



YA/SAGAR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION (STAMP) NO. 138 OF 2025

1. Fahim Arshad Mohammed Yusuf Ansari
Age : 51 years,
R/at: Dream Height Sonaji Nagar,
Opp. Mittal Ground,
Amrut Nagar, Mumbai, Thane 400 612

... Petitioner

V/s.

1. The State of Maharashtra,
Through Mumbra Police Station,
Thane, Maharashtra 400 612.
2. Officer-in-Charge,
Mumbra Police Station
Thane, 400612
3. Commissioner of Police Office, Thane
Near Kalawa Bridge,
Thane, 400601.

... Respondents

Ms. Payoshi Roy a/w Mr. Ulkesh Gangurde i/b Madhvi Gomathieswaran
Advocates for the Petitioner.

Smt. M. M. Deshmukh, Acting Public Prosecutor a/w Mr. Amit A. Palkar, A.P.P.
for the Respondent-State.

Mr. Sudhakar Khot, P.I. Special Branch, Thane City.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.**

RESERVED ON : 9th DECEMBER 2025.

PRONOUNCED ON : 29th APRIL 2026.

JUDGMENT [Per: RANJITSINHA RAJA BHONSALE, J] :-

1) By the present Petition, under Article 226 of the Constitution of India, the Petitioner seeks a direction to grant to the Petitioner a Police Clearance Certificate, for the purposes of securing Public Service Vehicle Badge (PSV), which is required to drive an auto rickshaw for commercial purposes. The Petitioner further seeks a direction that, the Petitioner's arrest and trial in Sessions Case No. 175 of 2009 should not be used as ground to bar him from availing public amenities and opportunities.

2) Heard Ms. Payoshi Roy, learned Advocate for the Petitioner, Smt. M. M. Deshmukh, Acting Public Prosecutor a/w Mr. Amit A. Palkar, A.PP for the Respondent-State. Perused the record.

3) It is the case of the Petitioner that, the Police Clearance Certificate has been refused to him on stale and untenable grounds. The Petitioner was arrested on 1st February 2008 in connection with C.R. No. 210 of 2008, registered with the Rampur Police Station, Uttar Pradesh for the offences punishable under Sections 420, 467, 468, 471, 200, 121, 121-A of the Indian Penal Code. Pursuant to a trial, the learned Additional Sessions Judge,

Rampur was pleased to convict the Petitioner in Sessions Case No. 211 of 2008. The Petitioner was sentenced to undergo imprisonment of 10 years. That, on 5th November 2019, the Petitioner was released from custody after completing his sentence in Sessions Case No. 211 of 2008.

4) That, while the Petitioner was in custody, he was arrested in December 2008 in connection with C.R. No. 55/08 registered with the Yellow Gate Police Station, which was one of the 12 complaints lodged in connection with the terrorist attack that took place in the Taj Hotel in Mumbai on 26th November 2008. The learned Sessions Judge, Mumbai vide Order dated 6th May 2010 in Sessions Case No. 175 of 2009 acquitted the Petitioner. The said Order of acquittal has been upheld by the Bombay High Court in Criminal Appeal No. 606 of 2010 and further confirmed by the Hon'ble Supreme Court by its Order dated 29th August 2012 passed in Criminal Appeal No. 1961 of 2011.

5) The learned Advocate for the Petitioner submits that, the petitioner had secured a job in a printing press at Byculla where he worked in 2020. That, during the Covid Pandemic the Petitioner worked as delivery executive for Zomato. That, the Petitioner's family comprises of his wife and daughter. That, the Petitioner is required to earn his livelihood. That, as the Petitioner was unable to meet his daily expenses with his income, working at the printing press, he applied for a three wheeler rickshaw license. The license was issued on 19th January 2024. On 18th May 2024, the Petitioner filed online

Application for obtaining Police Clearance Certificate with the Mumbra Police Station, which is mandatory in order to obtain Public Service Vehicle Badge (PSV). That, without the PSV badge one cannot ply auto rickshaw for commercial purposes. As the Police Clearance Certificate was not issued, the Petitioner filed a RTI application requesting for update and the status of his application dated 18th May 2024. That, by letter dated 13th August 2024, the Petitioner was informed that, as he was a member of Lashkar-e-Taiba Sanghatana, the certificate was not issued. It is this refusal that Petitioner seeks to challenge before this Court.

5.1) Learned Advocate for the Petitioner submits that, the Petitioner has already served the sentence awarded by the learned Sessions Court, Rampur in Sessions Case No. 211 of 2008. That, the Petitioner has undergone and suffered the entire sentence awarded to him and was released on 5th November 2019 after undergoing the sentence period of 10 years. As regards the Sessions Case No. 175 of 2009, the Petitioner has been acquitted and the acquittal has been confirmed by the Hon'ble Supreme Court. That, due to the non issuance of PSV badge, the Petitioner is unable to gainfully employ himself post the conviction. That, the action of the state administration is unjust and untenable. The learned Advocate appearing for the Petitioner would submit that, in view of the aforesaid facts the petition be allowed.

5.2) Learned Acting Public Prosecutor would submit that, the Petitioner has multiple cases/offences registered in his name and has been

convicted in the past and sentenced for 10 years imprisonment in the Rampur CRPF camp grenade attack case. That, in the said case seven CRPF persons and one civilian were mercilessly killed. That, the Petitioner was accused in 2008 Mumbai terrorist attack, though acquitted, the said acquittal is based on the principle of “benefit of doubt” which was given to the Petitioner. In the said case, it was alleged that the Petitioner is the member of LeT (Lashkar e Taiba) which is a banned organization. That, the policy guidelines governing the Police Character Verification clearly mandate that an Applicant with the serious criminal background of a prior conviction must be issued an adverse remark in the verification report. That, this requirement is applied uniformly. That, after considering the intelligence reports and related material the Petitioner was not granted clearance for use of the auto rickshaw PSV badge for driving an auto on commercial basis. Learned A.P.P. tendered a chart indicating cases where Character verification is conducted in respect of the government jobs and private jobs. The said chart has been provided to the learned Advocate for the Petitioner. That, as per the guidelines, if Police Clearance Verification is sought, it is mandatory for the Authorities to mentioned the previous criminal record of the Applicant in case of serious crimes. Learned A.P.P. submitted that, the intelligence agencies reports are adverse to the Petitioner and considering the nature of the allegations and the offences for which the Petitioner was prosecuted the Police clearance has been rejected. That, the intelligence reports are adverse and against the Petitioner.

Learned A.PP submitted that, it would be open for the Petitioner to take private employment as was previously taken up by him. That, it would be open for the Petitioner to take up stationary jobs.

5.3) Learned A.PP submitted a confidential note containing certain sensitive information/official intelligence communication in respect of the Petitioner and the reasons which were considered by the Authorities. Based on the said instructions, Police Clearance Certificate was refused.

6) We have heard the parties and perused the record including the Affidavit dated 2nd April 2025 filed by the Assistant Commissioner of Police. From the record it appears that, considering the nature of the offences and the crimes in which the Petitioner was involved and role as assigned to the Petitioner “providing ancillary logistical support” the Police Authorities are apprehensive and have therefore as a precautionary measure refused the police clearance to the Petitioner to ply an auto rickshaw on the commercial basis. The offences involved, were extremely serious in nature and a threat to the security of the country. The Police Authorities, based on the intelligence reports have considered the Petitioner as a high potential risk. The Petitioner, considering the role assigned to him in the crimes has been considered a high risk for certain jobs including that of plying of the commercial auto rickshaw within PSV badge.

7) We have been informed that, the issuance of police character verification certificate to any person seeking recruitment in a government

services, it is mandated that in cases where there is a serious criminal background or prior convictions, the same must be issued with an adverse remark in the verification report. The said requirement appears to be applied uniformly. The present Petitioner applied for a PSV badge. The inclusion of the adverse remark is mandatory as a consequence of the Petitioner's antecedents, role assigned and nature of crimes. The adverse report or the refusal to grant Police Clearance Certificate appears to be based on the policy decision wherein in serious crimes an adverse remark is issued. In the present case, the verification process was conducted in accordance with the guidelines and after following the required diligence in as much as the Petitioner's records checked thoroughly and the decision has been made based on the verified criminal history. Considering the antecedent's and past history of the Petitioner i.e. attack on CRPF officials with grenade and the alleged connections with LeT (Lashkar-e-Taiba) and role assigned to the Petitioner in 2008 Mumbai Attacks, the said police clearance certificate has been refused.

8) We have considered the report of intelligence/say of the government agencies. The report would *prima facie* indicate that considering the nature of the allegations made against the Petitioner and the cases in which the Petitioner was involved i.e. attack on CRPF officials with grenade and the alleged connections with LeT (Lashkar-e-Taiba) the intelligence agencies are of the opinion that the possibility of the Petitioner indulging in the same or in similar activity cannot be ruled out. The learned A.P.P. has

specifically referred to the role assigned to the Petitioner in the Mumbai Attacks. We find no reason to differ with the opinion of the Government Authorities nor can any fault be found with it. According to us, prospects of employment of the Petitioner are only restricted in the backdrop of the criminal antecedents in a reasonable manner and in the larger interest of public safety and national security. It is not the case that, the Petitioner is left without any avenues of employment. We note that the Petitioner's employment avenues/opportunities only stand curtailed to exclude certain jobs.

9) Perusal of the note would indicate that, considering the criminal antecedents and allegations and role attributed to the Petitioner in the previous criminal proceedings/matters the Authorities have rightly given an adverse police clearance for issuance for the PSV badge. The Petitioner is free to avail of an alternate employment. The said restriction on the employment of the Petitioner or right to earn livelihood or carry out business and trade, according to us is a reasonable restriction. The said restriction is being imposed by the Authorities after considering the record, the antecedents and more importantly in the larger interest of the general public and society. It is not the case that, the Petitioner is left with no alternative or does not have any other option to earn a livelihood. We are of the opinion that the Respondent Authorities are right in their contention when they restrict the employment opportunities/opportunities to earn a livelihood in the larger interest of the

society and general public.

10) Considering the peculiar facts of the present case and keeping in mind the question of security, we are of the opinion that Authorities have rightly refused the Police Clearance Certificate in respect of the (PSV) badge for driving the auto rickshaw commercially to the Petitioner.

11) In view thereof, the petition is dismissed.

(RANJITSINHA RAJA BHONSALE, J.)

(A. S. GADKARI, J.)