seen that food had been prepared using the material of the kitchen. A ladder was seen outside the house.

18) In further chief-examination of Manish (PW3), the spot panchnama vide Exh. No. 11 and the spot map vide Exh. No.

13 were shown to the witness. He stated that they are the same and bears his signatures. Then, the photographs were shown to him. The seized muddemal i.e. an Aadhaar card, Sim card and jeans pant was shown to the witness, to which, he identified the same. After that, on 23/12/2025, the police had caught the thief and brought him there. He, the police, his uncle and other people from the village were present there. The accused told how he entered the house, how he climbed the ladder, how he entered the house by removing the roof, etc. He told where and how he got the kitchen items, how he cooked meals twice. He said that on the first day he brought the fish from the river and he had cooked food from the fish and ate it outside the house. The next day, he had cooked lentil sabji-rice and ate it and took the remaining food with him. He did not receive any valuables at the said place. However, he had admitted that he had scattered the materials there.

19) Manish (PW3) stated that the accused further stated that since his jeans were damaged, he had thrown it on the doorstep of the house and wear track pant from the house. He further stated that while he was in Adampur, he had taken a person's mobile phone to call his aunt and had left the Aadhaar card and SIM card kept in the cover of that mobile phone in the courtyard and had gone. Further, he identified the said accused during testimony.

20) In cross-examination, he admitted that Sanjay Kumar

Mahadik is his cousin-uncle and nothing was stolen from Mahadik's house. He further admitted that on 23/12/2025, the police did not take any photographs or did not make videography. Further, he admitted that the timing of the spot panchnama as stated by him in his chief-examination is not mentioned in the spot panchnama. Further, he denied the adverse suggestions put to him by the defence side.

21) Ganesh (PW4) stated in his examination-in-chief that on 18/10/2025, he went to Balumama Mandir, Adamapur, Dist. Kolhapur. On 24/10/2025, at around 02:00 pm, a person met him and told his name as Vishal Pujari and he is a Ratnagiri policeman. He asked him for his mobile phone and made a video call to his aunt. After the video call, he gave him his mobile phone back. Then, on the same day, at around 06:00 PM, he asked for his mobile phone and after the call, he gave his mobile phone back. After the *aarti* in the temple around 08:00 pm, while the *prasad* was being distributed, he asked for his mobile phone saying that he wanted to video call his aunt again. He gave him his mobile phone. But, he did not come within 10 minutes.

22) Ganesh (PW4) stated further that he called on his mobile phone then, the said man told him that he will come within 10 minutes. But, he did not return. Then, he called him on next day. At that time, his mobile phone was switched off. He went to Kolhapur police station to lodge the complaint. But, the police denied to take his complaint without the purchase receipt

of mobile.

23) Ganesh (PW4) stated further that on Sunday, he returned to his home and his father made a call from his mobile to his mobile number. The said man abused his father. Then, he purchase anew sim card on the same number and came to know that the said man is misusing his Instagram account. Then, he closed his ID. There was his Aadhaar card kept in cover of the said mobile. Then, the muddemal i.e. Aadhaar card, SIM card of Jio company were shown to him, to which, he identified it as the same. He stated further that there was another SIM card of Uninor company in his mobile. After, 2-3 days, the police of Gargoti Police Station, Dist. Kolhapur called on his father's mobile and told that the said mobile has been recovered. But, the said mobile was not returned to his father for want of purchase receipt. The said witness identified the said person as accused during his testimony.

24) In cross-examination, Ganesh (PW4) stated that he has not made any complaint to trust committee of the said temple at Adamapur against the said person for taking his mobile. He further admitted that he has no purchase receipt of the said mobile and before purchasing new Sim card of same number, it is necessary to lodge complaint about missing of previous Sim card. He further admitted that he has not given any such complaint to the Police. He further admitted that his father did not make any complaint against that person for abusing him on mobile call.

Further, he denied the adverse suggestions put to him by the defence side.

25) Dipraj (PW5) stated in his examination-in-chief that on 23/12/2025, he went to the house of Sanjaykumar Mahadik house after he informed him that there was a theft at his house. The police brought the accused to the house of Sanjaykumar Mahadik at Karambale on that day. At that time, the police, Sanjaykumar Mahadik and his relatives were present there. The accused told the police that *"he climbed a ladder, removed the roof of the house and entered the house, he tried to commit theft, since he was hungry, he prepared a meal of lentils sabji- rice and put it on the bench there and ate and on the next morning, he took the leftover food and wear the track pant from that house. He went at night in the said house as it was locked"*.

26) Dipraj (PW5) stated further that the accused scattered the materials from the cupboard and the food items. He identified the said person as accused during his testimony.

27) In cross-examination, he admitted that the informant comes within his relation. He further admitted that the date and the crime number, in which the police came, is not mentioned in his statement recorded before the police and also, he did not stated it in his chief-examination. He further admitted that the police did not video shoot when the accused was narrating the alleged incident nor they carried out the process of E-Sakshya

system. Further, he denied the adverse suggestions put to him by the defence side.

28) Ramesh (PW6) stated in his examination-in-chief that he work as a priest in '*Swami Samarth's Math*' at Tamhane. On 23/12/2025, the police brought an accused to the '*Swami Samarth's Math*'. The police asked him, "has this accused come to him before?" to which, he replied that on 29/10/2025, at around 7:30 pm, the said person came to the '*Swami Samarth's Math*'. He told him his name as Vijay Gurav, R/o. Rajapur and he is wireman in M.S.E.B. He further told him that he would sleep there tonight because his vehicle had no lights. He told the said accused that tigers come here, don't stay there, go to Devrukh and get a lodge. After that, he asked the food to it. He gave him the food and go to sleep at about 08.15 pm – 08.30 pm. On next day, at about 03. 30 am, he saw there. But, the accused was not there. He do not know when he went from the '*Swami Samarth's Math*'. He came to know from the police that the said accused is habitual offender. He identified the accused during his testimony.

29) In cross- examination, he admitted that the contents of his chief-examination is his hearsay knowledge. Further, he admitted that he do not know how his name is included in the record. Further, he denied the adverse suggestions put to him by the defence side.

30) Suraj (PW7) stated in his examination-in-chief that on

23/12/2025, he received a call from Sanjay Mahadik that there had been a theft at his house. So, he went to his house. On 23/12/2025, the police brought the accused to the house of Sanjay Mahadik. At that time, the accused told him that *"on 28/10/2025, while he was coming from Sangameshwar to Devrukh, he saw the closed house of Sanjay Mahadik. At that time, he took the ladder and climbed the roof of the house. He entered the house. Then, he opened the cupboards of the house and saw if he could find anything. He also took the utensils of the house and cooked food there. He had brought fish while coming from Sangameshwar. He cooked food from it. He opened the back door and ate the food at the back of the house. On the next day, he packed the remaining food in a tiffin. While in Adamapur, district-Kolhapur, he had taken phone of Ganesh Mane to call his aunt and had brought the phone with him. Since his jeans was dirty, he left it there and put on the track pant. He also left the SIM card and Aadhaar card there"*. Further, he identified the accused during his testimony.

31) In cross-examination, Suraj (PW7) admitted that he came to know about the theft because Sanjay Mahadik told him and he had no personal knowledge about it. He further admitted that on 23/12/2025, the police did not shoot a video or take photographs of himself, the accused and the people present there. Further, he admitted that Sanjaykumar Mahadik is his relative. Further, he denied the adverse suggestions put to him by the defence side.

32) Rupali (PW8) stated in her examination-in-chief that on 30/10/2025, she went to Karambele at the spot of the offence bearing Crime No. 122/206. At that time, Police Head Constable Mr. Kamerkar, Lady Police Smt. Velwankar, Police Constable Lagare, Driver, Dog squad and 02 panchas were present. Police Head Constable Mr. Kamerkar directed her to take photographs during the spot panchnama and upload it in E-Sakshya system. She took the photographs in her mobile and took it's prints form the printer of the police station and submitted it to the Investigating Officer, along with the certificate as per section 63(4)(c) of the Bharatiya Sakshya Adhiniyam. Then, the said photographs and the certificate was shown to her, to which, she identified it. The said certificate is at Exh. No. 23.

33) In cross-examination, Rupali (PW8) admitted that her mobile phone has the facility to edit photos. Further, she admitted that all the persons mentioned are not visible in the photographs vide (Article A) Object A. She further admitted that the names of all the persons mentioned in the affidavit are not mentioned in the certificate below Exh. No. 23. Further, she denied the adverse suggestions put to her by the defence side.

34) Sachin (PW9) stated in his examination-in-chief, all about the investigation. He stated that the investigation of present crime was given to him by an order vide Exh. No. 25. On 30/10/2025, he conducted a spot panchnama vide Exh. No. 11, in the presence of Panch-Makarand Panchal and Manish Mahadik.

At that time, he, the police, panch, complainant, forensic team, dog team and fingerprint expert team were all present.

