

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

CRIMINAL WRIT PETITION NO. 845 OF 2021

PETITIONER :- Suhas Suresh Wakode,
Aged about 23 years, Occup.Labouror
R/o Panchasheel Nagar, Kharap Road,
Akola, District Akola.

...VERSUS...

RESPONDENTS :- 1) State of Maharashtra, through its
Department of Home Mantralaya Mumbai

2) District Magistrate, Akola Dist. Akola.

3) Superintendent of Central Jail,
Dist.Akola.

Mr.A.M.Tirukh, counsel for the petitioner
Mr.S.S.Doifode, APP for respondents.

CORAM : SUNIL B.SHUKRE &
G.A. SANAP JJ.

DATE : 18.07.2022.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally
by consent of the learned counsel appearing for the parties.

3. This is a case, wherein the action of one police authority contradicts the action of another police authority. Crime No.718 of 2021 registered against the applicant on 23.07.2021 related to the offences punishable under Sections 452,504 read with 34 of the Indian Penal Code. But, in this crime, the petitioner was released by the concerned Magistrate on 29/07/2021. One day before release on bail in a crime registered at Police Station, Akola, another Police Station Ramdas Peth, Akola had recorded the confidential statements of witness- B, the date of recording was 28/07/2021 and in this statement, the confidential witness had stated that the petitioner had beaten him up and extorted amount of Rs.1,000/- from him and also threatened him with the dire consequences, if he reported the matter to the police. He has also stated that because of the criminal activity of the petitioner, members of public are afraid of coming forward and making a statement against the petitioner before the police authorities. On the day on which bail was granted to the petitioner by the concerned Magistrate in Crime No.718 of 2021, another confidential statement of witness was recorded and he had also made a complaint that because of the criminal activity of the

petitioner, no body was coming forward to make a police complaint against him. Both these statements recorded by police station Ramdaspath, Akola go against the reasons given by the learned Magistrate while granting bail to the petitioner in Crime No.718 of 2021. The learned Magistrate has found that custody of the accused was not necessary and that the objection that if released on bail, the petitioner may commit similar offence in future was unjustified. There are other reasons also given by the learned Magistrate while releasing the petitioner on bail but, those reasons are not relevant for the purpose of this petition. The relevant reasons are already referred to by us.

4. So, what we have before us, and as stated earlier, contradictory stands of two Investigating Officers of two different police stations. The effect of these contradictions appearing on record was required to be considered appropriately by the Detaining Authority. It is seen that the Detaining Authority has not considered the effect of the contradictory actions of two police officers, one going in favour of the petitioner and the other going against the petitioner. Therefore, we find that the satisfaction

reached by the Detaining Authority is in ignorance of the most important aspect of the whole issue and as such, it is vitiated by non-application of mind in the present case.

5. In the result we find that this is a fit case for making interference in the impugned order. The writ petition is allowed in terms of prayer clause (i) which reads thus:

“(i) issue an appropriate writ, order and direction and thereby quash and set aside the impugned order dated 30/09/2021 (Annexure-A) passed by the respondent no.1 State of Maharashtra, Home Department Mantralaya, Mumbai thereby confirming the detention order of petitioner for a period of 12 months from the date of detention as well as the impugned order dated 17/08/2021 passed by the respondent no.2 District Magistrate Akola (Annexure-B), thereby detaining the petitioner under the provisions of “Said Act”; in the interest of justice.”

6. If not required in any other crime, the petitioner be released forthwith.

JUDGE

JUDGE