

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1413 OF 2015

Jijabai Chandrabhan Shinde and Another ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. H.U. Dhage, Advocate for petitioners

Mr. M.M. Neralikar, A.P.P. for respondent - State

Ms. S.A. Nagode, Advocate h/f Mr. R.R. Karpe, Advocate for respondent no.5

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 02nd MARCH, 2023

PER COURT :

1. Rule. Rule made returnable forthwith. With consent of learned counsel for the parties, heard finally at admission stage.

2. This is a petition under Article 226 of the Constitution of India for issuance of writ of habeas corpus against the respondents to produce the missing persons and further to take the Respondent No.5 and his friends in custody for the purpose of investigation.

3. The Petitioner No.1 is the mother of the missing person – Navnath, whereas the Petitioner No.2 is the mother of Rahul Aajage, who at the

relevant time were 21 and 18 years of age respectively. The petitioners claimed that their sons were working for the Respondent No.5. On 14th April, 2013 Respondent No.5 had called them and that they had left the house with an assurance to return home by evening. They did not return home and the petitioners were unable to ascertain their whereabouts. Hence, on 14th September, 2013 the Petitioner No.1 lodged a Missing Report No. 49 of 2013 with Rahuri Police Station, Dist. Ahmednagar. Since there was no progress in the investigation, the petitioners filed this petition seeking relief as stated above.

4. The records reveal that Respondent Nos.1 to 4 have made several attempts to trace the missing persons. It is stated that there is absolutely no material to indicate that the Respondent No.5 is involved in the abducting, kidnapping, enticing or committing any crime against the missing persons.

5. Satish Shirsath and Madhukar Shinde, Police Sub-Inspectors, Rahuri Police Station have filed their affidavits wherein they have given details of the steps and efforts taken to trace the missing persons. It is seen that despite the best efforts of the police machinery, they have not been able to trace the whereabouts of the missing persons in last ten years.

6. Learned A.P.P. has placed reliance on the decision of the Division Bench of this Court in ***Mohd. Shaukat Shaikh Vs. State of Maharashtra and***

Others, 2014 (4) Bom.C.R. (Cri.) 592, wherein the Court had observed that since the efforts of the police officers have not yielded any result despite their best efforts, no useful purpose would be served by keeping the petition pending. In the said case, the petition was disposed of with directions to the investigating officer to continue with the investigation to trace whereabouts of the missing person. Learned A.P.P. states that even in the present case, the investigating agency will continue to trace the whereabouts of the missing persons and that the Missing Report No. 49 of 2013 will not be closed.

7. In light of the said statement and considering the fact that the investigating agency has not been able to trace the missing persons in last ten years despite their best efforts, we are inclined to dispose of this petition with directions to the investigating agency to continue the efforts to trace whereabouts of the missing persons named in the Missing Report No. 49 of 2013.

8. We accordingly dispose of the petition by making the rule absolute in above terms.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)