



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

CRIMINAL WRIT PETITION NO. 615 OF 2026

Aslam Mehmood Qureshi
Age : 45 Years, Occ. : Labour,
R/o. Mangal Bazar, Jalna,
Tq. and Dist. Jalna

...PETITIONER

~VERSUS~

1. District Magistrate, Jalna,
District Jalna.
2. The State of Maharashtra,
Through the Additional Chief Secretary,
Govt. of Maharashtra, Home Department,
Mantralaya, Mumbai-32.
3. The Jail Superintendent,
Central Prison, Harsool,
Aurangabad.

...RESPONDENTS

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- Adv. Satej S. Jadhav for the Petitioner
 - Ms. M. N. Ghanekar, A.P.P. for Respondent Nos. 1 to 3
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**CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.**

RESERVED ON : AUGUST 28, 2026

PRONOUNCED ON : SEPTEMBER 24, 2026

J U D G M E N T : [Per Vaishali Patil-Jadhav, J.]

. Rule. Rule made returnable forthwith. Heard finally at the admission stage with the consent of learned advocates for the parties.

2. By this petition, the petitioner challenges the detention order dated 27.01.2026 bearing No. 2026/RB-Desk-1/Pol-1/MPDA/WS-10, passed by Respondent No. 1-District Magistrate, Jalna, in exercise of the powers under Section 3(1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons, Video Pirates, Sand Smugglers, Persons Engaged in Black-Marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficker Act, 1981 (hereinafter referred to as “MPDA”), and the confirmation order dated 27.03.2026 bearing No. MPDA-0226/CR-81/Spl-3B, passed by Respondent No. 2-State Government, in exercise of the powers under Section 12(1) of the MPDA. By the impugned detention order, the petitioner is directed to be detained for a period of 12 months on the ground that the petitioner is a “dangerous person” within the meaning of Section 2(b-1) of the MPDA.

3. The record reflects registration of three (03) criminal cases and one preventive action taken against the petitioner. The reference chart showing the criminal record of the petitioner is reproduced hereunder :

Sr. No.	Police Station	Crime No.	Sections	Date of Registration	Court Case No. & Date	Present Status
01	Sadar Bazaar	687/2023	143, 147, 148, 149, 324, 294, 336, 337 IPC; Arms Act 4, 25; Bombay Police Act 1951 Sec.135	28/08/2023	RCC 398/2024 dated 17/05/2024	Pending trial
02	Sadar Bazaar	745/2025	BNS Sec. 299, 3(5), 111, 325, 238, 291, 300, 302; Maharashtra Animal Preservation Act 1976 Sec.5(c), 9, 9(A); Maharashtra Police Act Sec.119; Arms Act Sec.4/25; IT Act Sec.67	01/09/2025	RCC 344/2025 dated 04/11/2025	Pending trial
03	Sadar Bazaar	747/2025	BNS Sec.3(5) with Sec.5(c), 9, 9(A); Maharashtra Animal Preservation Act 1976 (Amendment 1995)	01/09/2025		Under Police Investigation

Preventive Action :

Sr. No.	Police Station	Chapter Case No. & Section	Date of Registration	Present Status
01	Sadar Bazaar, Jalna	62/2023 Sec.110(e)(g) CrPC	01/12/2023	Final bond cancelled

4. Learned advocate for the petitioner submits that:

1) The inordinate and unexplained delay in passing the detention order after the alleged prejudicial activities and recording of the in-camera statements shows that there was no pressing urgency or imminent threat warranting the petitioner's preventive detention.

2) The petitioner is released on bail in both the crimes relied upon. Despite knowledge of this fact, the detaining authority has neither considered the bail orders nor examined the sufficiency of the bail conditions; nor has it sought cancellation of bail.

3) The in-camera statements of witnesses “A” and “B” are stereotyped and vague. The incidents narrated therein are individual in nature and do not affect public order. At the most, they may amount to a law and order issue.

Learned advocate lastly submitted that the detention order is liable to be quashed and set aside and prayed for the release of the petitioner.

