

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1749 OF 2025

Chandrakant Jankiram Deshmukh
and others

Petitioners

Versus

The State of Maharashtra & another

Respondents

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Mr. Dhananjay Shinde, Advocate for the petitioners.

Mr. V.M. Jaware, A.P.P. for respondents-State.

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**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

Reserved on : 21.01.2026.

Pronounced on : 22.01.2026.

ORDER (Per Sandipkumar C. More, J.) :

1. Rule. Rule made returnable forthwith. By the consent of learned counsel for the petitioner as well as learned APP heard finally at the stage of admission.

2. By way of this criminal writ petition, the petitioners, who are original accused in F.I.R. No. 61 of 2025 dated 17.05.2025, are seeking direction to the respondents to secure, collect and preserve CCTV footage as per their representation dated 24.06.2025 and submit the same in

Sessions Case No. 155 of 2025 pending before Sessions Court, Nanded and to use it at appropriate stage.

3. Learned counsel for the petitioners submits that under the aforesaid representation the petitioners are claiming the CCTV footage from the places namely; Prakash Light House, Tarasing Market, Nanded, Swami Samarth Kendra, Malegaon Road, Nanded, Shri Mahalaxmi colour Home, Canal Road, Nanded and Mapare Hospital at Nanded since one of the petitioners i.e. Chandrakant Jankiram Deshmukh was present at the aforesaid places at different times on 16.05.2025 on which the alleged offence had taken place. The learned counsel, by placing reliance on the judgment of Hon'ble Apex Court in the case of ***Sovaran Singh Prajapati vs State of Uttar Pradesh*** reported in ***2025 (1) MLJ (Cri) 545***, submitted that considering the principles of fair trial and a guarantee under Article 21 of the Constitution of India, the aforesaid CCTV footage needs to be preserved, collected and included in the investigation process to safeguard the right of petitioner Chandrakant and for giving him opportunity to establish his innocence. Certain paras from the aforesaid judgment are as under :

“9. This case raises questions of compliance with various basic requirements of a fairly conducted trial, in accordance with well-established prepositions of law.

Fair Trial - A Guarantee under Article 21 of the Constitution of India

10. Fair and impartial administration of justice is a treasured right protected by various enactments of law including, first and foremost, the Constitution, which under Article 21 guarantees the Right to Fair Trial. In numerous pronouncements, this Court has underscored the same.

10.1 A Three-Judge Bench of this Court in Vinubhai Haribhai Malaviya v. State of Gujarat³, held as under:

“17. Article 21 of the Constitution of India makes it clear that the procedure in criminal trials must, after the seminal decision in Maneka Gandhi v. Union of India [Maneka Gandhi v. Union of India, (1978) 1 SCC 248] , be “right, just and fair and not arbitrary, fanciful or oppressive” (see para 7 therein). Equally, in Commr. Of Police v. Delhi High Court [Commr. of Police v. Delhi High Court, (1996) 6 SCC 323 : 1996 SCC (Cri) 1325] , it was stated that Article 21 enshrines and guarantees the precious right of life and personal liberty to a person which can only be deprived on following the procedure established by law in a fair trial which assures the safety of the accused. The assurance of a fair trial is stated to be the first imperative of the dispensation of justice (see para 16 therein).

18. It is clear that a fair trial must kick off only after an investigation is itself fair and just. The ultimate aim of all investigation and inquiry, whether by the police or by the Magistrate, is to ensure that those who have actually committed a crime are correctly booked, and those who have not are not arraigned to stand trial. That this is the minimal procedural requirement that is the

fundamental requirement of Article 21 of the Constitution of India cannot be doubted. It is the hovering omnipresence of Article 21 over CrPC that must needs inform the interpretation of all the provisions of CrPC, so as to ensure that Article 21 is followed both in letter and in spirit.”

5. On the contrary, the learned APP strongly opposed the petition by relying on the communication dated 21.01.2026 issued to him by the concerned Investigating Officer, which he also placed on record.

6. It is significant to note that by the aforesaid communication dated 21.01.2026, the concerned Investigating Officer has pointed out that they had visited the aforesaid places mentioned in representation dated 24.06.2025, however, while visiting to Prakash Light House, Tarasing Market, Nanded, Shri Mahalaxmi Colour Home, Canal Road, Nanded and Mapare Hospital at Nanded, it was revealed to them that the relatives of present petitioners/accused had already taken away the hard discs wherein the CCTV footage of 16.05.2025 was stored. Further, it was also revealed that they could not extract the CCTV footage of the said day from Swami Samarth Kendra, Malegaon Road, Nanded as the said data was in existence only for six days. The communication also includes the statements of concerned persons of the

aforesaid shops/places wherein those persons have clearly stated that relatives of petitioners had taken away the original hard discs containing the data of 16.05.2025 and assured to give new hard discs instead. The concerned person from Swami Samarth Kendra, Malegaon Road, Nanded had already stated that the capacity of storing the data of his CCTV machinery was only of six days and therefore, the data was not available. Considering this, the prayer of this petition has become infructuous as the original hard discs containing the CCTV footage of 16.05.2025 are already with the petitioners. As such, no direction can be given for securing, preserving and collecting those data.

7. The learned counsel for the petitioners still argued that considering the principles of fair trial as reflected in the judgment in ***Sovaran Singh Prajapati*** (supra), the Investigating Officer can be permitted to obtain those hard discs from the petitioners for its inclusion in the prosecution evidence. However, it is pertinent to note that there is no prayer in the petition to that effect and even if it is there, then such direction could not have been given mainly because there may be possibility of tampering of the original hard discs by the petitioners/accused to establish their innocence,

by playing fraud. Apart from that, even if such direction is given, the purpose of fair trial cannot be achieved since for the prosecution there was no opportunity of having original hash value of the recording in respect of data of 16.05.2025 considering the possibility of tampering the original hard discs which are already in possession of the petitioners/accused. The petitioners may establish their innocence by examining appropriate persons during the trial as their defence witnesses. It is made clear that these observations will not come in the way of petitioners to make an application as is permissible in law to that effect.

8. Considering all the aforesaid aspects, the petition deserves to be dismissed and accordingly it stands dismissed. Rule stands discharged accordingly.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE