

MHTH270016772025



Presented on : 18.03.2025

Registered on : 18.03.2025

Decided on : 29.12.2025

Duration : Ys Ms Ds.
00 09 11

FORM NO. XXXII

Part 'A'

(Title Page of Judgment)

[Para 44(i) of Chapter VI of Criminal Manual]

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BELAPUR

Present :- Parag A. Sane, Addl. Sessions Judge, Belapur.

Sessions Case No. 310/2025

FIR/Crime No. I-15/2025

Police Station : N.R.I. Sagari Police Station

Complainant/
Prosecution State of Maharashtra, through N.R.I. Sagari Police
Station, Navi Mumbai.

Represented by - Ld. A.P.P. Shri. Yogendra Patil

Accused Kausar Hajar Mandal
Age : 40 years, Occu : Service
R/at.: in Zopadpatti at
Backside of Sagar Vilas Building
Sector 19, Shahabajgaon,
Belapur, Navi Mumbai
Native place R/at- No.03, near Water Tank,
Raipada, Chanchara, Joshor, Bangladesh.

Represented by Ld. Adv. Shri. Umashankar for accused

Part 'B'**[Para 44(ii) of Chapter VI of Criminal Manual]**

Date of Offence	04.01.2025
Date of FIR	04.01.2025
Date of Charge-sheet	18.03.2025
Date of framing of Charges	05.10.2025
Date of commencement of Evidence	26.11.2025
Date of which judgment is reserved	-
Date of the Judgment	29.12.2025
Date of Sentencing the order, if any	As per final order

Accused Details

Sr. No.	Name of accused	Date of arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428
1	Kausar Hajar Mandal	04.01.25	In Jail	u/s. 318(4), 336(2), 336(3), 338 340(2) of BNS, u/s.3(a), 6(a) passport Act and u/s. 14(A) of Foreigners Act.	convicted	11 months 25 days & fine	Since 04.01.25 till today

Part "C"**[Para 44(ii) of Chapter VI of Criminal Manual]**

List of prosecution/Defence/Court witnesses**A Prosecution :**

Rank	Name	Nature of Evidence.
P.W.1	Swapnil Bhagwan Mane, Exh.05	Investigating Officer
P.W.2	Avisha Dipak Dhosekar, Exh.06	Informant

B. Defence witnesses, if any :

Rank	Name	Nature of Evidence.
	NIL	--

C. Court Witnesses, if any :

Rank	Name	Nature of Evidence.
	NIL	--

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A. Prosecution :**

Sr. No.	Exhibit	Description
1	Exh.9 & 10, P.W.1	Arrest Panchanama
2	Exh.11, P.W.1	Panchanama
3	Exh.12, P.W.1	Muddemal receipt
4	Exh.13 PW1	Station Diary and log book.
5	Exh.14 PW1	Certified copies of Attendance Sheet, log book and Station Diary
6	Exh.15 PW1	Return Report of Accused
7	Exh.7 PW 2	F.I.R.
8	Exh.8 PW2	Printed F.I.R.

B. Defence :

Sr. No.	Exhibit	Description
	Nil	--

C. Court Exhibits :

Sr. No.	Exhibit	Description
1	Exh.3	Charge.
2	Exh.4	Plea form of accused
3	Exh.17	Statement u/s. 313 of Cr.P.C. of accused

D. Material Objects:

Sr. No.	Material Object number	Description
1	-	

J U D G M E N T

(Delivered on 29th day of December, 2025)

01] Accused is charge-sheeted for the offence punishable u/sec 318(4), 336(2), 336(3), 338, 340(2) of Bharatiya Nyaya Sanhita, 2023 and 14(A) of The Foreigners Act, Rule 3(a) r/w section 6(a) of The Passport (Entry into India) Rules, 1950.

02] Case of the prosecution in brief is as under :

Avisha Dipak Dhonsekar, Police Constable of N.R.I. Police Station filed report on 04.01.2025 that, on that day P.S.I. Gude called in Chamber and told to the first informant and other police staff that they have got creditable information that at Shahabajgaon, Sector-019, Belapur one or two Bangladeshi persons are residing. They decided to take action. Thereafter P.S.I. Gude after taking necessary material for panchanama and

calling two panch witnesses visited the said place. At that time, they found one lady who was suspected and it was around 9.40 a.m. P.S.I. Gude introduced herself to that lady at that time, that lady told her name as Rojina Khatun Mumtaj Miya. That lady told that she is from Bangladesh. She was asked to produced documents to show that she is validly residing in India. However, after giving sufficient opportunity she could not produce the said documents. Then her personal search was taken, she was found with mobile and it was realized that there were mobile calls from Bangladesh. Thus, they realized that she is residing unlawfully in India. She was having Aadhar card, Pan card with her but they were forged and fabricated. On the strength of this crime came to be registered.

03] During the course of investigation, Investigation officer found Kausar Hajar Mandal and he could not provide details that he is lawfully residing in India. He was given sufficient opportunity to show that he is lawfully residing in India but he was not having any documents with him. Accordingly, he is arrested. He was having forged documents with him. Investigation officer on completing investigation submitted charge-sheet against the accused.

04] The offence is exclusive triable by the Court of Session, hence, the Ld. JMFC committed case in view of Section 209 of Cr.P.C.

05] Accused no.1 Rojina is absconding after bail was granted. Hence, case is split up and on hearing both the sides charge is framed against accused Kausar Mandal at Exh.3.

06] Particulars of the charge is read over to him in vernacular to which he pleaded not guilty.

07] The prosecution has led the evidence. Statement of the accused u/sec 313 of CrPC is recorded. It is his defence that false case is made.

08] In defence, the accused has not led any evidence.

09] I have heard the arguments canvassed by the learned APP and the learned counsel for the accused, at length.

10] Considering the case of the prosecution, evidence led by the prosecution, theme of cross-examination, answers given by the accused while recording their statement u/sec 313 of Cr.P.C. and after hearing the arguments of both the sides, following points arise for my determination to which I have recorded my findings before them for the reasons discussed there below.

No	Points	Findings
1	Whether the prosecution proves that accused on 04.01.2025, Sector 19, Shahabajgaon, Belapur, Navi Mumbai cheated and dishonestly inducing delivery of property and that accused have thereby committed an offence punishable under section 318(4) of Bharatiya Nyaya Sanhita,2023?	No.
2	Whether the prosecution proves that on the above mentioned date, time and place, accused along with other accused in furtherance of their common intention created a false documents i.e. Indian Adhar card, PAN card etc. for the purpose of cheating and accused you have thereby committed an	No.

	offence punishable under Section 336(2) of Bharatiya Nyaya Sanhita, 2023.	
3	Whether the prosecution proves that on the above mentioned date, time and place, along with other accused in furtherance of their common intention committed forged documents i.e. Indian Adhar card, PAN card etc. for the purpose of cheating and that you have thereby committed an offence punishable under Section 336(3) of Bharatiya Nyaya Sanhita, 2023.	No.
4	Whether the prosecution proves that on the above mentioned date, time and place, along with other accused in furtherance of their common intention made forgery of valuable security i.e. Indian Adhar card, PAN card etc. and that you have thereby committed an offence punishable under Section 338 of Bharatiya Nyaya Sanhita, 2023?	No
5	Whether the prosecuitor proves that on the abovementioned date and place along with other accused, accused used forged document and electronic record as genuine document and thereby committed an offence p/u/s 340 (2) BNS, 2023 ?	No
6	Whether the prosecution proves that on the abovementioned date, time and place accused was found to be citizens of Bangladesh who illegally entered into India through restricted area without having any valid passport or legal document and thereby committed an offence punishable u/sec 14(A) of The Foreigners Act, 1946?	No.

7	Whether the prosecution proves that on aforesaid date, time and place, the accused along with other accused, accused being Bangladesh citizens, entered into India without having valid passport/document in his possession and thereby committed an offence under rule 3(a) r/w rule 6(a) of The Passport (Entry into India) Rules, 1950?	Proved.
8	What order?	Convicted as per final order.

REASONS

As to points no. 1 to 7 :

11] (All these points are interconnected and thus, for the sake of brevity, both these points are discussed simultaneously).

