IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CRIMINAL WRIT PETITION NO. 1114 OF 2013

DEVANAND ASHOKLAL CHITRAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Adv. Chandrakant P. Patil, Advocate for the Petitioner
Adv. G. A. Kulkarni, APP for Respondent-State
...

CORAM : SANDIPKUMAR C. MORE AND
VAISHALI PATIL-JADHAV, JJ.
RESERVED ON : 01/10/2026
PRONOUNCED ON : 05/10/2026

Order (PER : SANDIPKUMAR C. MORE, J.) :-

. Rule. Rule is made returnable forthwith. Heard finally at the admission stage.

2. By way of this petition, the petitioner is seeking a declaration in respect of his alleged illegal detention from 01.10.2013 to 02.10.2013. He also sought direction for initiating the Departmental Enquiry against present respondent Nos. 2 and 3 for his aforesaid alleged illegal detention. Additionally, the petitioner has also asked for compensation of Rs.2,00,000/- on account of his illegal detention by respondent Nos. 2 and 3.

3. According to the petitioner, on complaint dated 30.09.2013,

he was arrested and directly sent to the Harsul Jail under Section 107 of Cr.P.C., despite the fact that he was ready to furnish surety on the same date i.e. 01.10.2013. According to the petitioner, though the petitioner was arrested under Section 151 of Cr.P.C. but he was shown as arrested under Section 107 without following the procedure laid down under Sections 107, 111, 116, 122 and 123 of Cr.P.C.. Thus, he claimed that the respondent Nos. 2 and 3 illegally detained the petitioner from 01.10.2013 to 03.10.2013.

4. On the contrary, the learned AGP resisted the petition by filing an affidavit-in-reply and contended that pursuant to the complaint dated 30.09.2013, he was taken into custody under Section 151 of Cr.P.C., being a preventive action and produced before the concerned Magistrate, where a notice under Section 111 of Cr.P.C. was issued to him and directed to furnish surety, but the petitioner neither replied to the said notice nor furnished any surety and therefore, he was sent to MCR till 07.10.2013. However, on the next date when he furnished the surety, he was released on 02.10.2013. As such, there was no illegal detention of the petitioner. Therefore, he prayed for dismissal of the petition.

5. Admittedly, the notice dated 01.10.2013 issued under Section 111 of Cr.P.C. indicates that there were so many complaints

received by the concerned Police Station from various persons as mentioned therein. Further, it appears that the opportunity was also given to the petitioner in respect of allegations made against him, by intimating him about engaging a lawyer for the proposed proceeding under Section 107 of Cr.P.C. against him. A show cause notice was also given and he was told to reply the aforesaid notice under Section 111 of Cr.P.C. to furnish surety under the order dated 01.10.2013 passed by the concerned Special Executive Magistrate when he was produced before him. The record shows that at about 12:30 p.m. on the same day i.e. on 01.10.2013 the petitioner remained present before the concerned Magistrate, but he did not reply to the notice under Section 111 of Cr.P.C. and did not furnish surety. As such, the concerned Magistrate remanded the petitioner to judicial custody in MCR till 07.10.2013. Accordingly, the concerned Magistrate issued a remand warrant to the Superintendent of Harsul Jail. Thereafter, on next date i.e. 02.10.2013 when the friend of the petitioner furnished surety, then the petitioner was immediately released on execution of a surety bond of Rs.5,000/- and accordingly, the concerned Magistrate also issued a direction to the concerned jailer under the release warrant dated 02.10.2013.

6. Thus, it appears that the petitioner, on account of complaints from various persons against him was initially detained under the provision of Section 151 of Cr.P.C. under which a Police Officer can arrest a person without warrant or an order of Magistrate for preventing any cognizable offence. Further, the record shows that pursuant to those complaints, the action under Section 107 of Cr.P.C. was also proposed and for that purpose, a notice under Section 111 of Cr.P.C. was given, which the petitioner did not reply. Moreover, as per the direction of concerned Magistrate, the petitioner even refused to furnish surety on 01.10.2013 and therefore, he was sent to jail. After furnishing the surety by his friend Kishor Kamble on the next date i.e. on 02.10.2013, the petitioner was released. Thus, it is clearly evident that the respondent Nos. 2 and 3 had, in fact, detained the petitioner by following the provisions of law and therefore, considering all these facts, we do not find any substance in the allegations made by the petitioner about his alleged illegal detention. Accordingly, the Criminal Writ Petition stands dismissed. Rule stands discharged.

(VAISHALI PATIL-JADHAV, J.) (SANDIPKUMAR C. MORE, J.)

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