



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

*WRIT PETITION NO. 2436 OF 2023*

... Petitioner

Versus

State of Maharashtra and Ors.

...Respondents

Mr. Kripashankar Pandey a/w Mr. Darshan Juikar and Mr. Abhishek Kanchikar for the Petitioner.

Ms P. P. Shinde, A.P.P for the Respondent – State.

Mr. Nilesh Rokade, PI, D.G. Office, Ms Shobha Pise, ACP, Tardeo Vibhag, Mumbai, Mr. Satish Pardeshi, PSI, Vachak Parimandal-03, Mumbai and Mr. Vishwas Dhumal, PSI, Pairavi Adhikari, Tardeo Police Station, Mumbai, present.

*CORAM : REVATI MOHITE DERE &  
MANJUSHA DESHPANDE, JJ.*

*DATE : 23<sup>rd</sup> JANUARY 2024*

*P.C. :*

1. Vide judgment and order dated 29<sup>th</sup> September 2023, the aforesaid petition was disposed of with certain directions, i.e. to pay compensation to the petitioner's husband and to recover the

said compensation after a full-fledged inquiry, from the salary of the person/persons found responsible for the illegal detention of the petitioner's husband, and some other directions.

2. The petitioner's husband was arrested in a bailable offence, despite the fact, that the petitioner's husband was ready to furnish bail. On the last date, the learned APP had stated that a circular would be shortly issued by the Director General's Office with respect to the same, as directed by this Court by judgment and order dated 29<sup>th</sup> September 2023.

3. Today, learned APP has tendered a copy of the circular issued by the Director General's Office, dated 18<sup>th</sup> January 2024, with respect to release of persons arrested in bailable offences, when they are ready to furnish bail.

4. As far as what transpired in the lock-up of Saat Rasta, Mumbai is concerned, we had directed the learned APP vide

order dated 22<sup>nd</sup> December 2023 to place on record the steps the police intend to take, having regard to the fact, what was done to the petitioner's husband i.e. he was stripped of his clothes.

5. Learned APP has tendered certain circulars issued by the Director General's Office from time to time, and in particular, the circulars dated 26<sup>th</sup> October, 2007 and 22<sup>nd</sup> January 2004. As far as circular dated 26<sup>th</sup> October 2007 is concerned, it pertains to maintenance of lock-up Register. The said circular appears to have been issued pursuant to what was observed by this Court in **Writ Petition No. 704 of 2007 (Shri Sajjad Nizam Siddiquie V/s. State of Maharashtra)**. It appears that circular dated 22<sup>nd</sup> January 2004 was issued, pursuant to deaths which took place in police custody, and the disapproval expressed by the National Human Rights Commission of India, so as to curtail the same. Accordingly, certain guidelines with respect to persons in custody has been set out in the said circular, so as to ensure

that no death takes place in police custody. Several directions have been issued in the said circular, including how the person arrested is to be searched, his medical checkup etc. One of the directions in the said circular is, that the arrested person, is to be treated humanely.

6. Learned Counsel for the petitioner has also produced relevant provisions from the Police Manual, with respect to release of the persons on bail in bailable offences; treatment of under-trial prisoners in police lock-ups. Learned Counsel in particular relied on provision 197 of the Police Act, which pertains to treatment of under-trial prisoners in police lock-ups and provision 204 of the Police Act, which deals with treatment of persons in police custody.

7. We have perused the circulars and the provisions, and *prima facie* feel that, none of these provisions deal with the issue

raised by us i.e. stripping of an arrested person, whilst being detained in police lock-up.

8. Learned APP seeks further time to state what steps will be taken to ensure that the dignity and privacy of such persons is protected.

9. On the request of learned APP, stand over to 20<sup>th</sup> February 2024.

*MANJUSHA DESHPANDE, J.*

*REVATI MOHITE DERE, J.*