

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Writ Petition No.727/2021

Dinesh @ Dadu s/o Shishupal Hajare,
aged 26 years, R/o 52, Shree Nagar, Ranwadi,
Bhagwan Nagar, Nagpur 440027.
(convict No.C/10169). ... Petitioner.

Versus

1. State of Maharashtra,
through Special Executive Magistrate, Ajni
Division, Ajni, Nagpur.
2. Inspector of Police, police Station, Ajni,
Nagpur. ... Respondents.

Mr. V.N. Mate, Adv for petitioner.
Mr. V.A. Thakre, APP for State.

CORAM : M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE : 22-11-2021.

Oral Judgment (Per : M.S. Sonak, J.)

Heard Mr. Mate, learned Counsel for the petitioner and
Mr. Thakre, learned APP for the State.

2. **Rule.** Rule is made returnable forth with at the request of
learned Counsel for the parties.

3. The petitioner while instituting this petition has prayed
for the following reliefs :

*“I) Quash and set aside the proceeding bearing
No.106/2021 initiated, u/s 110(2)(g) of Chapter VIII of*

Code of Criminal Procedure by the respondent No.1.

ii) Quash and set aside the order passed by respondent no.1 dated 27-07-2021 (ANNEXURE-A) thereby ordered to execute surety bond of Rs. 50,000/- of a specific class of person and show cause notice dated 22/07/2022 ANNEXURE-B.

Iii) Grant any other relief and compensation for illegal detention which this Hon'ble court deems fit and proper in the facts and circumstances of the case."

4. In terms of Section 111 of the Code of Criminal Procedure, 1973 (For short, 'Cr.P.C.'), a Magistrate going under Sections 107, 108, 109 or 110 of Cr.P.C., deeming it necessary to require any person to show cause under such Section he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the terms for which it is to be in force, and the number, character and class of sureties (if any) required.

5. In this case, a show cause was indeed issued to the petitioner but the same did not stay the date on which the petitioner was required to be present and show cause. In fact, the column regard such date is blank.

6. Based on such show cause notice, the impugned order dated 27-07-2021 came to be issued requiring the petitioner to furnish a bond for good behaviour in an amount of Rs. 50,000/-.

7. In the peculiar facts of the present case, we feel that there has been a violation of the principles of natural justice. This is more so, because the petitioner has pointed out that the matter regard to show cause notice dated 22-07-2021 concerns certain offences registered against the petitioner between years 2013 and 2015.

8. In this case there is no dispute that the petitioner has already been convicted for an offence under Section 302 of the Indian Penal Code and is presently in prison. The petitioner was out on parole due to the COVID-19 pandemic and it is true this period that the petitioner, was required to furnish the bond as aforesaid.

9. Having regard to all the aforesaid circumstances, we quash and set aside the order dated 27-07-2021 and make the rule absolute in terms of prayer clauses (i) and (ii).

10. Further, having regard to the peculiar facts as aforesaid, we observe that though the impugned orders/proceedings are liable to be set aside, we do not detect any malafides or abuse of process of law at the hands of the respondents. Therefore, this is not a fit case for awarding any compensation to the petitioner. The relief in terms of prayer Clause (iii) is therefore denied.

11. Rule in this petition is partly absolute to the aforesaid extent. There shall be no order for costs.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)

Deshmukh