

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

CRIMINAL WRIT PETITION NO.916 OF 2021

PETITIONER : Shakir Khan Zakir Khan
Aged About 27 years, Occ-Labour,
R/o Abad Nagar, Balapur, Akola
At Present Central Prison, Aurangabad

..VERSUS..

RESPONDENTS : 1. State of Maharashtra,
Through its Secretary, Home Department
(Special) Mantralaya, Mumbai.

2. The Collector, Akola, Dist Akola.

Shri M. N. Ali, Advocate for the Petitioner
Shri S. S. Doifode, Addl.PP for the Respondent Nos.1 and 2.

CORAM : SUNIL B. SHUKRE AND G. A. SANAP, JJ.

DATE : 14th JULY, 2022.

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

Heard.

2. Rule. Rule made returnable forthwith. Heard finally
by consent of the parties.

3. It is seen that three crimes have been considered
along with two statements of confidential witnesses.

4. Shri M. N. Ali, learned counsel for the petitioner submits that in two crimes namely Crime no.501 of 2021 registered on 06.09.2021 and Crime no.386 of 2021 registered on 24.06.2021, the petitioner was not arrested and was allowed to go only on intimation under Section 41(1)(a) of the Code of Criminal Procedure. He further submits that in Crime no.519 of 2020 registered on 15.09.2021, the last crime registered against the petitioner, the petitioner was released on bail, but the copy of a reasoned bail order was not placed before the returning authority. He therefore submits that the satisfaction reached by the detaining authority is vitiated on account of non consideration of relevant material in the nature of a reasoned bail order and also the decision of the Investigating Officer to not arrest the petitioner in crimes, which were non bailable.

5. Learned Additional Public Prosecutor for the Respondent nos.1 and 2 disagreeing with the submissions of the learned counsel for the petitioner submits that no prejudice has been caused, whatsoever to the petitioner by non consideration of a reasoned bail order because the detaining authority has considered the nature of allegations contained in the First Information Report filed against the petitioner.

6. We do not think that the argument so submitted by the learned Additional Public Prosecutor can be accepted in view of the opinion expressed by this Court in the cases of ***Ratnamala Mukund Balkhande ..vs... State of Maharashtra and Ors.***, Criminal Writ Petition No.820 of 2021 decided on 01.07.2022,

Hanif Karim Luluwale .Vs. State of Maharashtra and Ors., Criminal Writ Petition No.75 of 2022, decided on 28.06.2022 and in the case of **Vilas Kisan Pawar .Vs.. State of Maharashtra and Anr.,** Criminal Writ Petition No.915 of 2021, decided on 14.07.2022. The facts of the present case are in fact similar to the facts involved in the said case, therefore, the issue involved in this petition would stand covered by the view taken in those petitions, which would mean that the impugned order cannot be sustained in the eye of law, Criminal Writ Petition is **allowed** in terms of prayer Clause (i), which reads as under :

“(i) Pass any appropriate writ order or direction and thereby quash and set aside the impugned order dated 28.10.2021 (Annexure No.I) passed by Respondent No.2, Collector, Akola City, Akola.”

7. The petitioner be released forthwith, if not required in any other crime.

(G. A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

TAMBE