

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

CR. WRIT PETITION NO. 66 OF 2026

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Mr. Glenn Percy Sequeira

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

.....
Mr. Pravin Faldessai a/w Ms. Neha G. Deshpande for the Petitioner.
Mr. A.A. Naik, APP for the Respondent - State.
Mr. Govind V. Telang, PN/1776, Cyber Police Station, Solapur City present
.....

CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.

DATE : 24th MARCH, 2026.

ORAL JUDGMENT : (Per Madhav J. Jamdar, J.)

1. Heard Mr. Pravin Faldessai, learned counsel appearing for the Petitioner and Mr. Naik, learned APP for the respondent – State.

2. By the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking relief that by writ of Habeas Corpus, the Petitioner be released and be declared that his arrest and detention is illegal and unconstitutional.

3. Mr. Faldessai, learned counsel for the Petitioner submits that the Petitioner was taken into custody by the Immigration Officials on 7th February 2026 at 12:34 a.m. on the strength of Look Out Circular (LOC) and has been handed over to the Sardar Vallabhbhai Patel International Airport Police Station (SVPIA Police Station) on 7th February 2026 at 3:00 a.m. and thereafter produced before the Chief Judicial Magistrate, 5th Court, Ahmedabad on 9th February 2026 at 1:15 p.m. He was actually arrested by the Solapur City, Cyber Police Station, Solapur on 10th February 2025 at 01:00 p.m. and informed about the grounds of arrest and thereafter he was produced before the learned JMFC, 7th Court, Solapur at 4:00 p.m. on 10th February 2025. It is submitted by Mr. Faldessai, learned Counsel that there is violation of Article 22(2) of the Constitution of India as also of Section 58 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). He also relied on the affidavit, dated 10th March 2026 of Mr. Narendra D. Nakum, working as Senior Police Inspector, Airport Police Station, Ahmedabad City and submitted that even the factual aspects as set out in the said affidavit are taken into consideration as it is, it is clear that the Petitioner was in custody from 7th February 2026 from 12:34 a.m. by the Immigration Officer and his custody was handed over to Sardar Vallabhbhai Patel International

Airport (SVPIA) Police Station on 7th February 2026 at 3:00 a.m. He, therefore, submits that the detention of the Petitioner is illegal. He further submits that the Petitioner's arrest is also illegal on the ground of non-supply of grounds of arrest under Sections 57 and 58 of the BNSS. To substantiate the Petitioner's case, he relied on the judgment of the Supreme Court in the case of *Directorate of Enforcement Vs. Subash Sharma*¹ and also on the judgment of the Supreme Court in the case of *Niranjan Singh and Anr. Vs. Prabhakar Rajaram Kharote & Ors.*²

4. Mr. Faldessai, learned counsel appearing for the Petitioner, on instructions, submitted that the Petitioner will co-operate with the investigation.

5. On the other hand, Mr. Naik, learned APP pointed out contentions raised in the affidavit-in-reply dated 10th March 2026 of Narendra Dhanajibhai Nakum, Senior Police Inspector of Airport Police Station, Ahmedabad city and also affidavit dated 11th March 2026 of Shri. Shrishail Sidramappa Gaja, Senior Police Inspector, Solapur City, Cyber Police Station. Learned APP submitted that Article 22(2) of the Constitution of India as also Section 58 of the BNSS specify that every

1 (2025) SCC OnLine SC 240

2 (1980) 2 SCC 559

person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of 24 hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. He submits that similar provision is made in Section 58. He submits that in this particular case, as the Petitioner was absconding and therefore, LOC was issued and on the basis of the said LOC he was detained at Sardar Vallabhbhai Patel International Airport (SVPIA) on 7th February 2026 at 12:34 a.m. by the Immigration Officer. He submits that after receipt of the information the police authorities of Cyber Police Station, Solapur City took immediate action to reach at Ahmedabad and as the distance between Solapur to Ahmedabad is about 1000 kms, the delay occurred in producing the Petitioner. He submits that the Petitioner was taken into custody by the Cyber Police Station, Solapur City on 10th February 2026 at 01:00 p.m. and immediately produced before the learned JMFC, 7th Court, Solapur at 04:00 p.m. He, therefore, submits that the custody of the Petitioner cannot be termed as illegal. He submits that as far as non-supply of grounds of arrest is concerned, he has been informed about the same on 10th February 2026. He relied on the judgment of the Supreme

Court in the case of *Mihir Rajesh Shah Vs. State of Maharashtra & Anr.*³

He, therefore, submits that there is compliance with the said provision.

