

Order below Exh.01 in Cr.M.A. No.439/2025

Shital Gharge V/s. Somnath Gharge

(Dated 15-06-2026)

The applicant has filed the present application under Section 100 of the B.N.S.S. seeking issuance of a search warrant on the allegation that the applicant's child is being wrongfully confined by the non-applicant i.e. her husband.

2] Upon considering the contents of the application and the material placed on record, this Court had issued a notice to the non-applicant on 16/12/2025.

3] Upon receipt of notice, the non-applicant appeared and filed his say at Exh.09 with the contention that, their child Paras is voluntarily residing with him and he has not confined or detained the child. The child Paras was specifically asked in the open court about his age, name, address etc. He answered all the questions reasonably in the open court. He was also asked, where does he desire to reside to which he replied that, he wants to reside with his father i.e. non-applicant. He stated that he is residing at the said place voluntarily and is not under any wrongful confinement, coercion or illegal detention.

4] I have heard argument on behalf of non-applicant. The applicant despite calling repeatedly, failed to argue. Hence, the argument of applicant was closed.

5] At this stage, it is required to understand that, as per the requirement of section 100 of B.N.S.S. the confinement shall amount to an offence. In the instant case the applicant and non-applicant are husband and wife and are admittedly residing

separately. Applicant and non-applicant being the parents of the child, the custody by anyone of them cannot be said to be the confinement amounting to an offence despite their being the custody order in favour of any of the party. On perusal of record, there is no material indicating that the alleged detainee is under wrongful confinement by the non-applicant(s). The alleged detainee has also expressed willingness to reside at the place of his/her own choice. The applicant is at liberty to seek appropriate relief from the competent court, however, considering the ambit of section 100 of B.N.S.S. the detention in the instant case is not an offence.

6] In view of the same and the absence of any material showing wrongful confinement, no further orders are required in the present proceedings. Hence, I proceed to pass the following order:

ORDER

1. It is held that no case of wrongful confinement is made out on the basis of the material presently available on record.
2. The proceedings under Section 97 of the Code of Criminal Procedure stand disposed of accordingly.

Date :- 15/06/2026
Place : Karad

(Shri. Y.P. Bavkar)
5th Judicial Magistrate First Class,
Karad, Dist.Satara.

