IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1338 OF 2023

DILIP RAMDAS ADSULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

....
Mr. S. B. Choudhari, Advocate for the Petitioner
Ms. Uma S. Bhosale, A.P.P. for the Respondents-State
....

CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.

Date : 01/10/2026

ORDER :

1. Heard rival submissions.

2. The petitioner has sought a direction against respondent Nos.1 and 2 to pay compensation of Rs.3,50,000/- to him for his alleged illegal detention from 15/08/2023 till 18/08/2023. The petitioner has also sought appropriate action against respondent No.2 and the Constable who produced the petitioner before this Court for non-compliance of the order.

3. The petitioner claims that he was convicted on 14/01/2016 by the learned Judicial Magistrate (First Class), Osmanabad, for the offence punishable under Section 138 of the Negotiable Instruments Act (in short, 'the N.I. Act') and was sentenced to suffer simple imprisonment for 15 days. The appeal preferred by the petitioner against the said judgment and order was dismissed on 29/07/2022. Thereafter, the petitioner filed Criminal Revision Application No.86 of 2023 before this Court on 13/12/2022. On 18/07/2023, this Court issued a non-bailable warrant against the petitioner in the aforesaid criminal revision application, pursuant to which the petitioner was arrested on 31/07/2023 and produced before the learned Sessions Judge, Osmanabad, who remanded the petitioner to judicial custody till 14/08/2023. However, on 14/08/2023, respondent No.2 did not produce the petitioner before the Sessions Court, Osmanabad and instead, the petitioner was directly produced before this Court on 17/08/2023. On the same day, this Court specifically directed the Constable to release the petitioner forthwith. However, despite the said direction, the petitioner could not be released by respondent No.2 and therefore, he had to appear before the learned Sessions Judge and was thereafter released on 18/08/2023. Thus, the petitioner claims that he was illegally detained from 15/08/2023 till 18/08/2023.

4. The learned APP, by referring to the affidavit-in-reply, strongly resisted the petition and submitted that the concerned learned Additional Sessions Judge, Osmanabad, had followed due process after the petitioner was brought before him pursuant to the non-bailable warrant issued by this Court. Moreover, the learned Sessions Judge had also passed an order on 14/08/2023 observing that the petitioner was not produced before him and directed that he be produced before this Court in Criminal Appeal No.9 of 2016 in Criminal Application No.4243 of 2022, without fail, on 17/08/2023. As such, the learned APP prayed for dismissal of the petition.

5. Admittedly, the petitioner was convicted by the learned Judicial Magistrate (First Class), Osmanabad, for the offence punishable under Section 138 of the N.I. Act and was awarded 15 days' simple imprisonment along with compensation/fine of Rs.85,000/-. It is not in dispute that his Appeal No.9 of 2016 was dismissed on 29/07/2022 and thereafter, in the criminal revision filed before this Court, his sentence was suspended. It is a matter of record that on 18/07/2023, this Court had issued a non-bailable warrant against the petitioner for his non-appearance, pursuant to which he was arrested on 31/07/2023. He was duly produced before the learned Additional Sessions Judge, Osmanabad, on

31/07/2023, who remanded him to judicial custody till 14/08/2023. However, it appears that the petitioner was not produced before the concerned Sessions Judge on 14/08/2023. Instead, the learned Additional Sessions Judge, Osmanabad, directed, by order dated 14/08/2023, that the petitioner be produced before this Court, without fail, on 17/08/2023.

6. On 17/08/2023, when the petitioner was produced before this Court, this Court observed that the petitioner had already undergone the sentence imposed upon him in connection with the offence punishable under Section 138 of the N.I. Act and therefore, the order suspending the sentence of imprisonment passed in Criminal Application No.4243 of 2022 in Criminal Revision Application No.86 of 2023 was recalled. This Court also observed that the petitioner ought to have been released forthwith.

7. It is to be noted that the petitioner is claiming his alleged illegal detention mainly on the basis of the aforesaid observation of this Court. However, on going through the complete order dated 17/08/2023 passed by this Court, it appears that though this Court had expressed the opinion that the petitioner was to be released forthwith, but it was further observed that, since the petitioner had

not furnished the bail bonds, he should furnish a surety of Rs.50,000/- with one solvent surety of the like amount before the learned Additional Sessions Judge, Osmanabad, for securing his presence. As such, in terms of the order passed by this Court, the petitioner was produced before the learned Additional Sessions Judge, Osmanabad, on the next day, i.e. 18/08/2023, where he was released on bail. Thus, it appears that respondent No.2, as well as the Constable who produced the petitioner before the various Courts, were following the directions issued by the learned Additional Sessions Judge, Osmanabad, as well as this Court. In fact, the learned Additional Sessions Judge, Osmanabad, had directed that the petitioner/accused be produced before this Court on 17/08/2023, even though the petitioner/accused had not been produced before him upon expiry of the period of judicial custody on 14/08/2023.

8. Thus, it clearly appears that the petitioner/accused remained in custody pursuant to the orders of the learned Additional Sessions Judge, Osmanabad, till 17/08/2023 and thereafter remained in custody pursuant to the order passed by this Court on 17/08/2023 till 18/08/2023. In such circumstances, it cannot be inferred that the respondents had, in fact, illegally detained the petitioner for the

period from 15/08/2023 till 18/08/2023. As such, no substance is found in the present petition. The petition, therefore, stands dismissed.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE