



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 28 OF 2026

Dr. Ravinderpal Singh Jaspal Singh

Vs.

State of Maharashtra, through Police Station Officer, Brahmapuri Police
Station, Tq. Brambapuri, District Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.V. Sirpurkar, Advocate for applicant.

Mr. D.V. Chauhan, Senior Advocate and Government Pleader assisted
by Mr. U.R. Phasate, A.P.P. for non-applicant/State.

CORAM : RAJNISH R. VYAS, J.

DATE : 27.04.2026.

1. This matter was heard at length on 23.04.2026 and was kept on 29.04.2026 at 4.30 pm for the pronouncement of the order. While perusing the record, the Court came across documents revealing that the applicant was arrested for the same crime at in Delhi and produced before the jurisdictional magistrate. Thus, to make the counsels aware of the aforesaid aspect and grant them a hearing to decide the question of maintainability of the anticipatory bail application, matter was fixed on 27.04.2026 at 02.30 pm. Since I have heard Mr S. V. Shirpurkar, the learned counsel for the applicant, and Mr D.V. Chauhan, the learned Senior Counsel and Public Prosecutor for the State, I think that the issue can be decided today only. Therefore, though the matter was already fixed for the pronouncement of the order on 29.04.2026,

considering the issue involved, the order can be passed today.

2. Heard respective counsels.

QUESTION INVOLVED

The issue involved is whether an accused, who has been arrested, produced before a Magistrate, and released on transit bail, can still invoke Section 438 Code of Criminal Procedure (for short, “Cr.P.C.”) / Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”)?

FACTUAL BACKGROUND

3. A First Information Report No.654/2025 was registered on 16.02.2025 with Police Station, Brahmapuri, district Chandrapur for a commission of offences punishable under Sections 387, 342, 294, 506, 120B and 326 of Indian Penal Code. (I.P.C)., as also Sections 39 and 44 of the Maharashtra Money-Lending (Regulation) Act, 2014. The applicant was not named in the First Information Report. A total of 6 accused were named in the First Information Report. During the course of investigation, the applicant was impleaded as an accused and provisions of Section 18 and 19 of the Transplantation of Human Organs and Tissues Act, 1994 and Section 143(1)(a)(f), 143(2), 143(3) of BNS,

2023 were added. A station diary entry to that effect was taken on 21.12.2025. The applicant was arrested in Delhi and produced before the Duty JMFC, North West, Rohini Court, New Delhi, on 30.12.2025 and this transit demand was prayed for.

4. On that day, the following order was passed by the said Court:

“Fresh Vakalatnama filed on behalf of accused. Be taken on record.

Application perused.

The identity of the concerned arresting officer Assistant Police Inspector Dipak Kankredwar has been duly verified. A copy of identity card of the arresting officer has been taken.

It is submitted by the Assistant Police Inspector that the present accused has been involved in an illegal Kidney transplantation syndicate operating at Star Kims Hospital, Trichy, Tamil Nadu which has been functioning in an organized manner. It is further submitted that during the course of investigation, the name of the present accused has come on record particularly in the disclosure statement of accused no.7 Ram Krushna. It is therefore requested that transit remand of the accused for the aforesaid period be granted for investigation purpose.

Per contra, an application seeking release / transit bail has been filed on behalf of the accused. It is argued that the present accused has not been named in the said FIR. It has further been argued that the accused is a renowned Doctor and has deep roots in the society. It is further submitted that the case of the present accused is only with respect to trafficking of human organs. It is further submitted that the accused has no intention to run away from the investigating agency and shall join investigation

as and when asked by the IO. It is further submitted that the accused is a reputed senior Surgeon related to Liver transplant and a lot of critical surgeries are to be conducted / overseen by the present accused. Finally, it is submitted that the accused has already handed over his mobile phone to the IO and is ready and willing to further cooperate in the investigation of the present matter.

Submission heard. Record perused.

