

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.938 OF 2024

Mahesh Devchand Gala

...Petitioner

Versus

Union of India and Ors.

...Respondents

Mr. Aabad Ponda, Senior Advocate, Mr. Hrishikesh Mundargi, Ms. Komal Joshi, Mr. Pushkraj Deshpande, Mr. Piyush Pandhare and Mr. Rohan Marathe i/b ALMT Legal, for the Petitioner.

Mr. Jitendra Mishra a/w Mr. Satyaprakash Sharma, Mr. Ashutosh Mishra, for the Respondent Nos.1 to 3.

Ms. A. S. Gotad, A.P.P for the Respondent – State.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 21st MARCH 2024

P.C. :

1. At the outset, learned senior counsel for the petitioner seeks leave to amend to delete the respondent Nos.4 to 6, from the array of respondents and to renumber the respondents, since there are no personal allegations made against the said respondents. Leave granted. Amendment to be carried out forthwith.

2. By this petition, the petitioner alleges illegality of his arrest by the respondent No.3 and its officers. Quashing and setting aside of the impugned order dated 15th March 2024 passed by the learned ACMM i.e. the Remand Order is also sought and consequently the release of the petitioner/interim relief.

3. Mr. Ponda, learned senior counsel for the petitioner submits that the petitioner entered the premises of the CGST and Central Excise, situated at Juhu Tara Road, Santacruz (W), Mumbai on 13th March 2024 at about 1:30 p.m. and was illegally detained by the police till 15th March 2024 upto 1:00 p.m./1:30 p.m. He submits that the petitioner was detained beyond 50 hrs in total and as such detention of the petitioner was clearly illegal and contrary to the law.

4. Mr. Jitendra Mishra, learned counsel for the respondent Nos.1 to 3 states that the petitioner entered the premises of the CGST and Central Excise between 2:30 p.m. and 3:00 p.m. and the recording of the petitioner's statement commenced at 4:15 p.m. He

submits that the petitioner was arrested on 14th March 2024 at 7:15 p.m., after which, he was first taken to the hospital and then to Santacruz Police Station, where he was kept in the lock-up. He further submits that from Santacruz Police Station, the petitioner was directly taken to the hospital for his medical check-up, on 15th March 2024 and thereafter produced before the concerned Magistrate.

5. Mr. Mishra seeks time to file a detailed affidavit-in-reply. Time granted. The same to be filed in the registry before the next date, with an advance copy to the learned counsel for the petitioner.

6. Considering the discrepancy in the timings with respect to the arrest and detention of the petitioner, we deem it appropriate to direct the respondent No.3 to take steps to preserve the CCTV footage, which is situated at the entrance of the CGST and Central Excise from 13th March 2024 (1:00 p.m.) to 14th March 2024 midnight.

7. We are informed that the CCTV camera belongs to BSNL and that the office of the CGST and Central Excise will apply to the BSNL and take appropriate steps to preserve the CCTV footage, as directed by this Court.

8. Stand over to **28th March 2024.**

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.