

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

WRIT PETITION NO.37 OF 2026

Muzaffar Jaffar Shaikh]
(Presently detained at Arthur Road]
Central Jain, Mumbai)] .. Petitioner

Versus

1. The State of Maharashtra,]
Through DCB/CID, Unit-9, Bandra, Mumbai]
2. The Investigating Officer,]
DCB/CID, Unit-9, Bandra, Mumbai] .. Respondents

Mr. Fakhruddin Khan with Ms. Saima Ansari, Advocates for the Petitioner.

Mrs. M.M. Deshmukh, In-Charge Public Prosecutor with Mr. S.V. Gavand, Additional Public Prosecutor for the Respondent-State of Maharashtra.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 6TH JANUARY 2026.

P.C. :

The following prayers have been made in this writ petition:-

- “(a) Be pleased to issue a writ of habeas corpus or any other appropriate writ, order or direction commanding the respondents to produce the petitioner before this Hon’ble Court forthwith;*
- (b) Be pleased to declare the arrest and continued detention of the petitioner in C.R. No.1162 of 2025 at Amboli Police Station as illegal, unconstitutional and void ab initio at the instance of DCB/CID Unit-9, Bandra, Mumbai in C.R. No.117 of 2025;*
- (c) Be pleased to direct immediate release of the petitioner from illegal custody forthwith;*
- (d) Call for the entire arrest record, including compliance of section 35(3) BNSS Act, 2023 and about written grounds of arrest to the family members;*
- (e) Verification of the petitioner may be dispensed with as the petitioner is in illegal custody.”*

2. Mr. Fakhruddin Khan, the learned counsel for the petitioner submits that in gross violation of the directions issued by the

Hon'ble Supreme Court in "*Arnesh Kumar v. State of Bihar*" (2014) 8 SCC 273, the petitioner was arrested without serving a notice upon him under section 41-A of the Code of Criminal Procedure corresponding to section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023. The learned counsel for the petitioner further submitted that even the grounds of arrest were not supplied to the petitioner or any one of his family members.

3. However, by an order dated 9th December 2025, passed in Remand Application No.1050 of 2025, the learned Judge has recorded a finding that the grounds of arrest and the reasons of arrest were properly communicated to the accused and his relatives.

4. The learned Judge has further observed that the custody of the petitioner was necessary for investigation in the matter which pertains to a grave offence committed by him.

5. In the first place, in face of the factual findings recorded by the learned Additional Chief Judicial Magistrate, 37th Court, Esplanade, Mumbai, it cannot be held that the arrest of the petitioner was illegal. Secondly, unless in exceptional kind of cases, a writ of habeas corpus shall not lie in face of the judicial order authorizing detention of the accused.

6. **Writ Petition No.37 of 2026 is dismissed.**

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]