



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 118 OF 2026

1. Sagar Premkala Jaiswal,
Age : 28 Years, Occ. Labour,
R/o. Shekhpur, Post Bazarwangi
Taluka Khultabad, Dist. Chh. Sambhajinagar
..PETITIONER

V E R S U S

1. The State of Maharashtra,
Through Deputy Secretary,
Home Department (Special),
Mantralay, Mumbai.
2. The State of Maharashtra,
Through District Magistrate,
Chh. Sambhajinagar.
3. The State of Maharashtra,
Through Superintendent,
Central Jail, Aurangabad.
..RESPONDENTS

....
Advocate for the Petitioner : Mr. Harshal P. Randir
A.P.P. for Respondent Nos. 1 to 3 : Mr. A. S. Shinde
.....

**CORAM : SANDIPKUMAR C. MORE AND
VAISHALI PATIL-JADHAV, JJ.**

RESERVED ON : AUGUST 14, 2026

PRONOUNCED ON : AUGUST 17, 2026

FINAL ORDER (PER SANDIPKUMAR C. MORE, J) :-

1. Rule. Rule made returnable forthwith. Heard finally
with consent of the learned counsel for the petitioner and

learned A.P.P. at the stage of admission.

2. The petitioner who is a bootlegger, has challenged the order of detention dated 19.12.2025 passed by respondent No.2/The District Magistrate, Chh. Sambhajinagar in exercise of powers under Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons Engaged in Black Marketing of Essential Commodities Act, 1981 (hereinafter referred to as “MPDA Act”) as well as the approval order of the State Government dated 29.12.2025 and the confirmation order dated 12.02.2026 by invoking the power of this Court under Article 226 of the Constitution of India.

3. The learned counsel for the petitioner submits that, the following offences are registered against the petitioner and one preventive action is also taken against the petitioner.

Sr . No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1	Inspector, State Excise, Divisional Flying Squad, Chh. Sambhajinagar	18/2024 u/s 65(e) of Maharashtra Prohibition Act, 1949	19.01.2024	Pending trial

2.	Inspector, State Excise, C Division Chh. Sambhajinagar	101/2024 u/s 65(e) of Maharashtra Prohibition Act, 1949	09.05.2024	Pending trial
3.	Sub-Inspector, State Excise, C-1 Kannad, Chh. Sambhajinagar	182/2024 u/s 65(e), 68 (a)(b) of Maharashtra Prohibition Act, 1949	15.08.2024	Pending trial
4.	Inspector, State Excise, Divisional Flying Squad, Chh. Sambhajinagar	315/2024 u/s 65(e) of the Maharashtra Prohibition Act, 1949	02.10.2024	Pending trial
5.	Inspector, State Excise, Flying Squad, Chh. Sambhajinagar	366/2024 u/s 65(e) of Maharashtra Prohibition Act, 1949	18.12.2024	Pending trial
6.	Inspector, State Excise, Flying Squad, Chh. Sambhajinagar	273/2025 u/s 65(a)(e), 81, 30, 108 of the Maharashtra Prohibition Act, 1949	24.08.2025	Pending trial
7.	Inspector, State Excise, C-3, Division Chh. Sambhajinagar	268/2025 u/s 65(e) of the Maharashtra prohibition Act, 1949	25.10.2025	Pending trial

Preventive Action

Sr. No.	Police Station	Chapter Case No. & U/s.	Disposal
01.	Inspector, State Excise, C Division, Chh. Sambhajinagar	Chapter Case No. DET/112024/404/1, u/s 93 Maharashtra Prohibition Act, 1949	Final bond of Rs. 10,000/- was taken

However, the detaining authority has considered mainly last two offences viz. C.R. No. 273 of 2025 under Sections 65(a),(e), 81, 30, 108, of the Maharashtra Prohibition Act,

1949 & C.R. No. 268 of 2025 under Section 65(e) of the Maharashtra Prohibition Act, 1949 both under Section 65(e) of the Maharashtra Prohibition Act, 1949 registered by Flying Squad of State Excise Department of District Chhatrapati Sambhajnagar on 24.08.2025 and 25.10.2025 respectively. According to the learned counsel for the petitioner, though the petitioner is shown to be involved in selling illicit duplicate country-liquor, but the detaining authority did not consider the fact that there was no poisonous material found in the said liquor. Moreover, the statements of secrete witnesses indicate that those statements are stereotype in nature and there was no specific date of the incident mentioned. Further, it cannot be gathered from those statements that there was any disturbance to the public order and at the most could reflect a breach of personal security. He also relied following judgments of this Court, which is as under :-

- (I) *Shantaram Maroti Shinde Vs. The State of Maharashtra and others in Criminal Writ Petition No. 1536 of 2025 dated 17.02.2026.*
- (II) *Haridas Shankar Gaikwad Vs. The Commissioner of Police and others in Criminal Writ Petition No. 3071/2023*
- (III) *Dhanubai @ Dhanno Yashwant Nettlekar Vs. The State of Maharashtra and others in Criminal W.P. 1527/2025*
- (IV) *Santosh Raghunath Dhotre Vs. The State of Maharashtra and others in Criminal Writ Petition No. 1259 of 2024*

- (V) *Vishal Vijay Sonawane Vs. The District Magistrate, Jalgaon and others in Criminal Writ Petition No. 998/2023*
- (VI) *Sanjay Suresh Tribhuwan Vs. The District Magistrate Jalgaon and others in Criminal W. P. 1078/2024*
- (VII) *Ibbu Kashim Vs. The State of Maharashtra and others 2025 SCC Online Bom 4690*

4. Per contra, the learned A.P.P. strongly opposed the submissions made on behalf of the petitioner by filing affidavit-in-reply of respondent No.3. According to him, the petitioner is definitely a “Dangerous Person” within the meaning of Section 2(b-1) of the M.P.D.A. Act. He submitted that the detention order under challenge, is not merely based on two offences and the statements of the secret witnesses, but the criminal history of the petitioner has also been taken into consideration, for passing the same. According to him, despite filing of similar cases in the past against the petitioner, the petitioner continued his business of production of duplicate country liquor. Such activities, not only disturb the public order, but also adversely affect the health of public at large. Moreover, people are hesitant of lodging complaints against the petitioner due to terror created by him in the area. Thus, he prayed for dismissal of the petition. He placed reliance on the judgment in the case of *Saraswati Santosh Rathod Vs. Commissioner of Police Pune City and others (Criminal Writ*

Petition No.3804 of 2023) Principal Seat dated 20/06/2024.

5. On going through the impugned order of detention, it can be seen that there are as many as seven crimes registered against the petitioner during the period from 19.01.2024 to 25.10.2025. Moreover, a prohibitory action in the form of Chapter Case No. DET/112024/404/1, under Section 93 of the Maharashtra Prohibition Act, 1949 had already filed wherein final bond of Rs.10,000/- was obtained from him. However, after going through the impugned order of detention, the Detaining Authority appears to have considered last two crimes, but there is no material to show that the authority had arrived at the subjective satisfaction, regarding the dangerous nature of the petitioner towards public at large.

6. Admittedly, in the case of **Sarswati Santosh Rathod Vs. Commissioner of Police Pune City and Others (supra)** this Court at Principal Seat at Bombay held the percentage of ethyl alcohol to the extent of 24% was found in the illicit liquor seized, and therefore, the activities of the petitioner therein was held prejudicial to maintenance of public order. However, the learned counsel for the petitioner pointed out that, this Court in the case of **Ibbu Kashim Vs.**

***State of Maharashtra Vs State of Maharashtra, through :
The Additional Chief Secretary (Home), Home Department
(Special) and others in Criminal W. P. No. 1319 of 2025***

had considered the aforesaid judgment and observed that though certain percentage of alcohol was found in the liquor seized, but no poisonous material was found, and therefore, held that, it was not hazardous to public at large.

7. In the instant cases, though the percentage of ethyl alcohol is found in the alleged duplicate country liquor around 41 to 42% V/V, but no poisonous material was found in it. As such, the aforesaid case relied by the prosecution is not helpful in the instant case. As per the current view, the bootleggers activity is not termed as threat to public order, since the current law is sufficient to curb such activities of bootleggers. The learned A.P.P., also pointed out that, the petitioner is involved in production of duplicate country liquor, which is also identified the original producer of the said country liquor, by testing the same. However, for production of duplicate of the said country liquor, the concerned sugar factory has not filed any criminal prosecution against the petitioner.

8. In the judgment of Hon'ble Apex Court in ***District***

Collector, Ananthapur Vs. Laxmanna, [reported in 2005 Mh.L.J. OnLine (Cri.) Supreme Court 49] it is observed as follows:

- “7. We do not think this argument of the learned counsel can be accepted. If the detention is on the ground that the detenu is indulging in manufacture or transport or sale of arrack then that by itself would not become an activity prejudicial to the maintenance of public order because the same can be effectively dealt with under the provisions of the Excise Act but if the arrack sold by the detenu is dangerous to public health then under the Act, it becomes an activity prejudicial to the maintenance of the public order, therefore, it becomes necessary for the detaining authority to be satisfied on material available to him that the arrack dealt with by the detenu is an arrack which is dangerous to public health to attract the provisions of the Act and if the detaining authority is satisfied that such material exists either in the form of report of the Chemical Examiner or otherwise copy such material should also be given to the detenu to afford him an opportunity to make an effective representation.
8. Therefore, while holding that dealing with arrack which is dangerous to public health would become an act prejudicial to the maintenance of public order attracting the

provisions of the Act. It must be held that it is obligatory for the detaining authority to provide the material on which it has based its conclusion on this point. Therefore, we are in agreement with the High Court that if the detaining authority is of the opinion that it is necessary to detain a person under the Act to prevent him from indulging in sale of goods dangerous for human consumption the same should be based on some material and the copies of the such material should be given to the detenu.”

9. Thus, in the light of the aforesaid observation, it is for the Detaining Authority to determine as to whether the act of preparing duplicate country liquor is dangerous to the public health, on the basis of Chemical Analyzer's report. In the instant case, though certain reports are there showing the higher percentage of alcohol, in the liquor produced by the petitioner, but it is to be noted that no poisonous substance is found in the aforesaid illicit liquor. As such, it cannot be said that the said liquor was injurious to the public at large.

10. Under such circumstances, it appears that the petitioner, at the most, must have created law and order situation by indulging into business of producing duplicate and illicit country made liquor, but certainly not a disturbance to the

public order. Under such circumstances, the impugned order appears to be passed without adequate supportive material and without proper subjective satisfaction. Thus, the impugned order and its confirmation cannot sustain. In the result, we pass the following order.

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 19.12.2025 passed by respondent No.2 The District Magistrate Ch. Sambhajinagar, under Section 3 of the M.P.D.A. Act, 1981 as well as the approval order of the State Government dt. 29.12.2025 and the confirmation order of the State Government dated 12.02.2026 are hereby quashed and set aside.
- (iii) Petitioner- Sagar Premlala Jaiswal shall be released forthwith, if no required in any other offence.
- (iv) Rule is made absolute in aforesaid terms.

(VAISHALI PATIL-JADHAV)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

Ysk