

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.5095 OF 2017

Rajkumar Bhagchand Jain

.... Petitioner

Vs.

Union of India & Anr.

.... Respondents

Mr. Pankaj Jain with Mr. Kedar Khambate,
Ms Sweta Valecha & Ms Yogita Gogar i/by P.D. Jain & Co.
for the Petitioner.

Mr. H.S. Venegaonkar for Respondent No.1-UoI.

Mrs. S.V. Sonawane, APP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : DECEMBER 08, 2017

P.C:

For the reasons recorded hereinabove, the following
order is passed:-

“In the circumstances, we are constrained to hold that the detention beyond the period of 60 days in custody is in clear violation of Section 167(2) of the Code of Criminal Procedure, 1973. Such illegal detention in custody cannot be sustained as it is violative of the right to life and liberty guaranteed by Article 21 of the Constitution of India.

Consequently, on the undisputed facts and the detention being illegal, writ of habeas corpus can be issued. We accordingly issue such writ. The rule is, therefore, made absolute in terms of prayer clause (a). That prayer reads as under:-

“(a) To issue a Writ of Habeas Corpus or any other appropriate Writ, Order or directions for forthwith release of the Petitioners Son namely Rohit Jain from the illegal and unlawful continued Judicial Custody after 23.11.2017 till date in the CBI Case No.RC.3/E/2017 CBI EOW without any order passed by any competent Court of law for the same and for quashing and setting aside the Order dated 09.11.2017 remanding the Petitioner's Son to judicial Custody till 23.11.2017.”

There would be no order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)