6. Perusal of the record shows that a crime has been registered with Solapur City, Cyber Police Station, Solapur on 4th July 2024 being C.R. No. 4 of 2024 under Sections 419, 420 and 34 of the Indian Penal Code, 1860 and Section 66(C) and 66(D) of the Information Technology Act, 2000. The prosecution case as reflected in the FIR has been set out in paragraph No.3 of the Writ Petition, which reads as under :-

“3. The prosecution story in nutshell is that:

*a) The prosecution case arises out of C.R. No. 4 of 2024, registered with Solapur City Police Station on 04.07.2024, for the offences punishable under Sections 419, 420 and 34 of the Indian Penal Code, read with Sections 66(c) and 66(d) of the Information Technology Act, 2000, at the instance of Mrs. Jayshree Ravindra Patil. A copy of the C.R. No. 4 of 2024, registered with Solapur City Police Station on 04.07.2024 is annexed hereto and marked as **EXHIBIT A**.*

b) The complainant maintains the following savings bank accounts:

(i) Account No. 067410110018910 with Bank of India, Chalisgaon Branch, District Jalgaon; (ii) Account No. 09360100000764 with Bank of Baroda, Chalisgaon Branch, District Jalgaon, being a joint account; and (iii) Account No. 019901536459 with ICICI Bank, Beskar Tower Branch, Solapur. The complainant also maintains a Demat account with Angel One, which she has been operating for the past two years.

3 AIR (2025) SC 5554

c) On 09.04.2024, at about 9:00 p.m., while she was at her residence, the complainant's husband, Mr. Ravindra Bhaskar Patil, aged 58 years, while browsing Facebook through his profile came across an online advertisement purportedly offering returns up to 300 times under an Angel One investment plan.

d) Thereafter, the complainant's husband responded to the said advertisement, pursuant to which a response was received from a person identifying herself as "Diya Assistant, State Street Global Advisors." Subsequently, the complainant's husband was asked to join an online group, whereupon his mobile number was added to a WhatsApp group titled "165 Wealth Growth Learning Community."

e) The complainant's husband was thereafter required to furnish sensitive personal and financial details, including bank account particulars, Aadhaar card details, PAN card details, residential address, and mobile number, pursuant to which the said application was activated.

f) After attending online sessions conducted through the said group, a small amount was initially credited to the bank account of the complainant's husband. Thereafter, further amounts were shown as being made available through the application for the purpose of share trading, accompanied by representations that profits would accrue to the account holder. Through online sessions conducted over several days, the accused persons imparted general information relating to share market trading and made false assurances of unusually high profits on the premise of preferential or institutional access.

g) Thereafter, the complainant also joined the "165 Wealth Growth Learning Community" WhatsApp group. Acting upon the directions issued through the said groups, the complainant and her husband transferred amounts from the complainant's bank account to various bank accounts during the relevant period.

h) The Complainant furthermore states that the Petitioner has duped Rs 62,65,000/- from the Complainant through various

unknown bank accounts. In addition, thereto, the Complainant on 26.06.2026 tried repeatedly contacting the Petitioner, but to no avail. Prior thereto, the complainant had lodged an online complaint on 25.06.2024 bearing Acknowledgment No. 21906240058957, pursuant to which an FIR came to be registered with the Cyber Police Station, Solapur City.”

