

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1703 OF 2026

Ajay Prakashchand Agarwal ...Petitioner
Versus
State of Maharashtra and Ors. ...Respondents

Mr. Vishal Laxman Kolekar i/b Mr. Siddharth P. Wakode for
Petitioner.
Mr. S.V. Gavand, Additional PP for State.
PSI, Sunil Sonawane (Pairavi), Charkop Police Station, Mumbai
present.

CORAM : RAVINDRA V. GHUGE &
HITEN S. VENEGAVKAR JJ.
DATE : 15th APRIL, 2026.

P.C.:

1. The Petitioner makes a grievance that a complaint has been purportedly filed against the Company with the Charkop Police Station, Mumbai and a copy of the complaint is not handed over to a representative of the Petitioner.

2. The learned Additional PP submits on instructions, from the Officer of the said Police Station present in the Court hall, that the Petitioner never turned up for an inquiry. Yet, a copy of the said complaint is being handed to the learned Advocate for the Petitioner in the Court.

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3. The learned Advocate confirms the receipt of the compilation consisting of 24 pages.

4. The learned Advocate for the Petitioner submits that now the Petitioner would respond to the complaint and would render co-operation in the preliminary inquiry.

5. We have noticed continuous lapses in series of matters, when notices are being issued by the police officers to the persons against whom the complaints have been received calling upon them to remain present for the purpose of inquiry, without supplying copies of the complaint. The said notices are frequently issued without furnishing a copy of the complaint or even by disclosing the substance, contents or gist of the allegations reported against them by the complainant. Such persons on the basis of simple notice, are then required to participate in an inquiry without being informed of the nature of accusation that he is required to answer and explain.

6. Such practice of non-supplying copy of complaint in our considered view cannot continue in a system governed by the Rule of Law. The constitutional guarantee under Article 21, as held by the

Hon'ble Supreme Court of India in Maneka Gandhi vs. Union of India, (1978) 1 SCC 248, mandates that any procedure which curtails personal liberty must be just, fair and reasonable. The process which compels the person to respond to an inquiry without disclosing the allegations, is manifestly arbitrary and violates these principles.

7. Similarly, the well recognized principle 'Audi alteram partem' imbibed in principles of natural justice, necessarily implies an effective opportunity of hearing, only when the person concerned is made aware of the material allegations against him. The inquiry conducted without disclosing the material or without disclosing the basic complaint against the person, is a mere formality. Such a procedure is defective in the very approach of fairness which is embedded in our constitutional frame work.

8. The protection granted by the constitution under Article 20 Sub Clause (3) is found in the judgment of the Hon'ble Apex Court in the case of Nandini Satpathy Vs. P.L. Dani, (1978) 2 SCC 424, which states that person concerned has to be made aware of the nature of allegations and imputations so as to make him informed as to whether he should respond to any such questions that are posed to

him during inquiry. The person who participates in an inquiry, without the allegations being disclosed, puts a person in a disadvantageous position and also makes him vulnerable to action at the hands of the police authorities.

9. The statutory framework recognised under the procedural code, i.e. Cr. P.C. and also the new Act Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), clearly recognize this necessity and therefore, requires issuance of notice under Section 41 A of Cr. P.C. / 35 (3) of BNSS, only with an intention to secure co-operation and participation in a fair and transparent manner without subjecting an individual to an open ended inquiry. In this regard, the safeguards have been laid down by the Hon'ble Supreme Court in the case of Arunesh Kumar vs. State of Bihar, (2014) 8 SCC 273 and if these parameters are not fulfilled, then the guidelines laid down will be rendered nugatory, if the individual is not informed of the basis for which he is being summoned.

10. In the aforesaid backdrop, we are of the opinion that a practice of issuing notices to the individuals/noticees, asking them to attend the inquiry without furnishing the details of the complaint

and/or copy of the complaint, violates the mandate of Article 20 Sub Clause 3 of the Constitution of India and is also contrary to the principles of natural justice.

11. Therefore, in our Writ jurisdiction under Article 226 of the Constitution of India, we are constrained to issue the following directions to be complied with by all the police authorities within the State of Maharashtra :

(i) Whenever any person is so summoned with a direction to participate in the inquiry, whether prior to registration of FIR or otherwise, the concerned officer shall, as a general rule, shall furnish a copy of complaint received by the police, along with said notice.

(ii) In cases where it is not feasible to furnish a copy of the complaint, the notice shall mandatorily contain or annex a separate sheet mentioning clear and sufficient gist of the allegations levelled against the individual so summoned, so as to enable the person to understand the nature of the inquiry that is being held against him.

(iii) Any deviation from the requirement of furnishing complaint or its narration in a gist, shall be only in rare and peculiar

circumstances where disclosure would seriously prejudice the on-going investigation or endanger the safety of the complainant or witnesses. In such cases, if the police officer is of the said opinion, the reasons for not disclosing the details of the complaint, shall be recorded in writing by the officer concerned.

12. We, therefore, direct that the Director General of Police, State of Maharashtra, to circulate this order to all the Commissioners of Police and Superintendents of Police, forthwith and to ensure its due implementation in letters and spirit, so as to protect the constitutional guarantee to every citizen even though he is accused of committing an offence.

13. With the aforesaid direction, **this Writ Petition is disposed off.**

[HITEN S. VENEGAVKAR, J] [RAVINDRA V. GHUGE, J.]