In the present matter, it is important to observe that the accused has been apprehended mainly upon the disclosure statement of the co-accused Ram Krushna. It has been submitted by the IO that investigation of the present matter is at an initial stage and many aspects of the matter are yet to be investigated. It is further important to observe that the accused is a reputed Senior Doctor who has been an even presently associated with a number of Medical Institutions, having deep roots in society. Granting Transit Remand/custody of the accused shall not only cause a deep stigma to the long standing reputation of the accused but shall also adversely affect the medical condition of the patients who may have to be attended by the accused, more so, when further evidence in the matter is yet to come on record.

Considering the above observations, the standing of the accused in society and the undertaking expressed by the accused to join and cooperate in the ongoing investigation, the present application for Transit Bail upon furnishing personal bond in the sum of Rs.50,000/- subject to the condition that the accused shall appear before the concerned CJM, District Chandrapur, State Maharashtra on 02.01.2026 at 2 PM sharp.

Further, the accused shall not leave the country or tamper with any evidence of the case during the aforesaid period.

The present application stands disposed of accordingly.

Copy of this order be given dasti to the IO as well as advocate as prayed for.”

5. On perusal of the aforesaid order, it would reveal that the Duty Magistrate has directed the applicant to join and cooperate in the ongoing investigation. The order further reveals that the applicant/accused undertook to join and cooperate with the ongoing investigation. The application for transit remand was refused, and the accused was granted transit bail upon furnishing a personal bond of ₹50,000/- subject to the condition that the accused shall appear before the concerned CJM, District Chandrapur, Maharashtra, on 02.01.2026 at 2:00 pm sharp. The order itself shows that the applicant was “apprehended”.

6. The applicant, instead of appearing before the Chief Judicial Magistrate, District, Chandrapur, preferred an application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”) on 01.01.2026 and prayed for his release on anticipatory bail. On 01.01.2026, the learned Additional Sessions Judge, Chandrapur, granted the applicant interim bail and, vide order dated 07.01.2026, finally rejected the anticipatory bail application. The applicant/accused then approached this Court. The predecessor of this Court, vide its order dated 12.02.2026, granted ad interim anticipatory bail to the applicant with a direction to attend the police station.

7. It is further necessary to mention here that the transit remand report was submitted by Assistant Police Inspector, Local Crime Branch, Chandrapur, to the

Magistrate Court at Rohini, Delhi, in which it was stated that the investigating agency had arrested the wanted accused person, Dr Ravindrapal Singh, resident of Kohat, New Delhi, in the Subhash Place Police Station jurisdiction on 30.12.2025. A request was made to grant transit remand from 30.12.2025 to 01.01.2026. Along with the arrest memo, the reasons and grounds of arrest were also prepared, and the documents produced for perusal of the court shows that the same was supplied to the applicant on 30.12.2025, and his acknowledgement was also taken. Information regarding the arrest was given to the applicant's wife (Pages 720 to 727 of File No. 2 of the charge-sheet).

8. A document issued by Bhagwan Mahavir Hospital, Pitampura, Delhi (page 729), shows that a medical-legal report was also prepared showing medical examination of the applicant on 30.12.2025.

ARGUMENTS BY THE ACCUSED

9. In this background, the learned counsel for the applicant has submitted that, as the transit remand application was rejected and he was directed to appear before the Chief Judicial Magistrate, his arrest was only a “paper arrest”. He submitted that it cannot be said that he was arrested in accordance with the provisions of BNSS. He further relied upon Section 35 (e) of BNSS and has contended that the power of a police officer under Section

35 (1) (e) of the BNSS to re-arrest the applicant will revive from 02.01.2026 if he fails to appear before the jurisdictional magistrate on 02.01.2026. According to the learned counsel for the applicant, despite being initially arrested and subsequently released on transit bail, “reason to believe that he may be arrested” persisted. He then relied upon the short note given, giving the factual position and a few judgments delivered by the Hon’ble Apex Court. The said judgments are reproduced as under:

(1) *Dhanraj Asawani VS. Amarjeetsingh* reported in (2023) 20 SCC 136, contending that mere formal arrest would not extinguish the right of the accused to apply for anticipatory bail.