Arguments:

12] The learned APP Mr. Yogendra Patil, submitted that, there is cogent and consistent evidence. The charge is proved beyond reasonable doubt. He submitted that, under The Foreigners Act Section 9 casts burden on the accused to show that, she is not a foreigner. Accused failed to discharge the said burden by submitting any valid documents. Accordingly he submitted that, there is nothing to disbelieve the evidence of the prosecution. Hence, he submitted that accused be convicted.

13] Ld. advocate for accused Umashankar submitted that the evidence of the prosecution is not cogent and consistent. He submitted that charge levelled against the accused is not proved beyond the reasonable doubt. Hence, accused be acquitted.

14] In view of the submission of both the sides, now it is necessary to see the evidence led by the prosecution.

15] Prosecution witness no.2 Avisha Dhosekar, who is a first informant working as a P.H.C., who is examined at Exh.6. It is coming from her evidence that on 04.01.2016 when she was on duty her P.S.I. Sarita Gude told that some citizens from Bangladesh are residing at Shahbajgaon, Sector-19, old Kabrasthan. Accordingly, panch witnesses were called. They effected raid at that time lady Rojina Khatun was found. She was not having any document to show that she is validly residing in India. She was given opportunity to show the documents but she failed. One mobile was seized from that lady whereby they found that there were the contact numbers from Bangladesh. Furthermore that lady has given address from Bangladesh. That lady was found with Aadhar card and Pan card but that was not valid and bogus documents. Accordingly, she filed report which is at Exh.7. Witness is cross examined however, nothing is coming on record to disbelieve her evidence.

16] Prosecution has examined PW1 Swapnil Mane, P.S.I. at Exh.5. As per this witness, when accused Rojina was arrested and during the investigation it was transpired that one another person is residing in the said vicinity who is also from Bangladesh. Accordingly, on taking search that person came to be found whose name is Kausarali Mandal. He was given opportunity to show that he is validly residing in India. However, he was not having any valid document showing that he is validly residing in India. It was found that he was from Chanchola, Bangladesh. Accordingly, he came to be arrested. That arrest panchanama is at Exh.9. He was found with one mobile and one ration card and that panchanama is at Exh.11. He

has recorded the statements of witnesses and it was transpired that the accused has committed the offence. Hence, he submitted charge-sheet against the accused. He identified accused Kausar.

17] Witness is cross examined whereby he admitted that Shahbajgaon is not a restricted area. He has denied the rest of the suggestions. It is important to note that the witness is specifically stating that the accused was found he contended that that he is from Bangladesh. It is further important to note that the accused was specifically given opportunity to show valid document that he is validly residing in India. Document like such Passport, Visa. However, it is rightly pointed out on the side of the prosecution that till today accused has failed to produce any document to show that he is validly residing in India or that he is a Indian citizen. Merely, on producing copy of Aadhar Card and Pan Card which are only for the particular purpose those documents cannot be a document to show the citizenship of the accused in India. In such contingencies, the material on the record particularly shows that the present accused is unlawfully residing in India and that to he is the resident of Joshor, Bangladesh.

18] Considering the entire evidence, there is no evidence as to dishonestly delivering of property, there is no evidence regarding creating certain documents intentionally to be forged. There is no evidence that the accused has committed the act by coming from restricted area.

19] It is important to note that, in view of section 9 of Foreigners Act, 1946, accused failed to give any particulars regarding her Indian nationality. The Hon'ble Apex Court in *Mohammad Salimullah v/s Union of India AIR 2021 SC 1789* held that the government of India can

deport Rohingya muslims by following the prescribed procedure as India is not signatory to United Nations Conventions for refugees. Thus, UNHCR is of no use to them. The Hon'ble Apex Court in *Sarvananda Sonowal v/s Union of India (2005) 5 SCC 665* and in *Abdul Kuddus v/s Union of India and others (2019) 6 SCC 604* observed that burden of proof is on alleged foreigner to show that he is not one. Thus, the evidence of these witnesses when considered, there is a reason to believe that the accused person is not the Indian citizen but Bangladesh citizens and thus, she failed to discharge her burden.

