



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.205 OF 2025

[Manish @ Lucky Guru Pilley (In Jail) ..Vs.. State of Maharashtra]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr S. S. Sohoni, Advocate for Petitioner.

Mr D. V. Chauhan, PP/Senior Advocate a/b Ms P. T. Joshi, APP for
respondent/State.

CORAM : M. W. CHANDWANI, J.

DATE : 5th MAY, 2025.

1. Heard

2. By this petition, the petitioner challenges the order dated 18.02.2025 passed in Crime No.92 of 2025 by the learned Judicial Magistrate First Class, Nagpur, thereby rejecting the application of the petitioner for preserving CDR, SDR and CCTV footage under Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

3. Mr. Sohoni, learned counsel appearing on behalf of the petitioner submitted that the petitioner has been implicated in a false trap and has been falsely charged with the offence punishable under Sections 3 and 25 of the Arms Act, 1956 read with Sections 135 and 142 of the Maharashtra Police Act, 1951 by the officials of Gittikhadan Police Station. The contention of the learned counsel for the petitioner is that the police showed false arrest of the petitioner near CPWD quarters at 01.40 a.m. In-fact, he was apprehended near Balasaheb Thakre Zoo gate, Gorewada at 07:30 p.m. on the earlier date. At the time of apprehension of the petitioner, there were six other persons with him. All of them were taken to Gittikhadan Police Station, but the panchanama shows

otherwise. This came to the knowledge of the mother of the petitioner when she had been to the jail to meet her son. The petitioner through his mother applied under Section 94 of the BNSS seeking directions to preserve the location of these six persons, the police officials including two panches who were present in a Baleno vehicle at Balasaheb Thakre Zoo; CCTV footage of Katol Toll Naka; CCTV footage of Balasaheb Thakre Zoo from the front gate and CCTV footage of the Police Station entry gate to other places between 06:00 p.m. and 12:00 noon of the alleged incident dated 30.01.2025. According to him, the learned Magistrate can monitor the investigation and can certainly direct the police authority to preserve the CCTV footage of all the locations including the police station so that those CCTV footages can be made available during trial in defence of the accused.

4. It is also contended that in the case of *State of Orissa vs Debendra Nath Padhi, (2005) 1 SCC 568*, though it was opined that the power under Section 91 of the Cr.P.C. entitles all accused persons to seek an order under Section 91, such power would ordinarily not be exercised at the stage of defence, particularly when the accused at the time of framing of charges was seeking the same documents from the prosecution. According to him, this is a question of fair investigation which is a right of the accused. He further submitted that at the initial stage of investigation, the accused is seeking a fair investigation, particularly preservation of evidence including locations and CCTV footages of the places mentioned above which would come under the purview of monitoring the investigation. According to him, in view of the direction given by the Hon'ble Supreme Court in the case of *Paramvir Singh Saini vs. Baljit Singh and others., (2021) 1 SCC*

184, at least the CCTV footage recorded in the camera at Gittikhadan Police Station may be directed to be preserved till the conclusion of trial. To buttress his submission, he seeks to rely on the decision of the Hon'ble Supreme Court in the case of Nitya Dharmananda alias K. Lenin and another vs. Gopal Sheelum Reddy also known as Nithya Bhaktananda and another, (2018) 2 SCC 93.

5. Mr. D. V. Chauhan, learned P.P./Senior counsel appearing on behalf of the State vehemently objected the petition. According to him, the petition as framed is not maintainable. According to him, even the affidavit shows that the mother of the petitioner has not stated this fact to the counsel, since it only refers that the contents of the petition drafted by her counsel and there is no statement that the petition has been drafted as per her instructions. It is also contended that the learned Magistrate has rightly rejected the application since the petitioner was asking for directions to the police to preserve the CCTV footage of Balasaheb Thakre Zoo, the CCTV footage of Katol Toll Naka and the Police Station entry gate. According to him, the petitioner is seeking the directions that the investigation should be conducted in particular manner. Even the learned Magistrate cannot direct the investigation to be done in a particular manner. The provisions contained in the Criminal Procedure Code are to be adhered to while giving directions to the police. According to him, passing such directions would amount to taking control over the investigation.

6. Next, Mr. Chauhan, learned P.P./Senior counsel would submit that the stage of defence has not yet arrived and it is for the accused to prove these facts. According to him, the police

attempted to procure the CCTV footage of Balasaheb Thakre Zoo, Gorewada but were unable to find it. Meanwhile, a statement was made that the Police Station and Katol Toll Naka were consulted and it was informed that the CCTV footage for the said date was not available with them as it had been deleted. He also stated that the agency maintaining the CCTV footage installed at Gittikhadan Police Station was consulted, but no positive response was received from the said agency.

7. Lastly, learned P.P./Senior counsel submitted that the application sought location of six persons which is impossible for the investigation agency to procure. Furthermore, the application lacks proper details, making it difficult for the learned Magistrate to pass a proper order. The CCTV footage from other places could not be procured. Regarding the CCTV footage of Gittikhadan Police Station, the learned P.P./Senior counsel submitted that if it is available with the agency, it will be filed alongwith the chargesheet.

8. No doubt, considering the judgment of the Hon'ble Supreme Court in the case of Nitya Dharmananda, wherein the case of Debendra Nath Padhi (supra) was distinguished by the Hon'ble Supreme Court, it was held that if the Court is satisfied that the material available with the investigation agency is crucial to the issue, an order can certainly be passed under Section 91 of Cr.P.C., irrespective of the stage. Considering the peculiar facts and circumstances, this is a case where a bald statement is made regarding preservation of CCTV footage of Balasaheb Thakre Zoo, Gorewada, CCTV footage of Katol Toll Naka and CCTV footage of the Police Station. There is no material available with the petitioner and the petition does not contain any statement

regarding the availability of CCTV footage at these places. It is admitted that Katol Toll Naka and Gittikhadan Police Station have CCTV cameras but so far as the other places are concerned, there is no material on record to presume the availability of the CCTV footage.

9. As far as Katol Toll Naka is concerned, it has been informed that the CCTV footage of the relevant time is not available with them. Regarding the CCTV installed at Gittikhadan police station, it is stated that the CCTV was installed in view of the direction in the case of Paramvir Singh Saini (supra), it is informed that the maintenance and storage of the said CCTV is with M/s Sujata Computers, Pune. The correspondence has been made regarding the availability of CCTV footage but no positive response has been received. Considering the statement made by the learned P.P./Senior counsel that if the CCTV footage of Gittikhadan Police Station is made available to the police agency by M/s Sujata Computers, Pune, it will necessarily be part of a chargesheet.

10. In view of the above, I find that the order of the learned Magistrate does not require any interference except with a direction to the police that if the police is provided with the relevant CCTV footage by the agency, they shall file the said CCTV footage alongwith the chargesheet.

11. In the above said terms, the petition is disposed of.

JUDGE