(2) *Siddharam Satilinappa Mhetre Vs. State of Maharashtra* reported in (2011) 1 SCC 694, *Gurbaksh Singh Sibba Vs. State of Punjab* reported in (1980) 2 SCC 565 and *Sushila Aggrawal Vs State (NCT of Delhi)* reported (2020) 5 SCC 1, arguing that the purpose behind incorporating the provision of anticipatory bail was to recognise the importance of personal liberty in a free and democratic country.

(3) *Commissioner of Income Tax, Bangalore Vs. JH Gotla, Yadagiri* reported in (1985) 4 SCC 343, to make a point that when the plain literal interpretation of a statutory provision produces a manifestly unjust result which the Legislature could never have intended, the Court might modify the

language used by the Legislature to achieve the intention of the Legislature and produce a rational construction.

(4) Judgment in the case of *Gautam Navalakha Vs. The National Investigation Agency* reported in *(2022) 13 SCC 542* was also relied upon to claim that even an arrested accused can prefer an application for anticipatory bail.

With utmost fairness, both the counsels also brought to my notice judgment passed by the High Court of Kerala at Ernakulam in Bail Application No.13662 of 2025 dated 11.02.2026, by which it was held that an application for pre-arrest bail is not maintainable if the transit bail after arrest is granted.

10. The gist of the learned counsel's argument for the applicant is that it cannot be said that the applicant was arrested at any point in time at Delhi.

ARGUMENTS BY THE STATE

11. Per contra, Mr Chauhan, the learned Senior Counsel and Public Prosecutor, has invited my attention to the judgment in the case of *Directorate of Enforcement Vs. Deepak Mahajan and another* reported in *[(1994) 3 SCC 440]*, more particularly paras 48 and 49, and contended that in every arrest there is custody, but not vice versa, and that both words 'custody' and 'arrest' are not synonyms. Though

custody may amount to arrest in certain circumstances, it does not under all circumstances. He then submitted that, at the time the applicant was apprehended in Delhi and produced before the duty magistrate, the benefits of Section 482 of the BNSS cannot be extended to the applicant. He further submitted that even the grounds of arrest in writing were supplied to the applicant, and an arrest memo was prepared, which was also signed by the applicant. He further submitted that the conduct of the applicant in not approaching the Magistrate's Court at Chandrapur, though undertaken before the Duty Magistrate at Delhi, is blameworthy. He submitted that no further arguments would be necessary, as once a person is arrested, he cannot file an anticipatory bail application.

12. Mr Chauhan, learned Senior Counsel and Public Prosecutor, has also brought to my attention the bail bond executed by the applicant before the Magistrate's Court at Delhi, and contended that the applicant had surrendered to the Court's custody. According to him, it can now be said that the applicant is under 'constructive custody'. He has also relied upon *Gautam Navlakha Vs. National Investigation Agency [2022] 13 SCC 542*, *Directorate of Enforcement Vs. Deepak Mahajan and another [(1994) 3 SCC 440]*, *Sundeep Kumar Bafna Vs. State of Maharashtra [(2014) 16 SCC 623]*, *Manish Jain Vs. Haryana State of Pollution Control Board [Special Leave to Appeal No.5385/2020]*, *H.M. Prakash @ Dali Vs. State of Karnataka [ILR 2004 KAR 2637]*, *Kamal*

Sabharwal Vs. State of Assam [2023 SCC Online Gau 4108], Pankaj Kumar Vs. State of Kerala [Petition for Special Leave to Appeal (Crl.) No.6314/2026], Pankaj Kumar and others Vs. The Station House Officer, Cyber Crime Police Station, Triunanantapuram and others [Bail Application No.13662/2025], Kukesh Kishanpuria Vs. State of Bengal [(2010) 15 SCC 154] and Sukhawant Singh and others Vs. State of Punjab [(2009) 7 SCC 559] and, in short, has contended that the anticipatory bail application is not at all maintainable once the applicant is arrested and produced before the Magistrate.