20] In view of above discussion there is no cogent evidence that the accused has submitted forged and fabricated documents. Mere, production of copies of Adhar and Pan card could not be sufficient to say that these documents do prove the citizenship or valid documents to reside in India for the identification purpose. These documents are limited for the particular purpose other than the citizenship. Thus, in view of the above reasoning and discussion at length the prosecution has failed to prove beyond reasonable doubt regarding the act of cheating and forged document for which I answer point no.1, 2, 3, 4 & 5 as not proved beyond reasonable doubt.

21] Taking the stock of the evidence, so far as the charge levelled against her u/sec 14(A) of The Foreigners Act, there is nothing coming on record to show that the ingredients of this section is not proved by the prosecution. Hence, point no.6 is answered as not proved.

22] But so far as the charge for the contravention of Rule 3(a) of The Passport (Entry into India) Rules, 1950 is considered, the accused person has failed to show that she having possession of valid passport or

document as Indian citizen in order to her stay in India. So the prosecution has proved beyond the reasonable doubt regarding the contravention of Rule 3(a) and Rule 6(a). Thus, on the basis of the aforesaid evidence, this charge is proved beyond the reasonable doubt against the accused person. Hence, point no.7 is answered as proved.

23] In view of the above discussion, I answer point no.1 to 6 as not proved while point no.7 is answered as proved. Thus, I hereby take a pause to hear the accused on quantum of sentence.

Date : 29.12.2025
Belapur

Sd/-
(P. A. Sane)
Additional Sessions Judge, Belapur
Navi Mumbai

24] I have heard the accused on the quantum of sentence and Ld. Advocate for the accused and Ld. APP Mr. Patil. I have also heard him.

25] It is submitted on the side of accused that, he is not having any criminal background. His family is residing at Bangladesh, it is submitted that, minimum sentence be imposed on him and lenient view may be taken. On the other side Ld. APP Mr. Patil submitted that, appropriate sentence be passed.

26] In view of the submission of both the sides, it is seen that the applicant is not having any criminal background. He is behind bar since 04.01.2025 till today. This period of detention would be sufficient period while sentencing him. Considering all the facts and circumstance, I am of view that following sentence would meet the ends of justice. Hence, the order:

ORDER

- 01) The accused namely Kausar Hajar Mandal, is hereby convicted u/sec 258(2) of Bhartiya Nagarik Suraksha Sanhita 2023 for contravention of provision of Rule 3(a) punishable under Rule 6(a) of the Passport (Entry into India) Rules, 1950 and sentenced to suffer simple imprisonment for a period of 11 (Eleven) months and 25 (Twenty Five) days and also to pay fine of Rs.500/- in default, to suffer simple imprisonment for a period of 07 days.
- 02) The accused Kausar Hajar Mandal, is hereby acquitted u/sec 258(1) of Bhartiya Nagarik Suraksha Sanhita 2023 of the offence punishable under Sections 318(4), 336(2), 336(3), 338, 340(2) of the Bharatiya Nyaya Sanhita, 2023 and under Sec.14A of the Foreigners Act, 1946.
- 03) The accused Kausar Hajar Mandal is behind the bars since 04.01.2025 hence he entitled to get set off in respect of the period of his detention already undergone in view of section 468 of of Bhartiya Nagarik Suraksha Sanhita 2023.
- 04) Muddemal property mobile phone of this accused be returned to the accused after the appeal period is over.
- 05) After undergoing sentence of accused imposed on her, she be deported to Bangladesh through Bangladesh embassy. The Commissioner of Police, Navi Mumbai is hereby directed to take necessary steps for deportation of the accused to Bangladesh as per the rules and procedure after the completion of her sentence and report compliance to the court.
- 06) The accused is uprised of her right to prefer appeal before the Honourable High Court.
- 07) Copy of this judgment be sent to the District Magistrate.
- 08) Copy of this judgment be given to the accused free of cost immediately.
- 09) Copy of this judgment be given to the Commissioner of Police,

Navi Mumbai by the prosecution for compliance.

10) Declared and dictated in open court.

11) Case to proceed against accused no.1 Rojina Khatun who is absconding.

Date : 29.12.2025
Belapur

Sd/-
(P. A. Sane)
Additional Sessions Judge, Belapur
Navi Mumbai