

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

CR. ANTICIPATORY BAIL APPLN. NO. 135 OF 2026

Aishwarya Ajay Patil And Ors ... Applicant

Versus

The State Of Maharashtra And Anr. ... Respondent

WITH

CR. ANTICIPATORY BAIL APPLN. NO. 123 OF 2026

Abhaysingh Ashokrao Patil ... Applicant

Versus

The State Of Maharashtra And Anr. ... Respondent

WITH

CR. ANTICIPATORY BAIL APPLN. NO. 125 OF 2026

Yuvraj Bapuso Patil ... Applicant

Versus

The State Of Maharashtra And Anr. ... Respondent

WITH

CR. ANTICIPATORY BAIL APPLN. NO. 136 OF 2026

Rajwardhan Balwant Chavan ... Applicant

Versus

The State Of Maharashtra And Anr ... Respondent

Mr. Anand S. Patil for the Applicants in ABA/135/2026 & ABA/136/2026.

Mr. Pratik G. Tare i/b. Mr. S. Y. Mane for the Applicant in ABA/123/2026.

Mr. Shivajirao V. Rane a/w. Mr. Rajvardhan S. Rane i/b. Mr. Harshvardhan S. Rane for the Applicant in ABA/125/2026.

Mr. Kaustubh Marathe for the Applicant in ABA/166/2026.

Mrs. Mankunwar M. Deshmukh, Public Prosecutor a/w. Mrs. S. N. Deshmukh, A.P.P., Mrs. Priyanka S. Rane, A.P.P. & Mr. S. S. Chaudhari, A.P.P. for the Respondent-State.

Coram : RANJITSINHA RAJA BHONSALE, J.

Date : 1st April 2026.

PER COURT :

1. By order dated 12th March 2026, the Investigating Officer attached to Wadgaon Police Station, District Kolhapur, was directed to file an affidavit explaining in detail the basis on which Section 309(5) and Section 119(1) of the Bharatiya Nyaya Sanhita, 2023 (for short, “B.N.S.”) were invoked, in the absence of any allegations pertaining to the said offences. In compliance with the said order, an affidavit dated 17th March 2026 has been filed by Mr. Sameer Umaji Hile, Police Sub-Inspector, Wadgaon Police Station. In paragraphs 4 to 8 of the said affidavit, it is stated as under:

- “4. I say that the prosecution case in brief is as under :
- a) that, on 07/02/2026 at about 16:30, during the Zilla Parishad and Panchayat Samiti Elections, the complainant, namely PSI Bharat Sayajirao Patil attached to Vadgaon Police Station, along with other police staff and Lady Constable

Sarika Mothe, was on official patrolling duty at Khochi village for enforcement of the Model Code of Conduct.

b) That, the complainant noticed that the accused persons had gathered in a group and were allegedly canvassing during the election period. When the complainant instructed them to disperse in order to prevent any election-related disturbance, the accused allegedly refused to comply and questioned the authority of the police.

c) That, Accused No.1 issued threats to the complainant stating that he would not leave them alive and pushed him, due to which the complainant collided against a vehicle. It is also alleged that, Accused Nos. 2 to 5 incited the group and rushed towards the complainant and abused him.

d) That, when Lady Constable Sarika Mothe started recording the incident on her mobile phone, Accused No.6 allegedly snatched her mobile phone, threw it away and assaulted her.

e) That, the accused persons used criminal force by pushing and rushing towards the police officers in order to prevent them from discharging their official duties. Thus, the present FIR came to be lodged against the Applicant and other co-accused under sections 119(1), 309(5), 115(2), 132, 189(2), 189(3), 189(5), 190, 199, 223, 352, 351(3) of the Bhartiya Nyaya Sanhita, 2023 with section 135 of the Maharashtra Police Act and section 130 of the Representation of Peoples Act.

- 5. I say that Crime No. 67/2026 came to be registered at Wadgaon Police Station on 07/02/2026 on the basis of the complaint lodged by the complainant officer regarding the incident that occurred near the polling centre at village Khochi, Taluka Hatkanangale, District Kolhapur.*
- 6. I say that, on the basis of the allegations mentioned in the complaint, Sections 309(5) and 119(1) of the Bharatiya Nyaya Sanhita, 2023 came to be invoked on a prima facie assessment by Thane Amaldar of Vadgaon Police Station, Dist. Kolhapur at the time of registration of the said crime. I further say that*

thereafter the investigation of the said crime has been assigned to me and I am currently conducting the investigation of the present offence.

