

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3316 OF 2025

**JYOTI
RAJESH
MANE**

Vikas Kumar Gupta @ Vicky

Age : 43 years,

R/o. K 56/114-6, Near DAV College

Ausanganj Rani Fatak, Ausanganj

Varanasi, Uttar Pradesh 221001.

... Petitioner

V/s.

1. Union Of India,
Through Narcotics Control Bureau
Mumbai Zonal Unit.

2. State of Maharashtra
Through Public Prosecutor,
High Court, Mumbai.

... Respondents

Mr. Anish Pareira a/w. Mr. Taraq Sayed a/w. Ms. Ashwini Achari, for
Petitioner.

Mr. S. K. Halwasia a/w. Smt. S.S.Halwasia, for Respondent No.1/NCB.

Mr. Y. Y. Dabke, Addl. P.P. for the Respondent No.2-State.

**CORAM : RAVINDRA V. GHUGE AND
GAUTAM A. ANKHAD, JJ.**

**RESERVED ON : 18th AUGUST, 2025.
PRONOUNCED ON: 25th AUGUST, 2025**

JUDGMENT : (Per : GAUTAM A. ANKHAD, J.)

1) Rule. Rule is made returnable forthwith and the matter is heard
finally with the consent of parties.

2) The Petitioner contends that he was arrested on 27th May 2025 at 11.04 a.m. and produced before the learned Magistrate only on 29th May 2025. Such delayed production renders the arrest illegal, entitling the Petitioner to the following reliefs under Article 226 of the Constitution of India:

(a) This Hon'ble Court in exercise of its extraordinary jurisdiction bestowed upon by the Constitution of India under Article 226 of the Constitution of India, this Hon'ble Court may be pleased to issue Writ in the nature of Mandamus directing the Respondent no.02 to provide for Flight Manifest of Indigo Airline bearing no. 6E-5292 Varanasi to Mumbai dated 27.03.2025.

(b) This Hon'ble Court in exercise of its extraordinary jurisdiction bestowed upon by the Constitution of India under Article 226 of the Constitution of India, this Hon'ble Court may declare the arrest of the Petitioner as illegal and in gross violation of the fundamental rights of the Petitioner guaranteed under Article 21 and 22 of the Constitution of India in relation to F.NO. NCB/MZU/CR-08/registered at the instance of the Narcotics Control Bureau, Mumbai Zonal Unit.

3) The prayer clause (a) seeks a Writ of Mandamus against Interglobe Aviation Ltd (Indigo Airlines). By an order of 1st August, 2025, leave was granted to the Petitioner to delete Respondent No.2 as a party Respondent. The amendment was carried out by the Petitioner. Upon deletion of Respondent No.2, prayer clause (a) does not survive.

4) As regards the prayer clause (b), the facts are summarised as

follows:

- a) On 3rd March 2025, the officials of Respondent No. 1 seized 7,200 bottles of Codeine Phosphate (contraband) from one Jayshankar Prasad Phoolchand Gaud (original accused no. 1). He was arrested for offenses under Sections 8(c) read with Sections 21(c), 22(c), 28, and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
 - b) During investigation, Jayshankar disclosed that the contraband was meant for Mohammad Husain Khan (original accused no. 2). A search of accused no. 2's premises led to the recovery of 10,800 Nitrazepam tablets and 120 bottles of Codeine Phosphate. Accused no. 2 further revealed that these substances had been supplied by the present Petitioner.
 - c) On 27th March 2025, Respondent No. 1 issued summons to the Petitioner under Section 67 of the NDPS Act, calling upon him to tender his statement. The summons was served at Varanasi and bears the Petitioner's acknowledgment signature.
- 5) Mr. Pareira, learned counsel for the Petitioner, submitted that on 27th March 2025, the Petitioner was apprehended by officials of Respondent

