

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1389 OF 2014

Salim Abdul Razzak Beg,
Age- 47 Years, Occ-Nil
Convict No. C/4303,
Presently Lodged in Kolhapur Central Prison,
Permanent R/o. Kalkal, Kond,
Dapoli, Taluka-Dapoli,
District Ratnagiri [Maharashtra]

PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through Secretary,
Home Department, Mantralaya,
Mumbai
- 2] Director General of Police,
Maharashtra State,
Police Head Quarters,
Mumbai
- 3] Mr. Bajrang Parab,
Age-Major, Occ-Service,
As Police Inspector,
Maharashtra Anti Terrorist Squad [ATS]
Nagpada, Mumbai
- 4] Police Station Officer,
Azad Nagar Police Station,
Dhule, District – Dhule
[Copies of respondents No.1, 2 and 4
to be served on the Additional
Public Prosecutor, High Court of Bombay
Bench at Aurangabad]

RSEPONDENTS

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Mr. N.B.Suryawanshi, [Appointed] Advocate for the
Petitioner
Mr. V.C. Solshe, Advocate for the Respondent No.3
Mr. V.D.Godbharale, APP for the Respondent Nos.1, 2 and 4

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**CORAM: S.S.SHINDE &
A.I.S.CHEEMA, JJ.**

Reserved on: 07.07.2015

Pronounced on: 15.07.2015

JUDGMENT: [Per S.S.Shinde, J.]:

1] By way of filing this Criminal Writ Petition under Article 226 of the Constitution of India, the petitioner seeks following relief:

- a] *Call for record and proceedings of the case including call details of mobile numbers of petitioner 8879621068 and of respondent No.3 8691868188 and 9870546746 and of Mr. Rakesh Maria, the then ATS Chief 9820280373.*
- b] *Issue a writ of mandamus, any other writ, order or direction in the nature of writ of mandamus, thereby directing to hand over investigation of Crime No. 121 of 2013 registered with Azad Nagar police station, Dhule to Anti Terrorist Squad, Maharashtra or National Investigating Agency and for that purpose issue necessary orders.*
- c] *Issue a writ of continuing mandamus to monitor investigation of crime no. 121 of 2013 registered with Azad Nagar Police station, Dhule through Anti Terrorist Squad, Mumbai and for that purpose issue necessary orders.*

2] It is the contention of the petitioner that, he is a convict undergoing sentence of life imprisonment in Kolhapur Central Prison. In the year 2013, the petitioner was released on parole leave for a period of one month. During said period, the school friend of the petitioner introduced him with respondent no.3, who is working as Police Inspector, Anti Terrorist Squad, Nagpada, Mumbai. Considering his reformation in Jail, the petitioner was requested to work as undercover agent for Anti Terrorist Squad [in short 'ATS'], since the petitioner had a criminal background. The petitioner agreed to work as undercover agent since he wanted to serve the nation and thought it an opportunity to meet his family members frequently. The petitioner provided an important information to the respondent no. 3 in respect of terrorists, their financiers, their activities etc.

3] The petitioner was framed in a false case, alleging that, while on parole leave he threatened a driver of taxi on gun point and fled away with the taxi. On 26.11.2013, the petitioner came to be arrested and the offence came to be registered as Crime No.121 of 2013 with Azad Nagar Police Station, Dhule. Since the petitioner

was acting as undercover agent for ATS, the petitioner has been framed in a false and concocted case at the behest of none of the terrorist outfits. Hence this Petition.

4] In pursuance to the notices issued to the respondents, the Police Sub Inspector, Azadnagar Police Station, Dhule has filed affidavit-in-reply. Thereafter, one Mr. Bajrang s/o. Vasudeo Parab, working as Inspector of Police, Anti Terrorism Squad, Maharashtra State, Mumbai, has also filed affidavit-in-reply on 19th March, 2015. Thereafter, the respondent No. 2 has filed affidavit in reply.

5] We have carefully gone into the pleadings in the Petition and annexure thereto, and also affidavit-in-replies filed by the respondent authorities with annexure. So far prayer clause-a of the Petition is concerned, detail reply has been filed by the respondent no.2 and assertion of the petitioner that, the petitioner was requested to work undercover agent for ATS has been denied by the respondent authorities. Since we are exercising writ jurisdiction, it is not desirable to adjudicate the disputed questions of fact. Since the respondent authorities have denied in *toto* assertion of the petitioner that, the petitioner

was requested to work undercover agent for ATS. So far prayer clause-b is concerned, in para no. 11 of the affidavit in reply filed by the respondent no.2 on 24th April, 2015, it is stated that, the question of investigation by the ATS or National Investigation Agency of the said offence does not arise, since those are not connected with the offences related to terrorism activity. The charge sheet is already filed and case is pending before the trial Court.

6] Upon careful reading of the affidavit-in-reply filed by the respondent no.2, we are of the considered view that, none of the reliefs, prayed by the petitioner deserves consideration. Hence, the Petition stands dismissed. We quantify Rs.4,000/- [Rs.Four Thousand only] towards fees and expenses payable to Advocate Mr. N.B.Suryawanshi [Appointed].

Sd/-
[A.I.S.CHEEMA, J.]

Sd/-
[S.S.SHINDE, J.]