7. Mr. Naik, learned APP submitted that during investigation it was revealed that amount of Rs.10,39,000/- has been transferred in the account of the present Petitioner. After completing the investigation as there was enough evidence to file chargesheet, it is the case of the learned APP that the chargesheet was filed against the other accused, however, chargesheet has been filed against the Petitioner in accordance with Section 335 of the BNSS as he was abroad at Thailand, Laos and Dubai. In view of that LOC has been issued to the Deputy Director/Imm, Bureau of Immigration, East Block-VIII, Leavel-5, Sector-1, R.K. Puram, New Delhi against the Petitioner on 10th December 2024. In view of the said LOC, the Petitioner was apprehended at SVPIA on 7th February 2026 at 12:34 a.m. by the Immigration Officers and he was handed over to SVPIA Police Station, Ahmedabad at 03:00 a.m. on 7th February 2026. The investigation team of Solapur City, Cyber Police Station was dispatched from Solapur on 7th February 2026 at around 9.00 p.m. and said team reached SVPIA Police Station on 8th February 2026 at 5.30 p.m. and took custody of the Petitioner on 9th February 2026 at 11.00 a.m. and

he was produced before learned Chief Judicial Magistrate, 5th Court, Ahmedabad on 9th February 2026 at 1.15 p.m. with the transit remand report dated 9th February 2026 and the learned Court granted remand of the Petitioner till 4.00 p.m. of 10th February 2026.

8. It is admitted position that the Petitioner was formally arrested by the Solapur Cyber Police Station, Solapur on 10th February 2026 at 1:00 p.m. and immediately produced before the learned JMFC, 7th Court, Solapur on the same day at 4:00 p.m. and he was informed about the grounds of his arrest on 10th February 2026.

9. In view of the above factual aspects, it is necessary to set out Section 58 of the BNSS 2023, which reads as under :-

“58. Person arrested not to be detained more than twenty-four hours.-No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not.”

10. Article 22(2) of the Constitution of India also reads as under :-

“22. Protection against arrest and detention in certain cases

(1)

(2) Every person who is arrested and detained in custody shall

be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.”

11. Thus, what is most significant is that a person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of 24 hours of said arrest including the time necessary for the journey from the place of arrest to the Court of Magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

12. In this particular case, although the formal arrest is on 10th February 2026 at 1:00 p.m., however, position on record clearly shows that the Petitioner was detained by the Immigration Officials on 7th February 2026 at 12:34 a.m. In view of this position, it is necessary to refer to the decision of the Supreme Court in the case of ***Niranjan Singh & Anr. (supra)*** and more particularly observations made in paragraph 7, which reads as under :-

“7. When is a person in custody, within the meaning of Section 439 CrPC? When he is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the court having been remanded by judicial order, or having offered himself to the court's jurisdiction and submitted to its orders by physical presence. No lexical dexterity nor precedential

*profusion is needed to come to the realistic conclusion that **he who is under the control of the court or is in the physical hold of an officer with coercive power is in custody for the purpose of Section 439. This word is of elastic semantics but its core meaning is that the law has taken control of the person.** The equivocatory quibblings and hide-and-seek niceties sometimes heard in court that the police have taken a man into informal custody but not arrested him, have detained him for interrogation but not taken him into formal custody and other like terminological dubieties are unfair evasions of the straightforwardness of the law. We need not dilate on this shady facet here because we are satisfied that the accused did physically submit before the Sessions Judge and the jurisdiction to grant bail thus arose.”*

(Emphasis added)

13. Thus, what the Supreme Court has said that the person can be held to be in custody when he is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the Court having been remanded by judicial order, or having offered himself to the court’s jurisdiction and submitted to its orders by physical presence. Thus, it is very clear that the Petitioner has been, for the purpose of Article 22(2) as also Section 58 of the BNSS, is arrested on 7th February 2026 at 12:34 a.m. It is admitted position that he was produced for the first time before the Chief Judicial Magistrate, Ahmedabad at 01:15 p.m. on 9th February 2026. Thus, it is clear that his arrest is totally illegal.

14. Mr. Faldessai, learned counsel also relied on the decision of the Supreme Court in the case of ***Subhash Sharma (supra)***. Paragraph Nos. 4

to 8 of the said judgment are significant, which reads as under :-

“4. In paragraph 10 of the impugned judgment, the High Court has recorded factual findings which read thus:

“From the documents available in the case diary and the aforesaid order, it is crystal clear that the applicant was detained and taken into custody at 18.00 hours (6 pm) on 04.03.2022 at IGI Airport, New Delhi when the Bureau of Immigration executed the LOC issued against the applicant and held him in custody on behalf of ED. It is also not in dispute that ED took physical custody of the applicant from the Bureau of Immigration at 11.00 hours (11 am) at IGI Airport on 05.03.2022 and brought him to Raipur where the ED in the afternoon on 06.03.2022 before the remand Court.”