35) Sachin (PW9) stated further that it was seen that using a ladder, the accused was entered in the house by removing roof. The materials in cupboard was scattered and food was cooked by using food materials and utensils. There was an Aadhaar card, on which, name- Ganesh Shivaji Mane, date of birth 13/03/1997, was written on it, a SIM card of a Jio company with no. 9370693504 and a blue GLACIER jeans pant was there. He seized the said muddemal. Mrs. Kurane, Lady Police Constable took photographs vide Exh. No. 26, at that time by his oral order. He drawn the spot map vide Exh. No. 13. The muddemal receipt of seized muddemal was prepared vide Exh. No. 27.

36) Sachin (PW9) stated further that from the CDR of the said seized SIM card, it was seen that Anil Baburao Pawar, R/o. Dapoli, had called from the said number. On that, when Anil Pawar was questioned, he said that he had forgotten Anil Pawar's mobile at home while he was present with Ganesh Mane for darshan at Balumama, Adamapur, Dist. Kolhapur and had called from Ganesh Mane's mobile. Anil Pawar further stated that after returning to Dapoli on 25/10/2025 and 26/10/2025, when he called Ganesh Mane, he did not pick up the phone and sometimes the phone was switched off. When he called again on 28/10/2025, Ganesh Mane said that someone had taken the phone from him to make a call and he stole it and left from there,

so he did not pick up the phone. After that, after taking a new SIM card of the same number, he picked up the said phone. Accordingly, he recorded the statement of Anil Pawar.

37) Sachin (PW9) stated further that then, he made an inquiry to Ganesh Shivaji Mane, R/o. Limb, Taluka. District Satara. According to him, on 18/10/2025, while he was going to perform service at Sant Balumama, Adamapur, District Kolhapur, a person named Vishal Pujari, Ratnagiri Police, had asked him to call his mobile phone. After that, he returned the mobile phone. After that, while the Mahaprasad distribution was going on, he took the mobile phone from him again, saying that he wanted to make a video call to his aunt. While he was distributing the Mahaprasad, the person named Vishal Pujari left while talking on the mobile phone and later he did not return. Later, he waited for him and he left for home. After he called from his father's phone, the person was not talking properly. After that, he bought a new SIM card of the same number. His Aadhaar card was kept in the backside cover of the said mobile phone. Shahuwadi, District After receiving a photograph of Vijay Madhukar Gurav from Kolhapur police station, when it was shown to Ganesh Mane, he said that the same person had taken his mobile phone. Accordingly, the statement was recorded of Ganesh Mane.

38) Sachin (PW9) stated further that accordingly, the accused was taken to Kosumb, Samarth Math. There were 12 cases registered against the said accused. Shahuwadi Police

Station, Dist. Kolhapur Crime Registration No. 333/2025 was registered against the accused and he was transferred in present crime.

39) Sachin (PW9) stated further that during the period of one day of police custody, the accused was taken to the spot of the incident. At that time, the informant and witnesses were present there. There, the accused confessed that he had removed the roof of the house, entered the house, messed up the cupboards, went to the kitchen, cooked food, ate it, and after that, filled it in a tiffin. He also said that he had left the house by wearing track pant from that house.

40) Sachin (PW9) stated further that he obtained station diary entries. He also obtained a photocopy of the First Information Report of Crime Registration No. 77/2025 filed at Sagari Police Station, Nate, Dist. Ratnagiri. During testimony, he identifies the accused.

41) In cross-examination, he admitted that he did not make any inquiry to the trust committee of Adamapur Temple. He further admitted that he did not seize the said track pant from the possession of the accused. He further admitted that the accused has not been convicted in the crime committed at Sagari Police Station, Nate, Dist. Ratnagiri. Further, he denied the adverse suggestions put to him by the defence side.

42) Perusal of the record reveals that the complaint below

Exh. No. 10 is duly proved by Sanjaykumar (PW1). Perusal of the said document reveals that it was registered against an unknown person. It is mentioned in the complaint that between the period of 11:30 am of dated 23/10/2025 to 09:45 am of dated 30/10/2025, an unknown person committed house trespass by removing rough of his house and scattered the material from the cupboards and attempted to commit house braking.

43) The spot panchanama below Exh. 11 and the spot map below Exh. 13 are also proved by the prosecution by the testimony of Sanjaykumar (PW1), Makrand (PW2), Manish (PW3) and Sachin (PW9). All other documents obtained during the investigation are also proved by Sachin (PW9).

