

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5464 OF 2018

Maahesh Mohandas Lalchanddani ...Petitioner

Versus

State of Maharashtra & anr. ...Respondents

Mr. Subhash Jha, a/w Ms. Sanjana Pardeshi, I/b Law
Global, for the petitioner.

Mr. F. R. Shaikh, APP for the State/Respondent.

CORAM: RANJIT MORE &
N. J. JAMADAR, JJ
DATED: 19th AUGUST, 2019

PC:-

1. Heard Mr. Jha, the learned Counsel for the petitioner and Mr. Shaikh, the learned APP for the State/respondent.

2. By filing this petition under Article 226 of the Constitution of India and Section 482 of Criminal Procedure Code, the petitioner is seeking quashment of FIR being CR No.I-912 of 2014, dated 12th December, 2014, registered with Mahatma Phule Chowk Police Station, Kalyan. The petitioner, in the alternative, seeks direction to respondent to complete the investigation and submit report in the subject crime.

3. Mr. Jha, the learned Counsel for the petitioner, having taken instruction from his client, at the outset, makes a

statement that he is not pressing the relief claimed in prayer clause (a) and restricts this petition to relief claimed in prayer clause (b). Statement accepted.

4. Mr. Jha, the learned Counsel for the petitioner submits that the subject FIR being CR No.I-912 of 2014, dated 12th December, 2014, was registered under Section 420, 504, 506 read with 34 of Indian Penal Code and the petitioner was arraigned as one of the accused. He submitted that in paragraph 28 of the petition the petitioner has made following averments.

“28. The impugned FIR came to be registered against the Petitioner on 18.2.2016 which would mean that nearly 2 years and 9 months have elapsed during which the Petitioner attended the police station/investigation officers on as many as 87 different occasions. Between the period from March, 2016 to May, 2016, the Petitioner upon being summoned reported to Mahatma Phule Police Station, Kalyan on as many as 25 different occasions during which is detailed statements came to be recorded and which fact has been even duly acknowledged by the investigating officer. Similarly, during the period from June 2016 to August 2016 the Petitioner attended the police station on 5 different occasions and between the period from September 2016 to April 2017, the Petitioner attended the police station on as many as 48 occasions. Furthermore, even in the month of January, 2018 the Petitioner attended the police station/investigating office on 9 different occasions and many of his visits duly acknowledged as well by the police. However, it is a fact several visits made by the police. However, it is a fact several visits made by the Petitioner have not been even acknowledged by the police, however, the fact remains that between the period from March, 2016 to January, 2018, the Petitioner made himself available at the concerned police station and/or the investigating officer on 87 different occasions during which not only the Petitioner's statement have been repeatedly recorded but

also his office has been searched and documents have been taken charge of by the police under panchnama.”

5. The averments made in the above paragraph by the petitioner are not disputed by Mr. Shaikh, the learned APP. He, however, submits that the petitioner is absconding and unless he surrenders, it is not possible for the police to file report under Section 173 of Criminal Procedure Code.

6. The fact remains that the petitioner had preferred an anticipatory bail application before this Court being Anticipatory Bail Application No.1589 of 2016 and the petitioner was initially granted protection from arrest. This application was, however, withdrawn by the petitioner on 25th April, 2017. Approximately for a period of nine months the petitioner was granted protection from arrest. During this period, the petitioner has attended the concerned police station on 87 times. It is the contention of the learned APP that the petitioner is not co-operating in the investigation of the subject FIR.

7. As stated above, FIR is registered as long back as on 12th October, 2014. It is the duty of the Investigating Officer to complete the investigation and file appropriate report expeditiously. Though Mr. Shaikh, the learned APP, submitted that the petitioner is absconding, however, he was

unable to state as to what steps police have taken to arrest the petitioner. In any case, in our considered opinion, the Investigating Officer cannot keep investigation of the crime on, for indefinite period.

8. We, accordingly, dispose of this petition with direction to respondent no.2 to complete the investigation of the subject FIR, being CR No.I-912 of 2014, and file appropriate report before the concerned Magistrate, as expeditiously as possible, preferably within three months from today.

9. It is made clear that we have not restrained the Investigating Officer from arresting the petitioner.

10. The petition stands disposed of accordingly.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]