ANALYSIS AND REASONING

13. The principal contention of the learned counsel for the applicant is the applicability of Section 35 (1)(e) BNSS. In this regard, it is necessary to mention that, if Section 35 of BNSS is perused, it reveals that it concerns the power of the police to arrest without a warrant. Clause (e) of sub-section (1) speaks about “unless such person is arrested, his presence in the court whenever required cannot be ensured”. According to him, the act of the police officers in arresting the applicant in Delhi and production before the Magistrate's court would only be a “paper arrest”. At this juncture, it is necessary to consider the provision regarding arrest. Section 46 of Cr.P.C. deals with the procedure of arrest and the duties of the arresting officer. Section 46 reads as follows:

“46. Arrest how made.—(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action:

Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

(4) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.”

14. On perusal of Section 46, it would be revealed that, while making an arrest, the police officer or other person making the arrest shall actually touch or confine the body of the person to be arrested, unless there is a submission to custody by word or action. If, in the light of the aforesaid section, the order passed by the magistrate, the grounds of arrest supplied to the applicant, the arrest form

which is prepared by the police, and the fact that the applicant had submitted to the jurisdiction of the court at Delhi, would reveal that the applicant was in fact arrested in the crime. Further, it cannot be ignored that the applicant himself had, before the magistrate at Delhi, undertaken to appear before the magistrate at Chandrapur. The investigating agency has followed entire procedure while arresting the accused, including the conduct of a medical examination, and thus Sections 50, 50A, 51 and 54 of the Cr.P.C. were duly complied with.

15. As the applicant was required to be taken in the State of Maharashtra, recourse was also had to Section 167 of the Cr.P.C. The order passed by the Magistrate at Delhi is crystal clear and needs no clarification. The accused, by way of said order, was directed to appear before the Magistrate's Court at Chandrapur, but he has not done so. Thus, it is clear that the applicant was arrested for the offence. Once arrest is effected, the remedy shifts from Section 438 to regular bail under Sections 437/439 of code of criminal procedure. The remedy of pre-arrest thus was not at all available to the applicant.

16. So far as contention for the learned counsel for the applicant that his arrest is only a 'paper arrest', it needs to be mentioned here that the same contention is without any substance as the due procedure prescribed under the Cr.P.C., as stated supra, is already followed. The applicant was not a free man when he was produced before the

magistrate Court at Delhi as he was arrested by the police and moment he was produce before the court, was under the command of the court. It is crucial to highlight that it was not the transit anticipatory bail which was prayed for, which even otherwise could have been granted by the Sessions Court only. What was sought before the magistrate by the investigating agency was the transit remand and what was prayed by the applicant was the transit bail and am not an anticipatory bail.

17. As regards the judgments relied upon by the counsel for the applicant in the case of *Dhanraj Asawani (supra)*, the principal question in the aforesaid case was whether the anticipatory bail application under Section 438 of Cr.P.C. was maintainable at the instance of the accused while he was already in judicial custody with his involvement in a different case. In the present case, only one crime is involved, in which the applicant was already arrested; therefore, it cannot be said that the applicant was in judicial custody in connection with his involvement in other cases.

18. The law laid down by the Hon'ble Apex Court and relied upon by the counsel for the applicant in cases of Siddharam Mhetre, Gurbaksh Singh Sibba, and Sushila Aggarwal deals with the anticipatory bail. Though these judgements speak about protection of liberty against arrest, but presupposes absence of arrest.

19. No doubt, the provision for the grant of anticipatory bail was incorporated with a view to recognising the importance of public liberty. Still, at the same time, it cannot be ignored that a person can be deprived of his personal liberty by the due process established by law. The arrest of an accused in a cognisable offence at the instance of the police would not permit him to take assistance of Section 438 of Cr.P.C. The transit bail will not undo the arrest made by the police.

