

Order below Exh. 04 in Spl. MPID Case No. 150/2024
(Delivered on 09/10/2024)

1] The in CR No. 230/2024 lodged with Paithan Police Station, under Section 420, 409, 467, 120(B) read with Section 34 of IPC and under Section 3 and 4 of MPID Act. The IO of said CR No. 230/2024, filed present application before this Court for 24 hours transit remand of both the accused. The accused produced before this Court at 04:40 p.m. Accused filed the application to give opportunity to hear them. He submitted that the Advocate of the Legal Firm Agrawal and Dhanuka who appeared for them at the time of remand, they want to continue the same Firm to appear for him in the present Sessions case also.

2] The Ld. Advocate Rahul Agrawal of Agrawal and Dhanuka Legal Advocates ENR Code:- MAH/LF-337/2022 appeared through VC. He submitted that the police custody of the accused is not required in CR No. 230/2024. The investigation agency of various police station of Maharashtra one by one by filing the application taking the custody of the accused without assigning any reason. He referred the citation of ***the Hon'ble Apex Court Priya Indorai V/s. State of Karnataka and others reported 2024 (4) SC cases 749*** paragraph 88 and submitted that Section 48 Cr.P.C. permits the police to peruse an accused in other jurisdiction, but before arresting the accused without a warrant, the police is obligated to secure the transit remand. But, in the present case, the accused arrested and then produced before this Court for

transit remand which is not permissible as per the Citation of Priya (Supra).

3] Per contra, the Ld. APP argued that the accused is not arrested without warrant. The IO has taken the transfer warrant from this Court on 07/10/2024 and after obtaining the custody from the Superintendent of Cental Jail, Beed, as per the directions of this Court, arrested both the accused and produced before this Court for transit remand, hence, said citation is not applicable in the present case.

4] Perused the record. In pursuant to letter received from DJ-4 and Additional Sessions Judge, Aurangabad dated 20/06/2024 and 09/07/2024 for transferring the custody of the accused Suresh Dnyanoba Kute and Ashish Padmakar Patodekar, the predecessor of this Court on 20/07/2024, passed the order thereby directed the concerned jailer for transfer of the accused persons. Again on 07/10/2024, the concerned IO filed the application before this Court for transfer warrant in pursuant to the letter dated 20/06/2024 and 09/07/2024 of Ld. DJ-4 and Additional Sessions Judge Aurangabad as due to situation of law and order they didn't take the custody of the accused persons.

5] On 07/10/2024 by passing detail order, this Court transferred the custody of the above mentioned both the accused to the IO under transfer warrant. Accordingly, today, the IO took the custody of both the above mentioned accused from Central Jail at 12:35 p.m. and arrested the accused on 12:40 noon.

6] When the transfer warrant is issued in pursuant to the letter of Sessions Court of another jurisdiction in which the concerned police station is situated, it is the duty of IO after obtaining the custody of the accused persons under transfer warrant to produce the accused before concerned Court who has issued the letter for transfer of custody/warrant. The Ld. Advocate Rahul Agrawal is fairly admitted the said fact while arguing and he has emphasized the police have not followed the said procedure and arrested the accused persons.

7] It is to be noted that after obtaining the custody of the accused persons in the transfer warrant, the IO arrested the accused and again produced before this Court for transit remand by way of precaution. So, it cannot be said it is illegal arrest.

8] As the IO want the custody of the accused persons for the investigation, therefore, transfer warrant dated 07/10/2024 was issued. In pursuant to the said order, as the accused persons produced before this Court, hence, 24 hours transit remand of above mentioned accused persons is granted as per the requisition of IO.

Date : 09/10/2024

(S. R. Patil)
Special Judge (MPID), Beed

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Exh. 4

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/order are word to word, as per the original Judgment/order.

Dictated on : 09/10/2024
Transcribed on : 09/10/2024
Checked and signed on : 09/10/2024

Sd/-
(G. N. Ghayal)
Stenographer Grade I