



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION (S) NO.22094OF 2024**

Vasim Yasin Shah @ Sahil Shaikh] .. Petitioner
vs.
State of Maharashtra & Anr.] .. Respondents

Mr.Ujjwal Gandhi a/w Prateek Dutta, Saakshi Jha and Bhavi Kapoor
for the Petitioner.

Mr.S.V. Gavand, APP for the State.

API Amol Talekar, Navghar Police Station, present.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ**

DATE : 25th OCTOBER, 2024.

P.C.

1. The learned APP Mr. Gavand, has tendered Affidavit affirmed by the Assistant PI attached to Navghar Police Station. The same is taken on record.

2. The learned counsel for the Petitioner is seeking the relief of declaring his arrest on 02.05.2024 to be illegal and gross violation of the fundamental rights of the Petitioner granted under Article 21 and 22 of the Constitution of India, in connection with CR No.258/2024 registered with Navghar Police Station.

3. The learned counsel for the Petitioner has heavily relied upon the order dated 04.10.2024 passed in case of the co-accused Mohd. Tarik Abdul Gafar in WPST No.18380/2024, where identical relief was sought in identical circumstances, as even the co-accused was also arrested alongwith the Petitioner and was taken on remand on the very same day.

On hearing the grievance made in the said Writ Petition, this Court had observed thus :

“7. We have perused the contents of the Exhibit - D, the said contents only speaks of the registration of offence being Crime No. 258 of 2024 and the Sections under which the aforesaid offence is made punishable. The said communication dated 02nd May 2024 does not speak of there being grounds or reasons communicated to the petitioner about his arrest. Even if, what has been stated at its face value in the said communication is taken to be true, still it cannot lead to drawing an inference that the grounds of arrest were communicated to the petitioner, as the said communication does disclose the ground on which the petitioner was arrested.

8. Apart from above, even in the case diary or station diary entries are made to that effect, unless there is iota of evidence to infer the communication of such grounds to the petitioner justifying his arrest, it cannot be inferred that the petitioner was informed about the grounds for which he was arrested.

9. Rightly so, the learned counsel for the petitioner has drawn support from the judgment in matter of Pankaj Bansal and Mahesh Naik (supra), which was further followed by this Court in the matter of Sachin D. Shinde V/s The State of Maharashtra and Anr.

10. In this background, we deem it appropriate to declare that the grounds of arrest which should have been mandatorily communicated to the petitioner were not communicated and as such, his arrest is rendered illegal.

4. Since the case of the Petitioner is squarely covered by the order dated 04.10.2024 of the co-accused in the same CR, we see no reason to deny him the said relief.

5. In the wake of above, by declaring that the grounds of arrest are not communicated to the Petitioner and this has rendered his arrest illegal, and also the remand orders, we direct his release from custody forthwith.

The Petitioner is directed to be released on bail on such terms and condition, which shall be decided by the trial Court.

Writ Petition is made absolute, in the aforesaid terms.

(MANJUSHA DESHPANDE, J)

(BHARATI DANGRE, J)