20. The plain literal interpretation of Section 438 of the Cr.P.C. and Section 482 of the BNSS of not applying these provisions to the arrested accused cannot be said to produce a manifestly unjust result. Thus, even the judgment cited by learned counsel for the applicant in the case of *Commissioner of Income Tax, Bangalore, vs. JH Gotla, Yadagiri (supra)* would be of little assistance.

21. Coming to the case of *Gautam Navlakha (supra)*, suffice it to say that said judgment also does not deal with the maintainability of anticipatory bail.

22. Regarding the judgments cited by learned Senior Counsel and the Public Prosecutor, it can be said that in the case of the *Directorate of Enforcement Vs. Deepak Mahajan (supra)* Hon'ble Apex Court has observed as under “

“49. While interpreting the expression 'in custody' within the meaning of Section 439 CrPC, Krishna Iyer, J. speaking for the Bench in Niranjana Singh v. Prabhakar Rajaram Kharote¹⁸ observed that: (SCC p. 563, para 9)

"He can be in custody not merely when the police arrests him, produces him before a Magistrate and gets a remand to judicial or other custody. He can be stated to be in judicial custody when he surrenders before the court and submits to its directions."

23. In the case of **Sundeep Kumar Bafna** (supra) also the Hon'ble Apex Court has clarified the meaning of 'custody'.

24. Thus, by relying upon the aforesaid judgment, the learned Public Prosecutor has contended that the applicant is in the 'constructive custody' and has already submitted to the jurisdiction of the magistrate's court and had given an undertaking that he would appear before the jurisdictional court at Chandrapur, which fact disentitles the applicant from claiming the anticipatory bail.

25. The observations made in the case of **Gautam Navlakhani** (supra) are apt for answering the issue raised and the same is reproduced as under:

"173. On the other hand, Article 21 of the Constitution of India, provides that no person shall be deprived of his life or personal liberty except in accordance with the procedure prescribed by law. This Article, creates a fundamental right, which cannot be waived. Moreover, unlike the persons, who apparently underwent house arrest on the basis of the offer made on their behalf, in the case of the appellant, even prior to the order dated 29.8.2018, the High Court had ordered house arrest, which constituted house arrest. The appellant was an accused in an FIR invoking cognizable offences. He stood arrested by a police officer. He was produced before a Magistrate. A transit

remand, which was a remand under Section 167, was passed. Police custody followed. The High Court ordered that the appellant be kept in house arrest. The setting aside of the order of transit remand will not wipe out the police custody or the house arrest. We agree that illegality in order of the CMM, Saket, will not erase the deprivation of liberty. But other aspects already discussed militate against the order being treated as passed purportedly under Section 167. There can be no quarrel with the proposition that a court cannot remand a person unless the court is authorised to do so by law. However, we are in this case not sitting appeal over the legality of the house arrest. But we are here to find whether the house arrest fell under Section 167. We are of the view, that in the facts of this case, the house arrest was not ordered purporting to be under Section 167. It cannot be treated as having being passed under Section 167.

174. There is one aspect which stands out. Custody under Section 167 has been understood hitherto as police custody and judicial custody, with judicial custody being conflated to jail custody ordinarily.

175. The concept of house arrest as part of custody under Section 167 has not engaged the courts including this Court. However, when the issue has come into focus, and noticing its ingredients we have formed the view that it involves custody which falls under Section 167.

176. We observe that under Section 167 in appropriate cases it will be open to courts to order house arrest. As to its employment, without being exhaustive, we may indicate criteria like age, health condition and the antecedents of the accused, the nature of the crime, the need for other forms of custody and the ability to enforce the terms of the house arrest. We would also indicate under Section 309 also that judicial custody being custody ordered,

subject to following the criteria, the courts will be free to employ it in deserving and suitable cases.”

26. In that view of the matter, since the applicant was already arrested and was produced before the Magistrate, the present application would not be maintainable.

27. Therefore, the question is answered as “An application for anticipatory bail is not maintainable once an arrest is effected, irrespective of the grant of transit bail.”

28. Hence, the application is rejected, as not maintainable.

(Rajnish R. Vyas, J.)

Wagh