

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

CRIMINAL WRIT PETITION NO.486 OF 2016

Santosh s/o.Tarachand Yadav,
Age- 30 yrs, Occ-Business,
R/o-Near Shivaji Putla, Behind
Vodafone Office Tq. & Dist.Jalna **PETITIONER**

VERSUS

1. The State of Maharashtra
(Through Superintendent of Police
Jalna, Dist-Jalna
Copy to be served on Public Prosecutor,
High Court, Bench at Aurangabad)
2. Anil Vibhute,
Police Inspector, Sadar Bazar
Police Station, Jalna.
3. Shailesh Diwanrao Shejul
Police Sub-Inspector, Sadar Bazar
Police Station, Jalna.
4. Director General of Police,
Old Council Hall, Maharashtra State
Police Head Quarter, S.B.Marg, Colaba
Mumbai-400039
[Added Resp.no.4 as per
Court's order dt.6.4.2016 and
corrected name of Res.No.3] **RESPONDENTS**

...

Mr.Y.G.Somani, Advocate for the petitioner
Mr.M.M.Nerlikar, APP for Respondent Nos.1 to
3 / State
Respondent no.4 served

...

**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 20.02.2017
Pronounced on : 23.02.2017

JUDGMENT: (Per S.S.Shinde, J.):

1] This Petition is filed with the following prayers:

- A) By way of appropriate writ or any other writ or order in the like nature, initiate the enquiry against the respondents and crime may kindly be registered against the respondent no.2 and 3
- B) By issuing appropriate writ or order or directions in the like nature, the respondents no 1 may kindly be directed to investigate the matter.
- C) By issuing appropriate Writ of order or directions in the like nature, the respondents may kindly be directed to pay the compensation to the petitioner.

2] The learned counsel appearing for

the petitioner submits that there was illegal detention of the petitioner by respondent nos.2 and 3. Respondent nos.2 and 3 demanded bribe. They threatened the petitioner. It is further submitted that though the mother of petitioner visited the police station and met respondent nos.2 and 3, with a request to release the petitioner, however, police authorities have demanded Rs.10,000/- for releasing the petitioner. It is further submitted that certain information needs to be called from the concerned authority. He invites our attention to para nos.3 and 4 of the Petition and submits that as stated by the petitioner in those paragraphs, this Court may call for said information/documents. He invites our attention to the grounds taken in the Petition and submits that, the Petition deserves to be allowed.

3] The learned APP appearing for

respondent—State relying upon the averments in the affidavit-in-reply on behalf of respondent no.2 submits that FIR No.132/2016 for the offences punishable under Sections 353, 323, 504 and 506 of the Indian Penal Code was registered with Sadar Bazar Police Station, Jalna, against the petitioner by the Bank Manager wherein it was alleged that, the petitioner assaulted the Bank employees. It is submitted that one Head Constable Shri Kendre [B.No.252], was appointed for investigation. The Investigating Officer gave notice under Section 41 of the Criminal Procedure Code to the petitioner on 14.03.2016. However, the petitioner did not honour the said notice. The petitioner was arrested on 15th March, 2016 at about 18.00 hours. He was arrested keeping in view the guidelines issued by the Supreme Court in the case of **D.K.Basu Vs. State of W.B.**¹. He

1 [1997] 1 SCC 416

further submits that the petitioner was produced before the Court of Chief Judicial Magistrate, Jalna on 16th March, 2016. The brother of the petitioner namely Satish had been to the police on 15th March, 2016 and on 16th March, 2016, he threatened the Investigation Officer Shri Kendre to face the consequences of arrest of the petitioner.

4] It is submitted that so far as the allegations that respondent nos.2 and 3 have asked for Rs.10,000/-, are absurd and vague. It is submitted that the brother of present petitioner filed the application with the Sub Divisional Police Officer, Jalna and also the various authorities alleging illegal detention. The said Authority conducted enquiry in the matter and recorded the statements of the Investigating Officer Shri Kendre, Station House Officer Shri Barote and Lockup Guard Shri Ingle and Mukkamwar. The Sub-Divisional Police Officer,

Jalna, after conducting detail enquiry came to the conclusion that the brother of the petitioner has intentionally and in order to harass the police officials has filed the application and the said application was disposed of by the Sub Divisional Police Officer, Jalna.

5] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner and the learned APP appearing for the respondent-State. Perused the grounds taken in the Petition, annexures thereto, reply filed by respondent no.2 and also annexures thereto. It appears that already fact finding enquiry is conducted by the Sub-Divisional Officer, Jalna and the application filed by the petitioner came to be disposed off. Upon reading the contentions raised by the petitioner in the Petition some of the contention raises disputed questions of fact.

6] As already observed, enquiry is already conducted by the Sub-Divisional Police Officer, Jalna. It appears that offence was registered against the petitioner and steps were taken by the Investigating Officer Shri Kendre, pursuant to the registration of the FIR. *Prima facie*, we do not find any substance in the contentions of the petitioner. However, since the petition raises disputed questions of fact, and if the petitioner has any other forum to agitate his grievance for adjudication of his prayer for compensation, he would be at liberty to do so. However, we are not inclined to entertain this Petition and hence, the same stands rejected.

[K.K.SONAWANE]
JUDGE

[S.S.SHINDE]
JUDGE