No.1 at Varanasi. The incident is captured in CCTV footage, screenshots of which are annexed to the petition. He was first taken from his residence to his shop, where he was arrested at 11:04 a.m. Thereafter, he was compelled to book his own ticket for a same-day evening flight to Mumbai. Upon arrival, he was taken to the office of the Narcotics Control Bureau (“NCB”), where his statement was recorded. It is falsely shown that the Petitioner is arrested on 28th March 2025 at 14:30 hours. He was finally produced before the learned Magistrate only on 29th March, 2025. It is contended that the arrest on 27th March, 2025 at Varanasi and detention until 29th March, 2025 is illegal, and the reliefs sought in the petition deserve to be granted. Reliance was placed on the judgment of a Co-ordinate Bench of this Court in ***Kaushik R. Thakkar v/s. State of Maharashtra, 2025 SCC Online Bom 1493***, in support of the above submissions.

6) Mr. Halwasia, learned APP for Respondent No.1, denied these allegations and relied on the affidavit dated 18th August 2025 filed by Mr. Satish Singh, Sub-Inspector, NCB, to oppose the petition. He denied that the Petitioner was arrested at Varanasi. He submitted that the Petitioner traveled voluntarily from Varanasi to Mumbai pursuant to the summons, without any coercion. The statements of accused nos.1 and 2 disclosed the Petitioner’s

involvement, which the Petitioner has admitted in his own statement recorded by the NCB. The Petitioner was thereafter arrested on 28th March 2025 at 14:30 hours and produced before the learned Magistrate on 29th March 2025. Thus, it was contended that the arrest is valid and the petition is liable to be dismissed.

7) We are heard the learned counsels for the parties and perused the records. The Learned APP has drawn our attention to the voluntary statement recorded on 28th March 2025 under Section 67 of the NDPS Act as well as the Memo of Arrest dated of the same date recording the Petitioner's arrest at 17:30 hours at the NCB, Mumbai. The statement and the memo of Arrest are marked as 'X-1' and 'X-2' for identification. We have also considered the CCTV screenshots annexed at pages 22 to 27 of the Petition.

8) We are unable to accept the submissions advanced by Mr. Pareira, learned counsel for the Petitioner. The summons issued under Section 67 of the NDPS Act was served on the Petitioner at Varanasi, who acknowledged receipt thereof. The Petitioner was thus aware of the purpose and import of the summons. There is no material on record to substantiate the allegation that he was arrested on 27th March 2025 at the shop. The CCTV footage from the

Varanasi shop does not disclose any element of force or any arrest being made as alleged by the Petitioner. The Petitioner has booked his own flight tickets from Varanasi to Mumbai. It would have been a different matter, had NCB booked his tickets.

9) We find that the Petitioner's statement was then recorded on 28th March 2025 at the NCB office, Mumbai. The Memo of Arrest, duly informing him of the grounds of arrest, records his arrest at 17:30 hours on the same date. The grounds of arrest are furnished to the Petitioner. The Memo of arrest bears the Petitioner's acknowledgment signature. He was thereafter produced before the learned Magistrate on 29th March 2025. We therefore hold that the arrest was carried out in accordance with due process and does not suffer from any illegality.

10) The Petitioner's reliance on the judgment of ***Kashik Thakkar*** (supra), is misplaced. The facts in Kaushik Thakkar were entirely different, i.e. the petitioner therein was taken into custody at 7.00 a.m. on 16th August, 2024 and was produced before the Magistrate at 1.15 p.m./2.50 p.m. on 17th August, 2024. Thus, it was held that the fundamental rights of the Petitioner under Articles 21 and 22 of the Constitution of India were violated. That is not so here as is discussed above. In the present case, we find the Petitioner has been

produced before the learned Magistrate within 24 hours.

11) In view of the above, **the Petition is devoid of merit and is dismissed.** We make it clear that our observations are with reference to the detention and would not influence the Trial Court or affect the merits of the case.

12) **Rule is discharged.** There shall be no order of costs.

(GAUTAM A. ANKHAD, J.)

(RAVINDRA V. GHUGE, J.)