

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

946 CRIMINAL WRIT PETITION NO.379 OF 2023

NILESH RANJIT BHOITE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Akshay Kulkarni h/f Mr.Yadkikar Amit
A.

APP for Respondent Nos. 1 & 2-State : Mr. A.S. Shinde
Advocate for Respondent No. 2 : Mr.Kale Ajeet B.

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CORAM : R. G. AVACHAT, J.

DATE : 23.03.2023.

PER COURT :

1. Heard. The petitioner herein is the informant (who lodged the F.I.R.) in CR No. 323 of 2022. Respondent No. 3 herein is the accused in the said crime. On his arrest he was produced before the Court of Judicial Magistrate First Class for his remand. The learned Magistrate did not remand respondent No. 3 to police custody, even for a single day. The State, therefore, moved a Revision Application challenging the said order. The State has been unsuccessful therein. The petitioner has, therefore, preferred the present Writ Petition. He seeks following prayer :

“that by way of a Writ of Mandamus or any other Writ, this Hon’ble Court may further be pleased to direct remanding the Respondent No. 3 to police custody remand for 5 days as originally prayed by the Investigating agency.”

2. Admittedly, first 15 days of remand has already been over. In view of the law laid down by the Hon'ble Apex Court in the case of **Central Bureau of Investigation Vs Anupam J. Kulkarni [1992 AIR 1768]**, the prayer in the Writ Petition has become infructuous. Even this Court could not have directed respondent No. 3 to be remanded to police custody. This Court could have only directed to again produce respondent No. 2 before the Magistrate concerned so as to consider the Investigating Officer's prayer for his remand for police custody. Be that as it may, since the prayer in this petition has become infructuous in view of the Hon'ble Apex Court's judgment in **CBI Vs Anupam J. Kulkarni** (supra), this petition stands disposed of.

3. The learned Advocate for the petitioner submits that the petitioner being victim of the crime, has every right to participate in the proceedings and approach to the Court of law whenever is required, to redress his grievance. On these submissions, the Court is at one (in agreement) with the submissions made by the learned Advocate. With these observations the petition is disposed of.

(R. G. AVACHAT)
JUDGE