7. *I say that upon completion of investigation and considering the material collected during the course of investigation, it appears that the ingredients of Sections 309(5) and 119(1) of the Bharatiya Nyaya Sanhita, 2023 are not attracted in the present case.*
8. *I say that, accordingly vide letter dated 13.03.2026 bearing outward no. 1480/2026, this deponent submitted report before the Hon'ble JMFC, Vadgaon, for removing the sections 309(5) and 119(1) of the Bharatiya Nyaya Sanhita, 2023 which are not attracted in the present case. Hereto annexed and marked as Exhibit "A" is copy of letter dated 13.03.2026."*

2. Further, an affidavit dated 26th March 2026 has been filed by Mr. Pramod Sambhaji Shinde, Police Inspector and In-charge Officer of Wadgaon Police Station. In paragraphs 1 to 3 thereof, it is stated as under:

- “1. *Explanation as to application of Section 309(5):-*
At the very outset, I most respectfully say and submit that Sections 309(5) was invoked by the then Thane Amaladar of Vadgaon Police Station & subsequently P.S.I. Sameer Hile was appointed as Investigation Officer in the present offence. The sec 309(5) was applied as the accused using the force and fear inflicted by the mob snatched away the mobile phone of WHC Sarika Mote and thereby committed offence of robbery.
2. *Explanation as to application of Section 119(1): -*
It is humbly submitted that the Thane Ammaladar on duty in fact wanted to apply section 121(1) that applies to "whoever voluntarily cause hurt to any person being a public servant in the discharge of his duty as such public servant or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant"

It is admitted fact that the police personnel employed at the relevant time and place were discharging their duties as the public servants. It is further narrated in the FIR that the accused with the help of the mob used force and man-handled PSI B.S. Patil and WHC Sarika Mote and pushed them around, these acts have caused bodily pain the said police personnel and thereby the accused caused them hurt withing the meaning of section 114 of the BNS.

3. *It is most humbly submitted that in view of the above the Thane Amaldar and the I.O. desired to apply sec 121(1), however due to inadvertent typographical mistake the section was wrongly typed as 119(1) and for this mistake the deponent most humbly and unconditionally tenders his most sincere apology before this Hon'ble High Court."*

3. The explanations provided in both affidavits are far from satisfactory. The deponent, i.e. Mr. Sameer Umaji Hile, in his affidavit dated 17th March 2026 has specifically stated in paragraph 6 that, Sections 309(5) and 119(1) of the B.N.S. came to be invoked on a *prima facie* assessment by the Thane Amaldar of Wadgaon Police Station at the time of registration of the crime. Surprisingly, the affidavit of the concerned officer (Thane Amaldar) has not been filed. It is unclear how the deponent is in a position to comment on such "*prima facie* assessment" when he was neither present at the time of registration of the F.I.R. nor part of the investigating team. This position has been confirmed by the learned A.P.P after taking instructions from Mr. Sameer Umaji Hile, who is present in Court.

4. The affidavit dated 26th March 2026 filed by the Police Inspector attempts to justify the invocation of Section 309(5) of the B.N.S. on the ground that force and fear were allegedly used by the mob to snatch the mobile phone of WHC Sarika Mote and thereby committed offence of robbery. However, in the F.I.R., it is specifically stated that “अंमलदार मपोहेकॉ २१८५ सारिका मोठे या सदर घटनेचे त्यांचे मोबाईलमध्ये चित्रिकरण करु लागल्या असता उमेदवार ऐश्वर्या अजय पाटील यांनी त्यांचे हातातील मोबाईल जबरदस्तीने हिसकावुन काढुन घेवुन फेकुन दिला व त्यांना धक्काबुक्की केली. त्यानंतर पोलीस स्टाफने व तेथील जमलेल्या इतर लोकांनी सदर जमावास पांगवले”.

5. As regards the invocation of Section 119(1) of the B.N.S., it is stated that the same was an inadvertent typographical error and that Section 121(1) of the B.N.S. was intended to be invoked instead. The explanations offered are unsatisfactory and *prima facie* appear to be an attempt to justify and/or cover up the untenable invocation of Sections 309(5) and 119(1) of the B.N.S.

6. During the course of hearing, a specific query was put to the learned Public Prosecutor, as to, whether there existed any other basis or material for invoking the said provisions. Upon instructions, a categorical response was given in the negative.

7. Considering the aforesaid facts, the Superintendent of Police, Kolhapur is requested to go through the papers of investigation and related papers and

file detailed reply to the present Application. It is expect from the Superintendent of Police, Kolhapur, that he shall not delegate his powers to any subordinate officer; peruse the entire record of investigation and adopt the appropriate remedial measures against the erring officials, if they found to be improperly or negligently performing their duty or avoiding to perform their lawful duties properly. This be done on or before 22nd April 2026.

8. Stand over to 23rd April 2026 (First on Board).
9. Ad-interim relief, if any, granted earlier, to continue till the next date.

[RANJITSINHA RAJA BHONSALE, J.]