44) Perusal of oral and documentary evidence led by the prosecution reveals that the prosecution story is relied upon the confession made by the present accused in the presence of complainant, investigating officer and other witnesses. Sanjaykumar (PW1), Manish (PW3), Dipraj (PW5), Suraj (PW7) and Sachin (PW9) stated in their chief-examination that on 23/12/2025, the accused confessed about the said crime. The accused confessed that he had removed the roof of the house, entered the house, messed up the cupboards, went to the kitchen, cooked food, ate it, and after that, filled it in a tiffin. He also said that he had left the house by wearing track pant from that house. Considering the nature of said confession, it reveals that it is an extra judicial confession.

45) It is a settled principle of criminal jurisprudence that extra-judicial confession is a weak piece of evidence. Wherever the Court, upon due appreciation of the entire prosecution evidence, intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If, however, the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent as per the prosecution version, it may be difficult for the Court to base a conviction on such a confession.

46) The Hon'ble Apex Court has consistently ruled that an extra-judicial confession is a weak piece of evidence. The Court has established that such a confession can only form the basis of a conviction if it is found to be completely voluntary, truthful, and trustworthy, and is supported by strong independent corroboration. I am guided by the principles laid down in **Indrajit Das V/s. State of Tripura (AIR 2023 Supreme Court 1239)**.

47) An extra-judicial confession should be corroborated by other prosecution evidence. The value of the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made. The value of the evidence as to the confession depends on the reliability of the witness who give the evidence. It would depend on the nature of the circumstances, the time when the confession was made and the credibility of the witnesses who speak to such a confession. Such

a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused and in respect of whom, nothing is brought out which may tend to indicate that he may have a motive for attributing an untruthful statement to the accused, the words spoken to by the witness are clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime and nothing is omitted by the witness which may militate against it. I am guided by the principles laid down in **Subramanya V/s. State of Karnataka (AIR 2022 Supreme Court 5110)**.

48) Here, Sanjaykumar (PW1) is an informant. Manish (PW3), Dipraj (PW5), Suraj (PW7) admitted in their cross-examination that the informant is their relative. Hence, they are interested witness of the prosecution. In such circumstances, the confession made before the said witnesses cannot be said to be independent one.

49) Perusal of testimony of Ramesh (PW6) reveals that he admitted in his cross-examination that the contents of his chief-examination are based on hearsay knowledge. Hence, being hearsay evidence, it is not admissible as evidence against accused.

50) Perusal of testimony of Ganesh (PW4) reveals that his mobile phone was taken by the present accused and he did not return it to him. But the said witness admitted in his cross-

examination that he has no purchase receipt of the said mobile nor he has made any complaint against the said accused person. Sachin (PW9) stated that during investigation the photograph of present accused was shown to Ganesh (PW4) and he identified it as a same person who took his mobile phone and did not return.

51) Sachin (PW9) admitted in his cross-examination that he did not seized the alleged track pant from the possession of the accused nor it was shown in the spot panchanama vide Exh. No. 11. Sanjaykumar (PW1) also did not stated that the track pant from his house was stolen. The said fact is also not mentioned in the complaint below Exh. 10. Hence, the complaint and spot panchanama do not corroborate each other.

52) As stated above, the extra-judicial confession is not strong piece of evidence. Hence, the prosecution has miserably failed to prove the chain of the offence with strong and independent evidence. In such circumstances, the accused cannot held to be guilty of an offence. Hence, considering all these, I have no hesitation to hold that the offence under section 331(3), 331(4), 305, 62 of the B.N.S. has been not proved beyond reasonable doubt against the accused. Hence, I answerd point no. 01 to 04 in negative.

As to point No. 05 :-

53) Considering all these facts, it is clear that the prosecution failed to prove the offence under section 3 331(3),

331(4), 305, 62 of the B.N.S. beyond reasonable doubt against the accused. Hence, he is entitled to get benefit of doubt. The muddemal i.e. one SIM card of Jio Company and one GLACIER jeans pant of blue colour as described in the chargesheet at Sr. No. 02 and 03, being worthless, can be destroyed as per rules, after appeal period is over. The muddemal at Sr. No. 01 i.e. Aadhar Card on which name as Ganesh Shivaji Mane is written, is identified by Ganesh (PW4) as his own Aadhar Card. Hence, being copy of identity proof, it is necessary to return him, after appeal period is over. Hence, in the answer to the point no. 05, I pass following order :-

ORDER

1. Accused is hereby acquitted of an offence punishable under section 331(3), 331(4), 305, 62 of the Bharatiya Nyaya Sanhita, 2023 vide section 271 (1) of the Code of Criminal Procedure.
2. The accused is set at liberty.
3. The seized muddemal at Sr. No. 01, as mentioned in the chargesheet, i.e. one Aadhar Card No. 820923232263, shall be returned to Ganesh Shivaji Mane, after appeal period is over.
4. The seized muddemal at Sr. No. 02 and 03, i.e. one SIM card of Jio Company and one GLACIER jeans pant of blue

colour shall be destroyed as per rules, after appeal period is over.

5. Inform the concerned jail authority accordingly.

Date: 09/07/2026
Place: Deorukh

Sd/-
(Rohini R. Kulkarni)
Judicial Magistrate First Class,
Deorukh, Dist. Ratnagiri.

APPENDIX-I**Part 'C'****(Para 44(iii) of Chapter VI of Criminal Manual)****LIST OF PROSECUTION WITNESSES**

Rank	Name		Nature of evidence
PW01	Sanjaykumar Gangaram Mahadik	Exh. No. 09	Informant
PW02	Makrand Vishwanath Panchal	Exh. No. 12	Panch Witness
PW03	Manish Madhukar Mahadik	Exh. No. 16	Panch Witness
PW04	Ganesh Shivaji Mane	Exh. No. 17	Witness
PW05	Dipraj Suresh Mahadik	Exh. No. 18	Witness
PW06	Suraj Sunil Mahadik	Exh. No. 20	Witness
PW07	Ramesh Bhikaji Kinjale	Exh. No. 19	Witness
PW08	Rupali Sundar Kurane	Exh. No. 22	Witness
PW09	Sachin Namdev Kamerkar	Exh. No. 24	Investigating Officer

LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
Nil		

LIST OF PROSECUTION EXHIBITS

Sr. No.	Exhibit Number	Nature of evidence
1	Exh. P-10/PW01	The complaint

2	Exh. P-11/PW01	Spot panchanama
3	Exh. P-13/PW01	Spot map
4	Exh. P-23/PW08	Certificate as per Section 63(4)(C) of the Bharatiya Sakshya Adhiniyam, 2023.
5	Exh. P-25/PW09	Order of investigation
6	Exh. P-26/PW09	Spot photographs
7	Exh. P-27/PW09	Muddemal receipt
8	Exh. P-28/PW09	Letter dated 27/11/2025 regarding transfer of accused in present crime
9	Exh. P-29/PW09	Letter dated 22/12/2025 sent to the Central Jail, Kalamba, Dist. Kolhapur
10	Exh. P-30/PW09	Letter dated 22/12/2025 regarding medical examination certificate of the accused
11	Exh. P-31/PW09	Arrest panchanama
12	Exh. P-32/PW09	Checklist dated 23/12/2025 regarding arrest of the accused
13	Exh. P-33/PW09	Report as per Section 48 of the B.N.S.S.
14	Exh. P-34/PW09	Notice issued to the accused person under Section 47(1) of the B.N.S.S.

15	Exh. P-35/PW09	Correspondence made to Medical Officer, Rural Hospital, Deorukh for Medical Certificate of the accused
16	Exh. P-36/PW09	Station Diary No. 018/2025
17	Exh. P-37/PW09	Station Diary No. 029/2025
18	Exh. P-38/PW09	Station Diary No. 024/2025
19	Exh. P-39/PW09	Station Diary No. 013/2025
20	Exh. P-40/PW09	Station Diary No. 016/2025

DOCUMENTS ADMITTED BY DEFENCE

Sr. No.	Exhibit Number	Nature of evidence
Nil		

LIST OF DEFENCE EXHIBITS

Sr. No.	Exhibit Number	Nature of evidence
Nil		

LIST OF COURT EXHIBITS

Sr. No.	Exhibit Number	Nature of evidence
Nil		

MATERIAL OBJECTS

Sr. No.	Material Object Number	Description
1	Article "A"/PW01	An Aadhaar Card of

		Ganesh Shivaji Mane
2	Article "B"/PW01	One SIM card of Jio Company
3	Article "C"/PW01	one GLACIER jeans pant of blue colour

Date: 09/07/2026
Place: Deorukh

Sd/-
(Rohini R. Kulkarni)
Judicial Magistrate First Class,
Deorukh, Dist. Ratnagiri.

-: CERTIFICATE :-

I affirm that the contents of this pdf file Order are same word as per original Order/Judgment.

Name of Stenographer	: A. A. Shivalkar.
Court Name	: The Court of Judicial Magistrate F.C., Deorukh
Date of Decision	: 09/07/2026
Judgment signed by Presiding Officer on	: 09/07/2026
Judgment uploaded on	: 09/07/2026

Note:- Due to technical default, the document is not digitally signed.