

In the Court of Additional Sessions Judge, Wardha.

Special Case No. 110/2025

Yash S/o Sureshrao Bernal and + 02 ... **Applicants**

..V/s..

State of Maharashtra,
Through P.S.O., Wardha City ... **Non-applicant**

Order below Exh. 9
(Passed on 04th February, 2026)

1] The present bail application is filed under Section 187(3) of the BNSS, 2023, in Crime No. 1021/2025, registered at Police Station, Wardha City, for the offence punishable under Sections 8(c), 20(B)(II) (c) and 29 of the NDPS Act, seeking bail on the ground that, according to the applicant, the complete charge-sheet was not filed within 180 days. According to the police has filed the charge-sheet without the report of the Chemical Analyzer, which is incomplete charge-sheet. Therefore, it is to be inferred that the charge-sheet was not filed within 180 days and the accused is entitled to bail under Section 187(3) of the BNSS, 2023.

2] The application is opposed by the learned APP by filing a say at Exhibit-10. According to him, the charge-sheet was filed within 180 days. Although the report of the Chemical Analyzer was filed after filing of the charge-sheet, but for that reason, the accused is not entitled to default bail.

3] I have perused the application and the say, and heard the respective counsels. The learned counsel for the applicant relied upon the judgment of the Hon'ble Bombay High Court delivered in *Sagar Parshuram Joshi v. The State of Maharashtra*, AIR Online 2021 Bom 151, wherein it is held that the applicant is entitled to default bail under

Section 167(2) of the Cr.P.C., as a charge-sheet filed without the C.A. report cannot be said to be complete.

4] The learned counsel for the APP relied on the order passed by the Hon'ble Bombay High Court in Bail Application No. 301/2020 and other bail applications, and also considered the judgment in ***Manas Krushna T.K. Supra v. State, reported in 2021 SCC OnLine Bombay 1015***, wherein all the previous judgments were considered and the conclusions drawn by the Division Bench while answering the reference are as follows:

(i) On the analysis of the statutory provisions, as also the decisions that have analyzed various shades of such statutory provisions, the Court believes that a police report or charge-sheet containing the details specified in Section 173(2), if filed within the period prescribed under Section 167(2), is not vitiated or incomplete simply because the same was not accompanied by CA/FSL report, and based thereon, there is no question of the accused insisting on default bail;

(ii) Certain binding precedents directly on the point were not brought to the notice of the learned Single Judge who decided Phulbande (supra). Rather, overruled and reversed decisions were cited before the learned Single Judge in the said matter. Hence, the decision in Phulbande (supra) is per incuriam and does not reflect the correct position in law on the subject;

(iii) Phulbande (supra) takes the position that the charge-sheet, though filed within the time limit specified under Section 167(2), if unaccompanied by a CA/FSL report, is incomplete and the accused is entitled to default bail. Phulbande (supra) was relied upon and/or followed in Punjaram (supra), Sagar Joshi (supra), Manik Chaugule (supra), Seema Panchariya (supra), and Ranjit Machrekar (supra). Therefore, if Phulbande (supra) is found to be per incuriam, the decisions which follow it will not reflect the correct position in law on this subject;

(iv) In Phulbande (supra), the Court relied upon the decision of the Andhra Pradesh High Court in Matchumari Chima Venkata Reddy v. State of Andhra Pradesh (supra) and the

*decision of this Court in **Sharadchandra Vinayak Dongre v. State of Maharashtra**. The decision in Matchumari (supra) was overruled by Division Bench of the same Court in Vellined Puram (supra), wherein it was observed that the Bench cannot agree with view. It was held that police report filed under Section 173(2) is not complete unless the same is incomplete form complying with with all formalities under Sections 173(2) and 173(5), and the accused shall have absolute right for being released on bail, cannot be accepted. The decision in the case of Sharadchandra Dongre (supra) has been reversed by the Hon'ble Supreme Court in State of Maharashtra v. Sharadchandra Dongre, observing that the view of the High Court was erroneous.”*

5] It is further to be noted that the Hon'ble Bombay High Court, again in Bail Application Nos. 285/2024, 114/2023 and 117/2023, reiterated the same view and held that in the absence of the C.A. report, the charge-sheet cannot be termed as incomplete chargesheet. Thus, in view of the above rulings, the current legal position is that a charge-sheet without the C.A. report cannot be said to be incomplete. In view of all these above findings, there is no merit in the application; hence, I pass the following order.

ORDER

- I] The application (Exh. 9) is hereby rejected.
- II] The case diary be returned to the Investigating Officer.

Date : 04/02/2026

(S.A.S.M. Ali)
Additional Session Judge,
Wardha.

CERTIFICATE

I affirm that the contents of this P.D.F. file are the same word to word, as per the assigned order.

(P. U. Kawde)
Stenographer