

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 of And Ors. ... Respondents

Mr. Hrishikesh Mundargi a/w Pushkraj Deshpande, Mr. Rohan Marathe i/b ALMT Legal, for the Petitioner.

Mr. K. V. Saste, Addl. P.P. for the Respondent – State.

Mr. Jitendra B. Mishra a/w Mr. Satyaprakash Sharma, Mr. Ashutosh Mishra, Mr. Rupesh Dubey, Mr. Saket Katkar and Harpreet Kaur Sethi, for the Respondent Nos. 1 to 3.

CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.

DATE : 24th SEPTEMBER, 2024

P. C. :

Vide order dated 10th May, 2024, we have granted interim bail to the petitioner pending the hearing and final disposal of the aforesaid petition, on certain terms and conditions, after making *prima facie* observations in the said order. The said order is a detailed order, which was passed after taking into consideration the timeline given by the learned Counsel for the petitioner and respondent Nos. 1 to 3 vis-a-vis the petitioner's detention.

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2 We, in para 5, after taking into consideration the timeline set out by the respondent No.2, in our order dated 10th May, 2024, have observed as under;

“5 Having heard learned counsel for the respective parties, prima facie, we are in agreement with the submissions advanced by Mr. Ponda i.e. that the petitioner appears to have been detained for more than 24 hours. Prima facie, the justification given by the respondent No. 2 explaining the detention of the petitioner, does not appear to reason, considering the conflicting stand taken by the respondent No. 2 in their affidavit filed in this Court and their reply filed before the trial Court. It is also pertinent to note that the GST investigation of the Company was done, sometime in 2021 and that the petitioner had appeared before the authorities on behalf of the said Company. It also appears that a full-fledged inquiry was done in 2021 and the authorities had audited the accounts of the years 2017 to 2020. The time span mentioned by the respondent Nos.1 to 3 for generating the GST returns and getting the Dowment Identification Number (DIN), prima facie appears to be an eye-wash and appears to have been done to show, that the petitioner was produced within 24 hours. As admitted in the affidavit, the process of generating the relevant GST returns took

around 3 to 4 hours, process of verification took 3 to 4 hours and the generation of arrest memo along with DIN took another 4 hours. Prima facie, we do not find, in the facts, that there was any reason for the respondent No. 2 to keep the petitioner overnight, when he came on 13th March 2023, more particularly, if the respondent No. 2 did not have documents to question the petitioner. It is not as if, the petitioner had not cooperated with the authorities and as such, it was well within the powers of the respondent No. 2 to call him on some other day or even on the next day. We deprecate the practice of keeping a person overnight under the guise of recording of his statement, irrespective of whether the person volunteered or not.

Arrest is a serious matter and cannot be made in a routine manner on a mere allegation of commission of an offence, inasmuch as, an arrest can cause incalculable harm to the reputation and self esteem of a person.”

3 Today, nothing different has been pointed out by the learned Counsel for the respondent Nos. 1 to 3, which would warrant us to take a different view of the matter vis-a-vis the timeline. We have already noted in our order dated 10th May, 2024, having regard to the timeline that the petitioner was detained beyond 24 hours.

4 Considering the aforesaid, we confirm the interim bail order dated 10th May, 2024, on the same terms and conditions, as set out in the said order.

5 The Petition is disposed of on the aforesaid terms.

6 At this stage, learned Counsel for the respondent Nos. 1 to 3 states that the Central Government is taking appropriate steps to ensure that the persons are not detained overnight for the purpose of interrogation. Statement accepted.

7 Learned Counsel for the respondent Nos. 1 to 3 further states that the appropriate guidelines will be issued by the concerned Ministry/Department. The said guidelines, if issued by the next date, be placed before us.

8 Stand over to **3rd December, 2024**, for compliance.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.