



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

CRIMINAL WRIT PETITION NO. 604 OF 2026

Sham Suresh Pawar,
Age : 29 Years, Occ. Labour,
R/o. Warvanti Tq. & Dist. Latur.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Home Department,
Mantralaya, Mumbai - 32
2. The District Magistrate,
Latur.
3. The Superintendent of Jail,
Central Jail, Harsool, Aurangabad

..RESPONDENTS

...
Advocate for the Petitioner : Mr. Dhananjay S. Patil
A.P.P. for Respondent Nos. 1 to 3/State : Mr. S. J. Salgare
...

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

RESERVED ON : SEPTEMBER 16, 2026

PRONOUNCED ON: OCTOBER 15, 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.
2. The petitioner has challenged the order of detention

dated 05.02.2026 passed by respondent No.2/ District Magistrate, Latur in exercise of powers under Section 3(1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Priates, 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 16.02.2026 and the confirmation order dated 27.03.2026 vide its order No. MPDA-0226/CR-93/SPl.3B, 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 actions is also taken against the petitioner.

Sr.	Police Station	Crime No. & Section	Section	Registration Date	Date of Arrest	Date of Bail	Court case No. & Date	Status of case
1	MIDC Latur	No.532/2021	379, 34 IPC	14.8.2021	14.08.2021	24.11.2021	RCC No. 1638/21 dt. 7.10.2021	Pending for Adjudication
2.	MIDC Latur	719/23	392, 34 IPC	23.09.2023	24.09.2023	27.09.2023	STC 2292/2023 Dt. 18.10.2023	Pending for Adjudication
3.	MIDC Latur	50/2024	392, 34 IPC	20.01.2024	21.01.2024	23.02.2024	RCC No. 662/25 dt. 27.06.2025	Pending for Adjudication

4.	MIDC Latur	No. 51/2024	392, 34 IPC	20.01.2024	24.01.2024	22.02.24	RCC No.1031/2025 dt. 29.09.2025	Pending for Adjudication
5.	MIDc Latur	547/2025	117, 115, 352, 351 (2) 3(5) of BNS	03.07.2025	15.09.2025	20.09.2025	RCC No. 1257/25 Dt.18.11.25	Pending for Adjudication

Preventive Action

Sr. No.	Police Station	C.R.No.s	Under Sections
01.	MIDC Latur	20/2023	Section 110(e)(g) of Cr. P.C.
02.	MIDC Latur	33/2024	BMSS Section 129
03.	MIDC Latur	35/2025	BNSS Section 129

However, the Detaining Authority has considered mainly two offences viz. C.R. No. 686 of 2025 under Sections 118(2), 115(2), 352, 351(2), 189(2), 191(1), 191(2), 191(3), 190 of BNS and under Section 135 of Maharashtra Police Act. registered with MIDC Police Station, Latur on 06.09.2025 and C.R. 778 of 2025 under Sections 4, 25 of the Arms Act and under Sections 37(1), 37(3), 135 of Maharashtra Police Act, dt. 26.10.2025 registered with MIDC Police Station, Latur to declare the petitioner as a “Dangerous Person”.

4. According to him, the petitioner has been released on bail in first crime i.e. C.R. No,686 of 2025 on 15.09.2025 and in the Second Crime i.e. Crime No. 778 of 2025 he was not

even arrested. However, the detaining authority did not consider the said fact in the impugned order. Thus, there is no application of mind in passing the impugned order. He further submitted that, the nature of criminal act as alleged is not against public order, but it is individual in nature. Further, according to him, the statements of secret witnesses are stereotype in nature and the same can give rise to question of law and order, but certainly not the disturbance of the public order. Thus, he prayed for setting aside the impugned order of detention along with its confirmation.

5. Per contra, the learned A.P.P. strongly opposed the submissions made on behalf of the petitioner by filing affidavit-in-reply. 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 pointed out that, the criminal acts of the petitioner are dangerous to public order as he always carries deadly weapons. According to him, the incidents in respect of secret witnesses had in fact taken place at public place, which is definitely indicative of breach of public order. Further, he pointed out that the notification required for applying the Sections of Arms Act was there. Thus he submitted that, the impugned order has been passed after subjective satisfaction

and accordingly approval is also there. Thus, he prayed for dismissal of the petition.

6. Admittedly, only two offences have been considered for passing the detention order of the petitioner, wherein it is alleged that the petitioner along with other accused assaulted one Trimukh Torsadwad with the help of deadly weapons and created terror in the society. However, there is nothing on record that other accused were also dealt with similar action as that of the petitioner. Moreover, it was revealed that the other associates of the present petitioner had created atmosphere of terror, but it appears that the aforesaid incident was individual in nature and for that purpose the petitioner was arrested and thereafter released on bail. In the second crime, the record shows that the petitioner was not even arrested and there was no specific incident of assaulting any one was there. It was only in respect of committing breach of orders punishable with the provisions of Maharashtra Police Act.

7. So far as, statements of secret witnesses are concerned, both of them appear stereotype in nature, wherein general criminal behaviour of the petitioner is discussed. Moreover, on

going through those statements, it is clearly evident that though the same took place at public place, but there was no deterrence to the public at large. At the most, it may give rise to the question of maintenance of law and order.

8. In the case of ***Joyi kitty Josef Vs. Union of India & Others reported in 2025 AIR (SC) 1702***, the Hon'ble Apex Court has held that, when a bail is granted with conditions to the detinue, then the detaining authority must apply its mind to those conditions and record its subjective satisfaction as to why they are insufficient to prevent alleged prejudicial activities. No such application of mind or subjective satisfaction is apparent from the impugned order. Failure to consider the bail conditions definitely indicates that the same were sufficient to deal with the criminal acts of the petitioner.

9. In the case of ***Dr. Ram Manohar Lohia Vs. State of Bihar, (AIR 1966 SC 740)***, the Hon'ble Apex Court has differentiated breach of law and order and breach of public order. Breach of public order involves disturbance affecting the even tempo of life of community, whereas law and order involves individual crimes not disrupting the broader public tranquility. In the instant matter, it appears that, the criminal

activities of the petitioner are against individuals, but not in deterrence to the public order. Therefore, for that reason also, the detention order appears to be without application of mind.

10. Though the learned A.P.P. strongly opposed the contentions raised on behalf of the petitioner, but considering the fact that the preventive detention is not to punish for the past acts, but to prevent further conduct, it must be supported by cogent, proximate and relevant material and when such material is absent, the very foundation of the order falls. In the instant case, as discussed above, there is no sufficient material on record to categorize the petitioner as “Dangerous Person” within the meaning of provisions of the M.P.D.A Act, 1981, and therefore, even though the Advisory Board has confirmed the order, but in the light of the aforesaid discussion, we do not find the impugned order and its confirmation, as sustainable. In the result, we pass the following order :-

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 05.02.2026, passed by respondent No.2-The District Magistrate Latur, under Section 3(2) of the M.P.D.A. Act,

1981 as well as the approval order of the State Government dated 16.02.2026 and the confirmation order dated 27.03.2026 are hereby quashed and set aside.

(iii) Petitioner- Sham Suresh Pawar shall be released forthwith, if no required in any other offence.

(iv) Rule is made absolute in aforesaid terms.

(VAISHALI PTIL-JADHAV)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

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