

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

CRIMINAL WRIT PETITION NO. 439 OF 2014

Shaikh Irfan Shaikh Budhan,
Age : 35, Occupation : Business,
R/o. Jamal Shah Colony, Sillod,
Aurangabad.

.... PETITIONER

VERSUS

1. The State of Maharashtra
2. The Police Inspector,
City Police Station Sillod,
Aurangabad.
3. The Police Inspector,
Local Crime Branch, (S.P.) Office
Campus, Aurangabad.

.... RESPONDENTS

Shri. M. A. Latif, Advocate for the petitioner (Absent)
Shri. B. V. Virdhe, APP for respondent Nos. 1 to 3.

**CORAM : T. V. NALAWADE &
M. G. SEWLIKAR, JJ.**

DATED : 15-01-2021

ORAL ORDER (PER :- M. G. SEWLIKAR, J.)

1. This petition is filed for compensation for illegal detention.
2. Facts giving rise to this petition under article 226 of the Constitution of India in nutshell are that on 06/09/2013 the petitioner was arrested by Assistant Police Sub Inspector U. S. Gaikwad at 2.00 p.m. and was brought to City Police Station, Sillod without assigning cause of arrest. Petitioner was detained from 2.00 p.m. to 4.00 p.m. in City Police Station, Sillod. A police personnel by the name of Gadhve Patil brought the petitioner

to Local Crime Branch, Police Inspector by the name of K.K. Patil where he was detained till 6.00 p.m. without assigning the cause of arrest or detention. At about 6.00 p.m. P.I. K.K. Patil took the signature of the petitioner on various documents without showing the contents of the documents. The petitioner was thereafter sent to the Central Jail. On 07/09/2013 petitioner furnished bail at 5.00 p.m. on an execution of a bond of Rs. 50,000/-, the petitioner was released by LCB Police Inspector. Thus, the petitioner was detained illegally for period of 28 hours. Therefore, the petitioner is claiming compensation to the tune of Rs. 50,000/-.

3. Learned APP Shri. Virdhe submitted that P.I. K.K. Patil exercised this powers in terms of circular issued by the Home Department (Special) Mantralaya, Mumbai dated 02/03/1993. He submitted that the deponent is authorized to exercise the powers as Special Executive Magistrate and is permitted to proceed with the cases for maintaining administration of justice in the society.

4. On perusal of the papers annexed with the petition, it is noticed that on 06/09/2013 the chapter case No. 86/2013 under Section 110 of the Code of Criminal Procedure was initiated against the petitioner. Accordingly PI LCB/Special Executive Magistrate, Aurangabad (Rural) directed the petitioner to be released on furnishing a bond of good behaviour of Rs. 20,000/- with one solvent surety in the like amount. Respondents have produced the plea of the petitioner recorded in terms of provisions of Section 112 of Code of Criminal Procedure. Documents further show that the petitioner was sent to jail with remand warrant as he failed to furnish the

bond. In this view of the matter, it cannot be said that the detention of the petitioner was illegal. The respondent No. 3 exercised powers of Executive Magistrate vide circular of Home Department (Special) Mantralaya, Mumbai dated 02/03/1993. Therefore, it cannot be said that detention of the petitioner was illegal. Petition is therefore devoid of any substance. Hence it is dismissed.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE , J.]