

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 42 OF 2026

Abdul Karim

...Petitioner

VERSUS

The Union Of India And Ors.

...Respondents

Mr. Santosh Punalkar, Advocate for Petitioner.

Mr. Vijay Killedar, Advocate for Respondent Nos.1 & 2.

Mr. Jitendra B. Mishra a/w Mr. D.B. Deshmukh, Advocate for Respondent Nos.4 & 5.

**CORAM : NITIN B. SURYAWANSHI,
AND AJIT B. KADETHANKAR, JJ.**

DATE : 12th FEBRUARY, 2026

P.C.

1. By this Petition filed under Article 226 of the Constitution of India, the Petitioner seeks following reliefs :

“(a) Declare the arrest of the Petitioner as illegal and in gross violation of the statutory right and fundamental rights of the Petitioner guaranteed under Art. 21 and 22 of the Constitution of India in relation to case no. DGGI/INT/INTL/1256/2025-O/o DD-DGGI-RU-KOLHAPUR registered by Director General of GST Intelligence (DGGI), Kolhapur Regional Unit (KRU), Through Shri Suraj S. Pawar, Senior Intelligence Officer, Kolhapur Regional Unit i.e. Respondent No. 5.

(b) Declare and set aside the Order dt. 5.12.2025 passed by Hon’ble Judicial Magistrate First Class (Court No. 1), Kolhapur as null and void as the same being passed in complete violation of principle of natural justice being as non speaking order and in complete violation of all constitutional mandates including failure to consult and to be defended by legal practitioner of his choice during the remand

Proceedings, being violative of Petitioner's right guaranteed under Article 21 and 22 of the Constitution of India.

(c) Direct immediate release of the Petitioner from custody in case no. DGGI/INT/INTL/1256/2025-O/o DD-DGGI-RU-KOLHAPUR, dt. 5.12.2025 registered by DGGI, Kolhapur.

(d) The appropriate compensation for breach of Fundamental Rights may kindly be granted to the Petitioner. ”

2. Heard learned Advocate for the Petitioner, learned Advocate for Respondent Nos.1 and 2 and learned Advocate for Respondent Nos.4 and 5. Perused the record.

3. Learned Advocate for the Petitioner submits that the arrest of the Petitioner is illegal and the same is in violation of his fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India on the following grounds :

- i. ‘The reason to believe’ order is not signed by the competent authority.
- ii. There is non-compliance of Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”).
- iii. There is violation of Section 36(1)(b) of the BNSS.
- iv. The arrest of Petitioner was not informed to his family members and arrest memo is signed by the friend of the Petitioner and not by the family member.
- v. Non supply of grounds of arrest in legal manner to the Petitioner. The Petitioner was denied opportunity to consult lawyer of his choice.

vi. The learned Magistrate has passed a non speaking order authorizing detention of the Petitioner in judicial custody.

4. Learned Advocates for the Respondents have strenuously opposed the Petition by pointing out the documents on record and the affidavit-in-reply filed by Respondent Nos.4 & 5. According to them, the Petitioner has made incorrect statements in the Petition and the Petitioner is arrested after following due procedure of law.

5. It is a matter of record that prior to the arrest, thrice Petitioner's statement was recorded, wherein his involvement in the commission of offence under the Central Goods and Services Tax Act, 2017 and the *modus operandi* and evasion of tax is disclosed.

6. 'The reasons to believe for the arrest of Petitioner' are placed on record at Exhibit-E. In the said 'reasons to believe', the Respondent No.4 has not only recorded the grounds of arrest but also the reasons for arrest. The record further reveals that the statutory provisions were followed at the time of arrest of the Petitioner. Respondent No.4 has issued authorization of arrest of Petitioner on 04.12.2025. On the same day, 'the reasons to believe for arrest of the Petitioner' are duly served on the Petitioner. There is no merit in the contention of the Petitioner that 'the reasons to believe' are not signed by the

competent authority and therefore the arrest of the Petitioner is illegal.

7. Learned Advocate for Respondent Nos.4 and 5 has pointed out that the document containing reasons of arrest is digitally signed by Respondent No.4 and his seal appears on each and every page of the said documents.

8. The grounds of arrest translated in Hindi language are served on the Petitioner on 04.12.2025. The Petitioner has signed in document token of receipt of the same. The arrest memo of the Petitioner is signed by his friend and the Respondents stated on oath that the intimation of arrest of the Petitioner was given to his wife. Since the Petitioner was arrested in the presence of his friend and the arrest was informed to his wife, it was for the Petitioner to engage a lawyer of his choice.

9. The remand application submitted before the learned Magistrate sets out the grounds and reasons for arrest of the Petitioner in detail.

10. The learned Magistrate has passed following order on the remand application:

“1. Accused namely Abdul Karim produced before me at 1.30 pm. By senior intelligence officer Suraj S. Pawar of DGGI, Kolhapur regional unit. No complaint of ill-treatment at the hands of GST officer. Compliance Section 47 and 48 of BNSS. Appears to be done. Arrest is justified.

Ld. A.P.P. absent. Hence, accused is taken in judicial custody till 18.12.2025.”

11. Thus it is categorically observed in the above order that the compliance of Sections 47 and 48 of the BNSS appears to be done and the arrest is justified.

12. In this view of the matter, there is no substance in the contention of the Petitioner that learned Magistrate has passed non speaking order.

13. The respondents rightly relied on the decision of the Hon’ble Supreme Court in the case of **Radhika Agarwal V/s. Union of India, reported in 2025 (95) G.S.T.L. 225 (S.C.)**, wherein it is held that :

“87. However, when the legality of such an arrest made under the Special Acts like PMLA, UAPA, Foreign Exchange, Customs Act, GST Acts, etc. is challenged, the Court should be extremely loath in exercising its power of judicial review. In such cases, the exercise of the power should be confined only to see whether the statutory and constitutional safeguards are properly complied with or not, namely to ascertain whether the officer was an authorized officer under the Act, whether the reason to believe that the person was guilty of the offence under the Act, was based on the “material” in possession of the authorized officer or not, and whether the arrestee was informed about the grounds of arrest as soon as may be after the arrest was made. Sufficiency or adequacy of material on the basis of which the belief is formed by the officer, or the correctness of the facts on the basis of which such belief is formed to arrest the person, could not be a matter of judicial review.”

14. In view of aforesaid ratio, we find no merit in the Petition.

15. In the light of above, the Petitioner has failed to make out the case of violation of his fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India. The Petition being devoid of merit, is therefore dismissed.

16. The trial Court shall decide the matter on its own merits without being influenced by the observations made in this order

(AJIT B. KADETHANKAR, J.)

(NITIN B. SURYAWANSHI, J.)