

Gabda v. Taneja: Bombay High Court Ruling on Police Custody Limits and Informant's Rights in Challenging Remand Orders

Case Citation: 2024:BHC-AUG:30568

Judgment Date: 20 December, 2024

The Bombay High Court at its Aurangabad Bench recently delivered a judgment in the case of *Meena Ashok Gabda v. Manoj Gopaldas Taneja And Others*, dealing with the limitations on police custody remand and the rights of an informant to challenge judicial decisions related to remand.

The case arose from a neighborhood dispute in Dhule that escalated into violence, leading to multiple FIRs and allegations of assault and property damage.

The Petitioner, Meena Ashok Gabda, the original complainant in the case, filed a writ petition challenging the lower courts' decisions to remand the accused in judicial custody (MCR) rather than police custody (PCR). She argued that police custody was crucial for the recovery of weapons allegedly used in the assault.

The High Court, presided over by Justice Y. G. Khobragade, dismissed the petition, upholding the Sessions Court's decision and highlighting the legal and procedural constraints surrounding police custody requests.

The Court's decision was primarily based on Section 187(2) of the Bharatiya Nyaya Sanhita, 2023, which sets a strict 15-day limit on police custody remand from the date of arrest. Since the Petitioner's request for police custody was made after

this 15-day period had expired, the Court deemed it legally untenable.

The Court also clarified the role of the informant in criminal proceedings, stating that while the informant has the right to file an FIR, their rights are limited once the investigation is underway. The Court held that the informant does not have the automatic right to challenge procedural decisions, such as remand orders, without being formally recognized as assisting the prosecution under Section 338 of the Criminal Procedure Code.

Rationale

The Court's rationale for dismissing the petition can be summarized as follows:

- The 15-day limit for police custody remand as per Section 187(2) of the Bharatiya Nyaya Sanhita, 2023, is a crucial legal safeguard to prevent

potential misuse by investigating agencies.

- The Court emphasized the importance of adhering to this legal framework and held that exceeding this limit would violate legal provisions.
- The Court also clarified the role of the informant in criminal proceedings, emphasizing their limited rights in challenging judicial decisions during the investigation.
- The Court referred to several legal precedents to support its decision:
 - *Ambarish Patnigere Vs. State of Maharashtra* (2010 ALL MR (Cri) 2775): This case established that a Magistrate's decision to refuse police custody is a final order and not subject to repeated appeals.
 - *Tukaram Vs. State of Bihar* (AIR 1966 SC 911): This case highlighted that criminal law should

not be used for personal vengeance.

- *The Public Prosecutor, High Court of A.P., Hyderabad Vs. J. C. Narayana Reddy and Another* (1996 Cri. L.J. 462): This case reinforced the 15-day limit on police custody.

Excerpt

"Considering the provisions of Section 187(2) of Bharatiya Nyaya Sanhita, the accused cannot be remanded in PCR after a lapse of 15 days period from the date of arrest of the accused."

Points to Remember

- The judgment highlights the importance of adhering to procedural and legal timelines within criminal investigations.

- It emphasizes the limited rights of an informant in challenging judicial decisions during an investigation.
- It underscores the need to balance the rights of the victim seeking a thorough investigation with the rights of the accused to due process and protection from arbitrary detention.

Author: Adv. Sagar Badade (सागर बडदे)

Website: LegalCell.org

