

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
LD/VC/OCR/14/2020 (To be numbered subsequently)**

Mahendra Singh

...Petitioner

Versus

Commissioner of Police & Ors,

...Respondents

Mr. Kranti L.C i/b Ms. Afreen Khan for the Applicant

Mr. S. R. Shinde, A.P.P for the Respondent-State

Mr. A. K. Nandanwar for the Respondent Nos. 4 and 5 -MCGM

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 5th MAY 2020

P.C. :

1 By this petition, the petitioner seeks the following substantive reliefs :

“a. That this Hon’ble Court may be pleased to issue a writ of Habeas Corpus or direction or order in nature of writ of Habeas Corpus directing Respondent No. 1 to produce Mr. K Narayanan before this court and then set him at liberty.

b. That pending hearing and final disposal of this Petition, this Hon’ble Court may be pleased to direct the Respondents to produce Mr. Narayanan before this court and release him on such terms and conditions as this Hon’ble Court may deem fit and proper in the best interest of justice.

c. That pending hearing and final disposal of this Petition, this Hon’ble Court may be pleased to direct the Respondents to;
i. Return Mr. Narayanan Mobile to him, forthwith
ii. Disclose the COVID Test Results, forthwith

2 It appears that Mr. K. Narayanan is the President of the Centre of Indian Trade Unions (CITU), Mumbai District Committee, since 2019.

It appears that Mr. K. Narayanan, as a President of CITU was working actively during the lock-down period by distributing food and other essential supplies to the migrant workers and the poor. It also appears that CITU had called for a national protest against the deteriorating plight of migrant workers and the poor, particularly about food, health, etc. According to the petitioner, Mr. K. Narayanan and his colleagues Mr. Mahboob Patel, CPI (M), Western Suburban Taluka Committee Member and Badruddin Shaikh, CPI (M), Andheri, were distributing food and other essential supplies to the poor and needy on 21st April 2020 in compliance with the social distancing norms and all other norms. It appears that Mr. K. Narayanan and his colleagues were also carrying flags/placards to be distributed to its participants in the protest programme, on 21st April 2020. It is the case of the petitioner that Mr. K. Narayanan had a rough relationship with one Mr. Parmeshwar Ganame, Sr. P.I of D. N. Nagar Police Station on account of several issues relating to police excesses. It is further alleged that Mr. Abhishek Trimukhe, DCP, Zone-IX along with Parmeshwar Ganame, Sr. P.I of D. N. Nagar Police Station and some constable asked Mr. K. Narayanan, Mr. Mahboob Patel and Badruddin Shaikh to proceed to the said Police Station i.e. D. N. Nagar Police Station on 21st April 2020, when the said distribution started. After some

conversation, Mr. Badruddin and Mr. Mahboob were allowed to proceed with the distribution of food and essential supplies to the poor and migrants, however, Mr. K. Narayanan was taken to a private lab at Jogeshwari (West) and was asked to undergo a Covid Test, though he exhibited no symptoms. Mr. K. Narayanan was thereafter sent to West Blue Hotel, a Quarantine Center of the Corporation. On 21st April 2020, Mr. K. Narayanan's Covid Test was done and it appears that he was told that the results would come on the next day. It appears that the results were received on 22nd April 2020, however, despite repeated requests, Mr. K. Narayanan was not informed or given a copy of the Covid Test Report. It appears that Mr. K. Narayanan's test reports were obtained by his colleagues directly from the Lab on 29th April 2020, as the result was not being disclosed to Mr. K. Narayanan. It is not in dispute that the Covid Test Report of Mr. K. Narayanan was negative. According to the Circular of the Corporation dated 15th April 2020 (Revised Guidelines for Covid-19 Testing), a patient is to be kept in quarantine for 14 days at the highest, in the event, the tests are negative.

3 The Corporation has filed an affidavit of Umesh Bapat, Executive Engineer, Designated Officer of respondent-Corporation. In the said affidavit, in para 6, it is mentioned that respondent Nos. 4 and 5

admitted Mr. K. Narayanan on 21st April 2020 at the Quarantine Center at West Blue Hotel, Maruti Chambers, Andheri (West) as per the telephonic instructions from D.N. Nagar Police Station and pursuant thereto, tests were carried out as per the directions and Guidelines issued by the Central and the State Government. It is also mentioned that Covid Test conducted on Mr. K. Narayanan was found negative in test analysis, however, despite the same, as per various circulars issued by the Central and the State Government, Mr. K. Narayanan was quarantined. In para 7, it is further mentioned that Mr. K. Narayanan will be discharged from the Quarantine Center in due course of time, 'as per the instructions of D. N. Nagar Police Station'. Mr. Nandanwar, learned counsel for the Corporation does not dispute that the quarantine period of Mr. K. Narayanan is over and that there is no impediment for his release.

4 It also appears that during the quarantine period, Mr. K. Narayanan was not allowed by the Police to carry his mobile phone when he was sent to the Quarantine Center. Neither the learned A.P.P nor the learned counsel for the Corporation has been able to highlight or show any Circular which denies a person from carrying his mobile, during his quarantine. Although learned A.P.P states that Mr. K. Narayanan had himself handed over mobile phone to police, it is difficult to believe that

Mr. K. Narayanan would hand over his mobile phone to the police on his own volition. It is only on the last date of hearing of this petition, after hearing the counsel for the petitioner, Mr. K. Narayanan was handed over his mobile phone, where he was quarantined.

5 Although learned counsel for the Corporation states that a patient showing no symptoms and after he tests negative, is supposed to be discharged after 14 days, no plausible reason is forthcoming why Mr. K. Narayanan is being quarantined beyond 14 days and why the Corporation should be waiting for the instructions of the D. N. Nagar Police Station. It is not in dispute that during the said period, a C.R. was registered by the police with the D.N. Nagar Police Station for the offences under Sections 188, 269, 270 of the Indian Penal Code r/w Section 51(B) of the National Disaster Management Act and under Section 11 of the COVID-19 Regulations, 2020. A.P.P does not dispute that all the offences with which Mr. K. Narayanan is charged, are bailable. The offences registered pertained to the activities of Mr. K. Narayanan, whilst distributing food.

6 During the course of hearing, after the learned counsel for the Corporation was asked to take instructions, learned counsel for the Corporation states that Mr. K. Narayanan has well completed the 14 days

quarantine period and is being released today from the Quarantine Center. Statement accepted.

7 Learned A.P.P, also on instructions, states that the police do not intend to arrest Mr. K. Narayanan in C.R. No. 222/2020, since all the Sections applied in the C.R registered against Mr. K. Narayanan, are bailable. Statement accepted.

8 According to the learned counsel for the petitioner, Mr. K. Narayanan was deliberately and malafidely sent to the Quarantine Center for several reasons, including his animosity with the concerned Sr. P.I of the D. N. Nagar Police Station and not because he was suspected to be a Covid-19 patient. *Prima facie*, in the peculiar facts, there seems to be some substance in the said contention. The withholding of Mr. K. Narayanan's mobile, non-disclosure of his Covid-19 report, conduct of the officers and circumstances in which he was sent to the Quarantine Center, does raise some suspicion and questions. Quarantine facilities cannot be used by the police to keep away people, who according to them, are of nuisance value. Quarantine facilities cannot be used as preventive detention or as a punitive measure.

9 Be that as it may, since the prayers made in the aforesaid petition do not survive, the petition is disposed of. However, all contentions of all parties are kept open.

REVATI MOHITE DERE, J.