(underline supplied)

5. The submission of the learned counsel appearing for the appellant is that pursuant to the Look Out Circular (for short, ‘the LOC’) issued against the respondent, he was detained at IGI Airport from 11.00 hours, on 5th March, 2022. But he was shown as arrested at 01.15 hours on 6th March, 2022 by the appellant Enforcement Directorate and was produced before the Court of the learned Magistrate within 24 hours from 1.15 hours on 6th March, 2022.

6. This argument cannot be accepted. Admittedly, the LOC was issued at the instance of the appellant - Directorate of Enforcement. By executing the LOC, the Bureau of Immigration detained the respondent at IGI Airport from 4th March 2022 on behalf of the Appellant. The finding of fact recorded in paragraph 10 is that undisputedly, the physical custody of the respondent was taken over by the appellant from the Bureau of Immigration at 11.00 hours on 5th March, 2022. Thereafter, at 1.15 hours on 6th March 2022, an arrest memo was prepared by ED at Raipur. He was produced before the Court at 3 p.m. on 6th March, 2024. The perusal of the arrest order (Annexure p-1) shows that the typed order was kept ready. The date and time of arrest were kept blank which appear to have been filled in by hand. Admittedly, the respondent was not produced before the nearest learned Magistrate within 24 hours from 11.00 a.m. on 5th March, 2022. Therefore, the arrest of the respondent is rendered completely illegal as a result of the violation of clause 2 of Article 22 of the Constitution of India. Thus, the continuation of the respondent in custody without producing him before the nearest Magistrate within the stipulated time of 24 hours is completely illegal and it infringes fundamental rights under clause 2 of Article 22 of the

Constitution of India. Therefore, his arrest gets vitiated on completion of 24 hours in custody. Since there is a violation of Article 22(2) of the Constitution, even his fundamental right to liberty guaranteed under Article 21 has been violated.

7. The requirement of clause 2 of Article 22 has been incorporated in Section 57 of the Code of Criminal Procedure, 1973 (for short 'the Cr.PC). There is no inconsistency between the provisions of the PMLA and Section 57 of Cr.PC. Hence, by virtue of Section 65 of the PMLA, Section 57 of the Cr.PC applies to the proceedings under the PMLA.

8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution."

15. The above observations of the Supreme Court and the reasoning given by the Supreme Court is squarely applicable to the present case.

16. Thus, it is clear that the Petitioner was detained on 7th February 2026 at 12:34 am and he was first time produced before the learned Magistrate on 9th February 2026 at 1:15 p.m. In view of the said factual position, it is relevant to note the Supreme Court as set out hereinabove in the case of Niranjana Singh (supra), has held that a person in custody means the law has taken control of the person. Thus, arrest of the Petitioner renders illegal and by the said arrest and failure to produce him before the nearest Magistrate within a period of twenty four hours of

arrest, his fundamental rights under Article 22 are violated.

17. The contention raised by Mr. Naik, learned APP that the detention by the Immigration Officer and by the Police Officials of SVPIA Police Station till formal arrest of the Petitioner on 10th February 2026 at 1:15 pm by the Solapur City, Cyber Police Station, Solapur, cannot be taken into consideration for calculating 24 hours as contemplated under Article 22(2) as also Section 58 of the BNSS is without any basis in view of the law laid down by the Supreme Court in Niranjana Singh (Supra).

18. Mr. Faldesai, learned counsel appearing for the Petitioner, on instructions, submitted that the Petitioner will completely co-operate with the investigation.

19. In the facts and circumstances of the case and in view of well settled legal principles, we have no doubt that the Petitioner's arrest was illegal for non-compliance with the provisions of law. We, therefore, pass the following order.

ORDER

(i) We direct to release the Petitioner from the custody by issuing Writ in the nature of Habeas Corpus, by declaring his custody to be illegal.

(ii) The Petitioner shall completely co-operate with the investigation.

20. The Writ Petition stands disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]