

(2025) 08 BOM CK 0238
In the Bombay High Court
Case No : Writ Petition No. 4116 Of 2025

Ashish Virendra Pratap Singh

APPELLANT

Vs

State Of Maharashtra & Ors

RESPONDENT

Date of Decision : 01-08-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 58,482
Indian Penal Code, 1860 — Section 34, 406, 420, 467, 471, 500

Citation : (2025) 08 BOM CK 0238

Hon'ble Judges : Ravindra V. Ghuge, J;Gautam A. Ankhad, J

Bench : Division Bench

Advocate : Ashok Dubey, Anil Pandey, SAVJ Law Solutions, S. V. Gavand, Prashant Pandey, Sumati Gupta, Ridima Mangaokar

Final Decision : Dismissed

Judgement

Gautam A. Ankhad, J

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. The Petitioner filed the present Petition seeking the following reliefs:-

"(a) Rule may be issued.

(b) This Hon'ble Court may be please issue writ of mandamus in the nature of mandamus direct the Respondent not to take any adverse step/action against the present Petitioner in C.R. No. 94 of 2025 registered with Mumbra Police Station for the alleged offence u/s. 34, 406, 420, 467, 468, 471, 500 of I.P.C.

..."

3. The Petitioner claims that he has been falsely implicated for offences punishable under Sections 406, 420, 467, 471, and 500 read with Section 34 of the Indian Penal Code, 1860, at the instance of one Mr. Devendra Jagdish Singh.

The FIR No. 94 of 2025 was registered at 4:03 AM on 16th January 2025 at Mumbra Police Station, Thane. The Petitioner has been arrayed as a co-accused. Pursuant thereto, the Petitioner alleges that he was arrested by Respondent Nos. 4 to 6 on 17th January 2025 and was taken by a Police Constable for a medical examination to Chhatrapati Shivaji Maharaj Hospital, Thane. Subsequently, between 18th January 2025 and 6th February 2025, the Petitioner was admitted to various private hospitals, namely Navkaar Hospital, Vedant Hospital, Om Sai Hospital, and Surekha Criticare Hospital. Mr. Dubey, learned counsel for the Petitioner, drew our attention to the medical reports as well as the remand applications submitted by the police. He submitted that the arrest was illegal and that the Petitioner, while in police custody, was not produced before the Learned Magistrate within the mandatory 24-hour period following his arrest. Such omission, it is contended, constitutes a violation of the Petitioner's fundamental rights as well as Section 58 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Accordingly, it is submitted that the Petitioner is entitled to the reliefs sought in the present Petition.

4. Mr. Gavand, learned APP for the State opposed the application and submitted that this petition is an abuse of the process of law and ought to be dismissed with heavy costs. He submitted that the Petitioner has suppressed vital facts including that the Petitioner had filed an application for anticipatory bail under Section 482 of the BNSS which came to be rejected on 25th June, 2025. The present Petition, filed on 14th July 2025, makes no disclosure of this crucial development.

5. Mr. Gavand further submitted that the Petitioner is now attempting to indirectly secure an order restraining the police from taking coercive action against him, despite the earlier rejection of his anticipatory bail plea. With respect to the medical records, it was submitted that the Petitioner was advised admission by Chhatrapati Shivaji Maharaj Hospital, but he refused such admission and chose to seek treatment at a private hospital at his own risk. Thereafter, the Petitioner voluntarily moved between various private hospitals. He was taken by his relatives and was admitted in the private hospitals. On each occasion, he took discharge and moved to another private hospital with his relatives. Therefore, the allegation of illegal arrest or non-production before the Learned Magistrate within 24 hours is baseless. On this ground alone, the Petition is liable to be dismissed. Mr. Gavand further contended that even on merits, the Petitioner has failed to make out any case warranting relief.

6. We have heard the learned counsel for the parties and perused the material on record. The core contention of the Petitioner is that he has been under arrest since 17th January 2025 and was not produced before the Learned Magistrate within the mandatory period of 24 hours. It is submitted that the Petitioner was admitted to a hospital following his arrest, and his hospitalisation reflected the status of an arrestee rather than that of a free person. However, upon careful examination of the record, we find that the said claim is wholly unfounded and

false.

7. The medical records annexed to the Petition indicate the following:

i. On 17th January 2025, the Petitioner was taken by a police constable from Mumbra Police Station to Chhatrapati Shivaji Maharaj Hospital, Thane, for a routine medical check-up. The discharge summary notes that while admission was advised, the Petitioner declined and opted to seek further treatment at a private hospital.

ii. On 18th January 2025, the Petitioner admitted himself to Navkaar Hospital. The discharge summary states that the Petitioner's relatives requested his transfer to another hospital, leading to his discharge. There is no mention of the Police admitting him in the hospital. This indicates that the Petitioner was not in police custody and was accompanied by his family.

iii. On 19th January 2025, the Petitioner admitted himself to Vedant Hospital. The hospital's discharge summary records that the Petitioner was brought in by his relatives.

iv. Thereafter, the Petitioner was admitted to Surekha Criticare Hospital. The discharge summary dated 5th February 2025 again notes that the Petitioner was brought in by his relatives.

8. These records collectively establish, beyond any doubt, that the Petitioner was voluntarily moving between hospitals accompanied by his relatives, and was not in police custody at any point. Accordingly, we find that the Petitioner's contention of being under arrest and not produced before the Learned Magistrate within 24 hours is entirely false. We are constrained to observe that the Petitioner has prevaricated on oath. Since he was not under arrest, the question of his production before the Learned Magistrate does not arise.

9. We also find that the Petitioner has deliberately suppressed the fact that his application for anticipatory bail (Criminal Bail Application No. 567 of 2025) was rejected by the Learned Additional Sessions Judge, Thane, by an order dated 25th June 2025. This order was within the Petitioner's knowledge at the time of filing the present petition on 14th July 2025. Such deliberate suppression amounts to a serious lapse. The Petitioner has, therefore, approached this Court with unclean hands. It is well settled in law, as held in *Bhaskar Laxman Jadhav v. Karamveer Kakasaheb Wagh Education Society* [(2013) 11 SCC 531] and *Kishore Samrite v. State of U.P.* [(2013) 2 SCC 398], that a litigant who suppresses material facts is not entitled to any relief. It is not open to the Petitioner to decide unilaterally, which facts are material and which are not. Full and fair disclosure is a prerequisite to invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution.

10. It is also relevant to note that in the synopsis annexed to the Petition, the Petitioner admits that he was discharged from Vedant Hospital on 29th January 2025 and returned home. This is further confirmed at paragraph 6 of the

Petition, wherein the Petitioner states: "The Petitioner further submits that after being discharged from the hospital, he went to his native place".

11. In light of the above, it is evident that the Petitioner is attempting a 'second bite at the cherry' by seeking reliefs under Article 226, despite the rejection of his anticipatory bail application. The present petition, couched in the language of constitutional safeguards, is in essence an indirect attempt to obtain an order restraining the police from taking any coercive action, by means of clever drafting and suppression of crucial facts. We are not inclined to grant any relief in the nature of a stay of investigation or a direction of 'no coercive action,' particularly as the investigation is ongoing. It is a settled principle, as laid down by the Hon'ble Supreme Court in *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra* [(2020) 10 SCC 118], that criminal proceedings ought not to be thwarted at the threshold unless there is a clear abuse of the process of law. At this stage, we are not inclined to enter into the merits or examine the veracity of the allegations in the FIR. The investigation must be allowed to proceed in accordance with law.

12. For the above reasons, we find that the present Petition lacks merit and is an abuse of the process of law. Consequently, the Writ Petition is dismissed with costs of Rs. 25,000/-. Rule is discharged.

13. The costs will be deposited in this Court within a period of 21 days from today. The cost amount will be transferred by the Registry to the Organisation stated below:-

National Association for the Blind

Account No : 3740000100008551

Bank : Punjab National Bank

Branch : Worli Seaface

IFSC Code : PUNB0374000

14. The Petitioner shall file an affidavit of compliance enclosing payment receipt on or before 30th August, 2025.