

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 564 OF 2026

Amol Kisan Dhatrak

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Niranjan Mundargi a/w Keral Mehta i/by Anusha Pradhan Jaibhave, Advocates for Applicant
- Mr. Y.M. Nakhawa, APP for State
- Ms. Rupali Sanap, PSI, Chembur Police Station

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 24, 2026

P. C.:

1. Heard Mr. Mundargi, learned Advocate for Applicant and Mr. Nakhawa, learned APP for State.

2. The present Application seeks quashing of the FIR i.e. C.R. No. 616 of 2025 registered with Chembur Police Station, Mumbai on receiving the secret information about commission of the offenses under Section 143(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 3, 4, 5 & 7 of the Immoral Traffic (Prevention) Act, 1956 (for short "**said Act**").

3. Insofar as the crime in question is concerned, there are several accused persons. The case of the prosecution is that the subject place in question called Yuan Thai Spa & Salon situated in Jagdish

Bungalow, Plot No. 185, Road No. 15, Chembur Gavthan, Chembur, Mumbai was indulging in running a brothel under the guise of a massage center.

4. Applicant before me indicted for aforesaid crime. However on the face of record, the provisions of the said Act would not apply because he is not the owner or manager of the subject immovable property. Applicant claims to have membership of the said massage center and was a regular customer which is *prima facie* seen from the material which is placed on record and there is no ambiguity about it.

5. On the fateful day of the raid, that is on 27.10.2025 in the evening time, the Applicant was availing the services in the said salon and was apprehended along with the masseuse. The statements of the masseuse recorded on 05.11.2025 and 11.11.2025 subsequently are appended at page Nos. 213 and 263 of the Application. I have perused the same. With the able assistance of Mr. Mundargi, I have also perused the other statements which have been recorded by the investigating authority.

6. *Prima facie*, insofar as the Applicant before me is concerned, there is nothing incriminating which has been shown to me or appears from the record to be having been indulging in any of the offensive acts as contemplated by the provisions of Section 143(2) of the BNS.

The statements which are recorded of the other masseuses as well as the masseuse involved with the Applicant in question, *prima facie* show that the massage services were rendered to the customers, the Applicant being one of them.

7. Insofar as applicability of the impugned provision is concerned, the prosecution can undoubtedly make out a watertight case *qua* the owner and the operator of the said place provided it has *prima facie* substantive material to show the offensive acts. A customer availing services by the professional salons which is *prima facie* case made out from the various statements which are recorded and the entire material placed before me do not show any implication of the Applicant having been indulging in any of the offensive acts or crime as contemplated under the said FIR *qua* him.

8. The role of the Applicant, as attributed to him, is seen from page No. 96 of the chargesheet in the present Application and *prima facie* on reading the same, there is nothing incriminating which can be made attributable to the Applicant or for that matter to the service provider either. Therefore, in that view of the matter, the record *prima facie* shows that the said massage outlet called Yuan Thai Spa & Salon has other branches also and most of the professional service providers therein are foreigners i.e. from Thailand. In that view of the matter, I am inclined to accept the submissions made by Mr. Mundargi that

Applicant was a bonafide customer having been found at the wrong place at the wrong time without having any proximity or nexus to the alleged crime in question. Record also shows that Applicant was registered member of this particular spa on the basis of his mobile number which is seen from the record. It also shows that he was a regular at the said parlor for undergoing back, neck, and shoulder massages due to his tedious and strenuous workload.

9. In view of the above, present Application allowed in terms of prayer clause (a) and (b) which reads thus:-

- "a. *To quash and set aside the order of cognizance dated 06.02.2026 passed by the Ld. JMFC Court Mazgaon in PW case No. 139 of 2026 for the offences punishable under Sections 143(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023 (BNS) and Section 3, 4, 5 & 7 of the Immoral Traffic (Prevention) Act, 1956 against the Applicant;*
- b. *This Hon'ble Court be pleased to quash and set aside the entire proceedings arising out of FIR No. 0616 of 2025 which was registered with Chembur Police Station dated 28.10.2025 along with the chargesheet for offences punishable under Sections 143(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023 (BNS) and Section 3, 4, 5 & 7 of the Immoral Traffic (Prevention) Act, 1956 in the interest of justice qua the Applicant;"*

10. Criminal Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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