



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1124 OF 2025

Santosh s/o Baburao Jadhav
Age: 48 years, Occu.: Agri.,
R/o. Pangalli Baramati, Tq. Baramati,
District Pune.

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Home Department,
Mantralaya, Mumbai.
2. The Superintendent of Police,
Ahmednagar, District Ahmednagar.
3. The Police Station,
Karjat, Taluka Karjat,
District Ahmednagar.
4. Shivraj s/o Arjun Babar
Age: Major, Occu.; Service,
R/o. Gandhinagar, Nalvandi Road,
Near Water Tank, Peth Beed,
Beed, Taluka and District Beed.

.. Respondents

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Mr. Yuvraj S. Choudhari, Advocate for the petitioner.

Mr. A. M. Phule, APP for respondent Nos.1 to 3/State.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 19 AUGUST 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present petitioner came to be arrested on 24.12.2024 in connection with Crime No.803 of 2024 registered on 23.12.2024 with Karjat Police Station, Taluka Karjat, District Ahmednagar for the offences punishable under Sections 103(1), 3(5), 238 of Bharatiya Nyaya Sanhita, 2023. Now, by this writ petition, he prays that his arrest be declared as illegal on the count of non compliance of Section 47 of Bharatiya Nagarik Suraksha Sanhita, 2023 and Article 22 of Constitution of India, to set aside his arrest, to release him on bail and direct the police authorities to compensate him for the illegal arrest.

2. Heard learned Advocate Mr. Yuvraj S. Choudhari for the petitioner and learned APP Mr. A. M. Phule for the respondent Nos.1 to 3/State. There is no necessity to issue notice to respondent No.4, who is the investigating officer.

3. Learned Advocate for the petitioner submits that there was no compliance of Section 47 of Bharatiya Nagarik Suraksha Sanhita, 2023 wherein respondent Nos.1 to 3 and especially, respondent No.4/original informant were duty bound to inform the petitioner about his grounds of

arrest. There is no compliance of directions by the Hon'ble Supreme Court in ***Arnesh Kumar Vs. State of Bihar and another, [(2014) 8 SCC 273]*** and ***Vihaan Kumar vs. State of Haryana, [2025 SCC OnLine SC 269]***. The communication of grounds of arrest in written form is mandatory and when these mandatory provisions have not been adhered to, the arrest as well as the detention of the petitioner becomes illegal.

4. It will not be out of place to mention here that the FIR in the present matter filed by respondent No.4 was specifically against the present petitioner and his wife. It was alleged by respondent No.4 that his brother Ranjit was murdered by the present applicant and his wife on the count of Ranjit's love affair with the daughter of the present applicant. Prior to that Assistant Sub Inspector Salim Noor Shaikh of Karjat Police Station was informed about detecting dead body of an unidentified person in Kukadi Canal. The dead body was taken out from the canal which was floating and at that time, the A.D. was registered under Section 194 of Bharatiya Nagarik Suraksha Sanhita, 2023. The dead body was then identified by respondent No.4. Thereafter by an application dated 23.12.2024 to the learned Magistrate of Karjat Court, permission was sought for arrest of the wife of the applicant after sunset and prior to that the applicant and his wife appears to have been taken in custody. The permission was granted by the learned Magistrate to arrest

the wife of the applicant after the sunset. Thereafter the arrest has been effected. Along with the arrest panchanama, a separate form has been annexed wherein it is stated that accused was informed about the grounds of arrest and information regarding his arrest has been given to one Ratanbai Bhiknar Nighul, who appears to be the mother-in-law of the applicant. On the said form, there is signature as well as photograph and thumb impression of the applicant. Another fact that is required to be noted is that the petitioner has not produced on record as to which submissions were made before the learned Magistrate when he was produced within 24 hours from his arrest. When query was made to the learned Advocate for the petitioner, he sought time. Important point to be noted is that when the petitioner is coming with a case that his arrest is illegal, then how his arrest is illegal has to be demonstrated by him by the documents. There ought to have been collection of documents prior to the drafting of the petition. When the question is posed by the Court, then there cannot be adjournment seeking the documents to be collected. However, upon the inquiry, learned Advocate for the petitioner admits that the petitioner was represented by an Advocate of his choice before the Magistrate. Thereafter, it appears that till the charge-sheet is filed, there was no application by the present petitioner before the concerned Court stating that his arrest is illegal. The charge-sheet came to be filed on 21.02.2025 and thereafter, even the case was committed

to the Court of Sessions, thereby registering it as Sessions Case No.11 of 2025. Copy of the order passed below Exhibit-04 in the said case has been placed on record. By order dated 16.04.2025, the learned Additional Sessions Judge, Shrigonda appears to have allowed the application for bail by the wife of the present applicant. There appears to have been a common order passed. The present applicant is still in jail. That means his application has been rejected. The petitioner has not filed copy of the application for bail filed by him before the Additional Sessions Judge and the order passed on the same. Withholding of the documents is not permissible. When there was opportunity to the petitioner to agitate the point of illegal arrest, he has not raised even though he was represented by Advocate of his choice and now, he is coming with a case that his arrest is illegal. Unfortunately, we are required to observe that nowadays it has become a routine that when the bail applications are rejected, such ground about illegal arrest is raised for the first time before the High Court. There is absolutely no explanation, when this was the vital point which would have affected the point of personal liberty of the accused arrested, as to why this point was not raised at the first point of time or even thereafter also when there was an opportunity available. We would like to rely on the decision in ***Vicky Bharat Kalyani vs. State of Maharashtra and another, [MANU/MH/0575/2025]***, wherein the point as to whether the grounds of

arrest should be communicated in writing to the accused and other such points have been referred to the larger Bench.

5. Therefore, we do not find any substance in the grounds raised in the present petition. The writ petition deserves to be rejected at the threshold. Accordingly, the writ petition stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm