

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.3186 OF 2021

Lalit Govardhan Loya

... Petitioner

Vs.

State of Maharashtra & another

... Respondents

Mr.P.G. Sarda for the Petitioner

Ms.Sangeeta Shinde, APP, for Respondent – State

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

DATED: SEPTEMBER 28, 2021

P.C.:

1. The petitioner, who has been arraigned in C.R. No.14 of 2021 registered with Jodbhavi Peth Police Station, Solapur for the offence punishable under section 420 of the Indian Penal Code, 1860 (for short, 'Penal Code'), has preferred this petition, seeking compensation for illegal detention in the said crime, allegedly in violation of the order passed by this Court in Anticipatory Bail Application No.862 of 2021 dated 24.3.2021 and the orders passed by the Larger Bench of this Court in Suo Motu Public Interest Litigation No.1 of 2021, whereby the interim orders were

extended from time to time. Apprehending arrest in C.R. No.14 of 2021, the petitioner had preferred the Anticipatory Bail Application No.862 of 2021 . During the course of the submissions, in the said Application, the applicant had shown willingness to deposit the entire amount which was the subject matter of the said First Information Report, provided some time was provided to him. On the basis of the said statement, the learned Single Judge of this Court passed, inter alia, the following order:

“6. I find considerable merits in the submission of learned APP. At this stage, learned counsel for the applicant submitted that the applicant is willing to deposit entire amount of the subject matter of F.I.R. in the court, but he required some time for that. He submitted that, half of the amount could be deposited on or before 31/05/2021 and balance amount could be deposited on or before 30/06/2021. Strictly based on this statement, to see the applicant's bonafides, today I am protecting the applicant by way of interim order.

7. Hence, the following order:

O R D E R

(i) In the event of his arrest in connection with C.R. No.14 of 2021 registered with Jodbhavi Peth Police Station, Solapur, till the next date, the Applicant be released on bail on his executing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) This order shall operate till 06/07/2021.

(iii) The Applicant is permitted to deposit

Rs.5,25,000/- (Rs.Five Lakhs Twenty Five Thousand only) on or before 31/05/2021 before the chief Judicial Magistrate, Solapur.

(iv) The applicant shall deposit further amount of Rs.5,25,000/- (Rs.Five Lakhs Twenty Five Thousand only) on or before 30/06/2021 before the same court.

(v) The Chief Judicial magistrate, Solapur shall invest this amount in a Fixed Deposit Scheme, to be renewed from time to time, in accordance with rules.

(vi) Stand over to 06/07/2021.”

2. It is the claim of the petitioner that despite the aforesaid interim protection from arrest and further continuation of the interim orders in pursuance of the orders passed by this Court in Suo Motu Public Interest Litigation No.1 of 2021, the petitioner was illegally arrested on 23.7.2021. The arrest was effected though the aforesaid order of the learned Single Judge as well as the orders passed by this Court in Suo Motu Public Interest Litigation No.1 of 2021 were specifically brought to the notice of the concerned police officer. Even the learned Magistrate, before whom the petitioner was produced, did not properly construe the import of the aforesaid orders and it was observed that the orders passed in Suo Motu Public Interest Litigation No.1 of 2021 were restricted to civil proceedings. The petitioner has thus invoked the writ

jurisdiction of this Court seeking compensation for illegal arrest and initiation of the action against the concerned police officer. By way of interim relief, the petitioner has prayed for his immediate release.

3. We have heard Mr.Sarda, the learned Counsel appearing for the petitioner and Mrs.Shinde, the learned APP appearing for the State, at length. Mr.Sarda invited the attention of this Court to the above extracted order passed by the learned Single Judge in Anticipatory Bail Application No.862 of 2021 dated 24.3.2021 and the order passed by the Larger Bench in Suo Motu Public Interest Litigation No.1 of 2021 dated 16.4.2021 and the subsequent orders. Special emphasis was laid on the observations in paragraph 4 of the order dated 16.4.2021, which reads as under:

“4. Accordingly, in exercise of the inherent powers of this Court as a Chartered High Court, preserved under Article 225 of the Constitution of India, read with the authority derived from Articles 226 and 227 thereof, it is directed that in all matters wherein interim orders passed by this Court or the courts/tribunals subordinate to this Court were subsisting as on April 9, 2021, April 12, 2021 and April 15, 2021, as well as those which are likely to expire within April 19, 2021 or soon thereafter, such interim orders shall unconditionally stand extended till May 7, 2021 or until further orders of this Bench, unless specifically dealt with by any judicial order to the contrary. All parties affected by the continuance of the interim orders as above will be at liberty to apply for vacating

or variation of such orders upon notice to the party in whose favour such interim orders have been made.”

4. Mr.Sarda would urge that once the interim protection was granted by the learned Single Judge in Anticipatory Bail Application No.862 of 2021, it was not open for the authorities to arrest the petitioner without there being a contrary order passed by this Court. The only course open for the authorities was to approach this Court and seek the vacation of the said order. In the face of the said order, the arrest of the petitioner is wholly illegal, submitted Mr.Sarda.

5. In opposition to this, Mrs.Shinde, the learned APP would urge that the order passed in Anticipatory Bail Application No.862 of 2021 was specifically restricted, in its operation, till 6.7.2021. Moreover, the said order was passed on the basis of the statement made by the petitioner that he would deposit the amount mentioned therein before the jurisdictional Court within the stipulated time. Since the order was conditional, non-compliance thereof, on the part of the petitioner, which is not disputed by the petitioner, disentitled the petitioner from claiming any benefit thereof, especially after 6th July, 2021. Therefore, according to Mrs.Shinde, the learned APP, the authorities were justified in

arresting the petitioner as no interim protection was in operation on 23.7.2021.

6. We have carefully perused the order passed in Anticipatory Bail Application No.862 of 2021. It is imperative to note that the learned Single Judge took care to specifically record that the interim protection was granted to the petitioner / applicant strictly on the basis of the statement made on behalf of the petitioner that he would deposit the amount as undertaken. Evidently, the learned Single Judge had not entered into the merits of the application for pre-arrest bail and interim protection was granted solely on the basis of the statement of the petitioner that he would abide by the condition to deposit the specified amounts within the stipulated period. The order was expressly made operational till 6.7.2021. Interim protection was thus limited in point of time. It is not the case that after 6.7.2021, the petitioner approached the learned Single Judge either for extension of the said interim order or for grant of further time to make the deposit in terms of the said order.

7. The submission on behalf of the petitioner that the petitioner was entitled to the benefit of general order passed by this Court in

Suo Motu Public Interest Litigation No.1 of 2021 dated 16.4.2021 and the subsequent orders, despite the interim protection having come to an end by efflux of time, appears attractive at the first blush. However, on a close scrutiny, the said submission does not hold ground. The Larger Bench passed orders in the exigency of the situation which arose on account of Covid – 19 Pandemic and as the parties were not in a position to approach the Courts to seek extension of the orders whereby the interim reliefs were granted. However, totally different considerations would come into play where, during the operation of the said general order, a party approaches the Court and the Court grants interim protection subject to certain conditions and expressly limits the operation of the said order to a specified date.

8. In the present case, on the one hand, the petitioner has not complied with the conditions. On the other hand, the order passed in Anticipatory Bail Application No.862 of 2021 came to an end by 6.7.2021. In such a situation, a party cannot be permitted to fall back on the general order, especially where the conditions, subject to which interim protection was granted, has not been complied with.

9. In the aforesaid view of the matter, we do not find any substance in the petition.

10. Writ Petition stands dismissed.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)