In support of his submissions, learned advocate has placed reliance on the judgment in the case of ***Aakash alias Bhaiyya Sanjay Rokade Vs. The State of Maharashtra and Ors.*** in **Criminal Writ Petition No. 29 of 2026**, dated 04.08.2026.

5. Per contra, learned APP while supporting the impugned order submitted that:

1) The petitioner has committed serious offences under Chapter XVI of the Indian Penal Code, 1860, Chapters VI, XIII, XV and XVII of the Bharatiya Nyaya Sanhita, 2023 (for short, "BNS,2023") and Chapter V of the Arms Act, 1959. His involvement in multiple offences has spread terror in the jurisdiction of Sadar Bazar Police Station, Jalna and adjoining areas.

2) The petitioner's acts indicate deliberate attempts to create communal hatred and hurt religious sentiments. The offences are therefore prejudicial to public order.

3) There is no delay in passing the detention order. The proposal was processed through proper channels in time, and all mandatory requirements under the MPDA were completed within the stipulated period.

4) The detaining authority was aware that the petitioner was on bail in the relied-upon offences. Bail was granted on the technical ground that the forensic report was awaited. Mere grant of bail does not negate the threat to public order, nor does it bar the issuance of a detention order.

5) The in-camera statements of witnesses "A" and "B" narrate incidents involving threat and violence at public places. They show that the petitioner's activities have disrupted public peace and order and caused fear and panic among the citizens.

6) The detaining authority was subjectively satisfied that the petitioner was likely to revert to similar prejudicial activities. Such activities could not have been curbed by other means,

such as externment, and therefore the petitioner's detention was necessary.

Learned APP lastly submitted that the detaining authority has passed the detention order after applying its mind to the entire record and recording the requisite subjective satisfaction, and prayed for dismissal of the petition.

In support of her submissions, learned APP has placed reliance on the judgment in the case of **Mr. Rehan Qureshi s/o. Mohd. Vakil Qureshi Vs. The State of Maharashtra and Anr.** in **Criminal Writ Petition No. 117 of 2024**, dated 09.09.2024.

6. Heard learned Advocate Mr. Satej S. Jadhav for the petitioner and learned APP Ms. M.N. Ghanekar for the respondents. With the assistance of the learned advocates, we have perused the petition, the affidavit-in-reply, citations and the record.

7. The detaining authority, while passing the impugned detention order, has mainly relied upon two offences, i.e., C.R. No.745/2025 registered on 01.09.2025 under Sections 299, 111, 325, 238, 291, 300, 302 read with Section 3(5) of the BNS, 2023, Sections 5(c), 9, 9(A) of

the Maharashtra Animal Preservation Act, 1976, Section 119 of the Maharashtra Police Act, 1951, Sections 4/25 of the Indian Arms Act, 1959 and Section 67 of the Information Technology Act, 2000 and C.R. No. 747/2025 registered on 01.09.2025 under Sections 5(c), 9, 9(A) of the Maharashtra Animal Preservation Act, 1976 read with Section 3(5) of the BNS, 2023, both registered with Sadar Bazar Police Station, Jalna, along with two in-camera statements of confidential witnesses "A" and "B", to declare the petitioner a "Dangerous Person".

8. Learned advocate for the petitioner has, in the grounds of the petition as well as while arguing the petition, taken a number of grounds to challenge the detention order. However, we are not advertent to the other grounds, as the petition should succeed on the sole ground of inordinate delay in passing the detention order, which has resulted in the snapping of the live-link. Both the crimes considered for passing the detention order were registered on 01.09.2025. The confidential statement of witness "A" was recorded on 25.09.2025, and the statement of witness "B" was recorded on 26.09.2025. The Sub-Divisional Police Officer verified the statements of witnesses

"A" and "B" on 30.09.2025 and 01.10.2025 respectively. After completion of the confidential inquiry, on 12.12.2025, the Police Inspector of Police Station Sadar Bazar, Dist. Jalna, submitted the proposal to the Sub-Divisional Officer, Jalna and the Superintendent of Police, Jalna. Thereafter, the Superintendent of Police, Jalna forwarded the said proposal to the Detaining Authority on 09.01.2026 and the Detaining Authority passed the detention order on 27.01.2026. As the last offences considered were registered on 01.09.2025 and the detention order was passed on 27.01.2026, i.e., after a delay of 4 ^{1/2} months from the last crimes, there is an absence of any live link between the material considered by the Detaining Authority as being prejudicial to the maintenance of public order and the subjective satisfaction reached by the Detaining Authority that the activities of the petitioner were indeed prejudicial to the maintenance of public order. Moreover, the said delay is unexplained.

9. If the affidavit-in-reply of the Detaining Authority is perused, in paragraph 7, the dates from the recording of confidential statements of the witnesses till the passing of the detention order are given, and in paragraph

14, it is mentioned that *"with reference to ground no.(VI) of the petition, the deponent submits that there is no delay in passing the detention order. Deponent further submits that the time taken by the authorities have been detail explained in para 7 and 8 of this affidavit."* There is no sentence in the affidavit explaining the reasons for the delay caused in passing the detention order from the date of the last registered crimes which are considered for passing the detention order.

10. A profitable reference can be made to the judgment of the Hon'ble Apex Court in the case of **Smt. Hemlata Kantilal Shah Vs. State of Maharashtra and another**, reported in **(1981) 4 SCC 647**, wherein it is held that, *"delay ipso facto in passing an order of detention after an incident is not fatal to the detention of a person, for in certain cases delay may be unavoidable and reasonable. What is required by law is that the delay must be satisfactorily explained by the Detaining Authority."*

11. Before passing the order of detention, the Detaining Authority must keep in mind that the recording of subjective satisfaction by the Detaining Authority in an

order of preventive detention is a *sine qua non* for passing a valid order of preventive detention. This Court is well aware of the position of law that, while deciding the validity of an order of preventive detention, this Court cannot decide whether there was adequacy of material before the Detaining Authority. This Court can only examine whether there was material before the Detaining Authority and whether the Detaining Authority has recorded subjective satisfaction that the grounds provided in the statute for passing an order of detention exist. The order of preventive detention is an order of a very drastic nature. The result of passing an order of preventive detention is to deprive the detenu of his liberty without trial. Therefore, an order of preventive detention cannot be passed in a casual manner. Passing of an order of preventive detention involves careful application of mind and recording of subjective satisfaction on the basis of the material on record that the grounds of detention provided by the statute exist.

12. For these reasons, when this Court examines the validity of an order of preventive detention under Article 226 of the Constitution of India, this Court has to examine the decision making process. In the facts of the present

case, there is no explanation as to the delay from the date of registration of the last considered crimes, i.e., 01.09.2025, till the passing of detention order. The statements of confidential witnesses were recorded on 25.09.2025 and 26.09.2025, and the detention order was passed on 27.01.2026. The Detaining Authority has thus failed to satisfactorily explain the delay in passing the detention order. Therefore, the judgment in the case of ***Hemlata Shah (supra)*** is squarely applicable to the facts and circumstances of the present case.

13. In our view, there has been an inordinate delay from the last crimes registered till the passing of the detention order. The explanation furnished in the affidavit-in-reply in paragraphs 7, 8 and 14 is not satisfactory and plausible. In fact, no explanation is given in the affidavit-in-reply as to the delay of 4 ^{1/2} months caused in passing the detention order from the date of the last registered crimes. The delay caused in passing the detention order has snapped the live link between the prejudicial activities of the petitioner and the rationale of clamping the detention order on the petitioner. As the live link has snapped, it can be inferred that there was no ground as required for

detention under Section 3(1) of the MPDA as to the subjective satisfaction of the Detaining Authority. As a result, the detention order has ceased to be preventive, as it should be in law, and has instead become punitive and must therefore be struck down.

14. For the foregoing reasons, we pass the following order :-

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 27.01.2026 bearing No.2026/RB-Desk-1/Pol-1/MPDA/WS-10, passed by Respondent No. 1- District Magistrate, Jalna and the confirmation order dated 27.03.2026 bearing No. MPDA-0226/CR-81/Spl-3B, passed by Respondent No. 2- State Government are hereby quashed and set aside.
- (iii) The Petitioner- Aslam Mehmood Qureshi shall be released forthwith, if not required in any other offence.
- (iv) Rule is made absolute in the above terms.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE