

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 312 OF 2026**

- 1) Sushant Alias Hari Dinkar Waydande, |
Age: 24 Yrs, R/o Alsand, Tal. Khanapur, |
District- Sangli. |
[Presently detained at:- Sangli District Jail |
Sangli]. | **... Petitioner**

Versus

- 1) District Magistrate, Sangli |
- 2) The State of Maharashtra |
(Through Addl. Chief Secretary to |
Government of Maharashtra Mantralaya, |
Home Department Mantralaya, Mumbai. |
- 3) The Superintendent Sangli Central Prison, |
Sangli. | **... Respondents.**

Mr. R. M. Haridas a/w Mr. Ritesh M. Thobde, Mr. Somnath Thengal,
Mr. Pushkraj Deshmukh i/by Mr. Darshan Singh Rajpurohit,
Advocates for the Petitioner.

Mr. Anand S. Shalgaonkar, A.P.P. for Respondent-State.

**CORAM : RAJESH S. PATIL &
ABHAY J. MANTRI, JJ.**

RESERVED ON : 23rd September, 2026.

PRONOUNCED ON : 07th October, 2026.

JUDGMENT: (PER: ABHAY J. MANTRI, J).

1. **Rule.** Rule made returnable forthwith and by consent taken up
for final hearing. Heard the learned Advocate appearing for the

Petitioner and the learned APP for the State. Perused the record and the judgments relied upon by the learned Advocate for the Petitioner.

2. The detenue challenges the order of detention dated 2nd March 2026, passed by Respondent No. 1, District Magistrate, Sangli, which the State of Maharashtra confirmed on 14th May 2026, whereby he has been preventively detained. The Petitioner challenging the detention order has preferred this Petition.

3. On 22nd August 2025, the Sub-Divisional Police Officer, Jat, Deputy Division, Jat (for short, “**SDPO**”), through the Superintendent of Police, District Sangli, submitted a proposal to the District Magistrate, Sangli, to initiate detention proceedings against the Petitioner as four offences have been registered against the Petitioner and he has been indulging in certain criminal activities from 2020 to 2025, which include creating terror by possessing dangerous weapons, threatening to kill, verbally abusing, committing extortion and violating the order of externment.

4. Having considered the proposal, Respondent No. 1- District Magistrate, after recording his satisfaction that the

detenue/Petitioner was indulging in activities prejudicial to the maintenance of public order and, to prevent him from acting in any manner detrimental to public order, held that it was necessary to pass the order. Accordingly, he passed the detention order under Section 3(1) 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 (for short, “*the MPDA Act*”) against the Petitioner on 02.03.2026. Accordingly, the grounds of the detention order were communicated to the Petitioner under Section 8 of the MPDA Act. Aggrieved by the same, the Petitioner has preferred this Petition.

SUBMISSIONS

5. Learned Advocate for the Petitioner vehemently contended that the detention order is patently illegal as it suffers from basic defects. His main thrust of the argument was that the impugned order suffers from non-compliance with the mandate laid down under the provisions of the MPDA Act. He emphasised that, on the following four grounds, the order suffers from basic defects:

(i) Initially, on 12th November 2025, *after recording five substantive deficiencies in the proposal, the District Magistrate returned it*. Despite returning the said proposal, Respondent No. 1 subsequently approved it without recording any subjective satisfaction and passed the impugned order.

(ii) There was a delay in passing the impugned order of detention from the date of the proposal, thereby snapping the “live and proximate link between the prejudicial activities and the purpose of detention, and the Detaining Authority failed to explain such delay in any manner”.

(iii) The Respondent No. 1-Authority erred in relying on the fraudulent statements of witnesses.

(iv) Respondent No. 1 *failed to record his subjective satisfaction* while passing the impugned order.

6. During arguments, he took us through paragraphs 2, 4, and 6 of the reply and the statements of the so-called witnesses A and B and submitted that the order was passed only on the basis of those two witnesses' statements. Their statements are stereotyped and,

therefore, cannot be relied upon. He further drew our attention to the fact that the last offence was registered on 20th March 2025; however, the impugned order was passed belatedly, after 11 months, without explaining the delay in passing it.

7. He has drawn our attention to the initial proposal submitted by the Superintendent of Police to Respondent No. 1 on 3rd September 2025_(page No. 39), which was returned by the District Magistrate vide communication dated 12th November 2025, pointing out five deficiencies therein for passing the detention order (page Nos. 248 and 249). He further submitted that Respondent No. 1, without verifying the statements of the witnesses and merely based on his interaction with the Deputy S.P., passed the impugned order, which is not permissible under the Act.

8. Lastly, he submitted that the impugned order does not refer to the reply filed by the detainee before Respondent No. 1 and that, without recording his subjective satisfaction, he passed the impugned order. He also submitted that Respondent No. 1 passed the impugned order mechanically in a very casual and cavalier manner. Therefore, the impugned order is not sustainable in law, is illegal and

deserves to be quashed and set aside.

9. To buttress his submissions, he has relied upon the following judgments:

- a) Sushanta Kumar Banik vs. State of Tripura and others¹ (for short “Sushanta”)*
- b) T. A. Abdul Rahman vs. State of Kerala and others² (for short “ T. A. Abdul”)*
- c) Pradeep Nilkanth Paturkar vs. S. Ramamurthi and others³ (for short “ Pradeep”)*
- d) Ram Manohar Lohia vs. State of Bihar and another⁴ (for short “Ram”)*
- e) Arun Ghosh vs. State of West Bengal⁵*
- f) Banka Sneha Sheela vs. State of Telangana and others⁶*
- g) Ameena Begum vs. State of Telangana and others⁷*
- h) Mallada K. Sri Ram vs. State of Telangana and others⁸ (for short “Mallada”)*
- i) Joyi Kitty Joseph vs. Union of India and others⁹*
- j) Dhanya M. vs. State of Kerala and others¹⁰*
- k) Arjun Sidram Salgar vs. The State of Maharashtra and anr (for short “Arjun”) (Judgment of this Court in Criminal*

1 2022 SCC OnLine SC 1333

2 (1989) 4 SCC 741

3 1993 Supp (2) SCC 61

4 1965 SCC OnLine SC 9

5 1970 (1) SCC 98

6 (2021) 9 SCC 415

7 (2023) 9 SCC 587

8 (2023) 13 SCC 537

9 (2025) 4 SCC 476

10 2025 SCC OnLine SC 1315

Writ Petition No. 254 of 2025)

***l) Sourabh Kalu Koli vs. The State of Maharashtra and Ors.
(Judgment of this Court in Criminal Writ Petition No. 3380 of
2025)***

m) Gulab Mehra vs. State of U. P. and others¹¹

n) Khudiram Das vs. The State of West Bengal and others¹²

10. On the contrary, Mr. Shalgaonkar, learned APP, strongly opposed the Petition and submitted that the detaining authority recorded its subjective satisfaction while passing the impugned order; therefore, Respondent No. 1 did not fail to record its satisfaction.

11. The Petitioner acted in a manner prejudicial to the maintenance of public order, as evidenced by the registration of four offences against him. He placed on record a chart showing the criminal history of the Petitioner and submitted that, in view of his dangerous and harmful activities, preventive action was taken against him under Section 56(1)(a) and (b) of the Maharashtra Police Act, 1951, in the year 2023; however, he violated the said order. He submitted that Respondent No. 1-Authority has explained the delay caused in passing the order. Even if some delay is caused, merely on the ground of delay, it would not be proper to hold that the detention

¹¹ (1987) 4 Supreme Court Cases 302

¹² (1975) 2 SCC 81

order is illegal. Therefore, he submitted that the dictum laid down in the judgments relied upon by the learned Advocate for the Petitioner is not helpful to the Petitioner in support of his submissions.

12. Lastly, he submitted that the statements of the two confidential witnesses sufficiently indicate that the detainee has been continuously and consistently indulging in criminal activities, and that the ordinary measures of law were not sufficient to restrain him. Moreover, it was found that his criminal activities disturbed public order; therefore, the Detaining Authority's satisfaction is proper and beyond question. He thus submitted that the Petition has no merit.

13. To buttress his submissions, he relied on the judgment of this Court in *Aman @ Amaan Jamir Shaikh vs. The Commissioner of Police, Pune City, Pune* in Criminal Writ Petition No. 1717 of 2025, delivered on 15th October 2025, and drew our attention to paragraph Nos. 11, 16, 18 and 24 of the said judgment and submitted that the Petitioner's detention was necessary to prevent him from acting in a prejudicial manner affecting public order. As such, he contended that, in view of the dictum in the said decision, no interference is warranted with the impugned order.

REASONS AND ANALYSIS

14. We have considered the rival contentions of the parties and have gone through the record as pointed out by the respective learned Advocates for the parties. We have also gone through the judgments relied upon by the learned Advocate for the Petitioner. It is appropriate to deal with the four crucial objections raised by the learned Advocate for the Petitioner one by one.

(i) Return of the proposal by Respondent No. 1, after recording *five substantial deficiencies*.

15. On perusal of the record, it appears that on 3rd September 2025, the SDPO through the Superintendent of Police submitted the proposal for detaining the Petitioner under the provisions of the MPDA Act to Respondent No. 1. Respondent No.1, after recording five substantial deficiencies, vide communication dated 12th November 2025, returned the said proposal. Those deficiencies are as under:

- a) Only one offence has been registered against the detainee.
- b) On the basis of the registration of one offence, the detainee cannot be termed a habitual offender.

- c) As per Section 2(b)(1) of the MPDA Act, the detainee does not fall under the category of a dangerous person.
- d) Only one offence has been registered against the detainee during the last six months. Therefore, it would not be appropriate to initiate action under the provisions of the MPDA Act against him.
- e) No documents in respect of bail have been produced before him.

Based on the above deficiencies, the proposal was returned.

16. The Superintendent of Police, vide communication dated 29th November 2025, tried to explain the five deficiencies raised by Respondent No. 1; however, he has not produced any material beyond what was earlier placed before the Respondent No. 1 Authority while submitting the proposal on 3rd September 2025.

17. Thus, it appears that when Respondent No. 1 initially returned the proposal for passing the order of detention against the Petitioner on 12th November 2025, without complying with or explaining the deficiencies pointed out in the said proposal, it passed the impugned order. This itself indicates that the impugned order suffers from serious lacunae and infirmities. Initially, Respondent No. 1 had observed that registration of one offence could not be termed the

detenue as a dangerous person and that registration of one offence during the last six months was not sufficient to initiate proceedings against the detenue under the MPDA Act. Therefore, it would not be proper to pass the impugned detention order. Accordingly, on this ground alone, the impugned order is liable to be set aside.

DELAY

18. It is pertinent to note that the last offence was committed on 20th March 2025, and the impugned order was passed on 2nd March 2026, i.e. nearly eleven months after the occurrence of the last offence. Therefore, in view of the dictum laid down in *Sushanta* (supra), delay in passing the order of detention from the date of the proposal, thereby snapping the live and proximate link between the prejudicial activities and the purpose of detention, coupled with failure on the part of the Detaining Authority to explain such delay, renders the order unsustainable in law. The said decision squarely applies to the case in hand. Therefore, we find substance in the contention of the learned Advocate for the Petitioner that Respondent No. 1 failed to explain the delay caused in passing the impugned order and, therefore, failed to establish the live and proximate link between the prejudicial activities and the purpose of passing the detention order.

FRAUDULENT STATEMENT

19. Learned Advocate for the Petitioner drew our attention to the statements of the confidential witnesses recorded by the SDPO and submitted that both the statements are stereotyped and, therefore, cannot be relied upon. He submitted that it is not possible for the witnesses to state identical facts when their statements were recorded on two different dates. Similarly, he argued that the Detaining Authority did not verify the said statements; instead, it interacted only with the SDPO and then concluded that the incident and the fear expressed by the witnesses were genuine. According to him, such interaction was not permissible and, therefore, Respondent No. 1, without recording his subjective satisfaction, erred in passing the impugned order.

20. He drew our attention to the communication dated 30th August 2025 and submitted that the said communication itself indicates that the Police Inspector, Vita Police Station, requested the Superintendent of Police, Sangli, to appoint the SDPO for verification of the statements of the two confidential witnesses and, accordingly, the Superintendent of Police, vide communication dated 20th August

2025, appointed the SDPO to verify the statements. Thus, it appears that Respondent No. 1 did not verify the witnesses' statements but only interacted with the SDPO and passed the impugned order. Thus, it appears that Respondent No. 1 passed the order without verifying the statements, which is a serious defect.

21. In *Arjun (supra)*, this Court recorded that Respondent No. 1 has to disclose an independent and meaningful subjective satisfaction and cannot mechanically pass the order based on in-camera statements.

REGISTRATION OF THE OFFENCES

22. One of the grounds raised is regarding the registration of the four offences. While considering the said fact, it would be appropriate to reproduce the chart about details of the criminal cases as under:

Sr. No.	Police Station	C. R. No.	Act and Sections	Date of Registration	Present Status
1	Vita	149/2020	Indian Penal Code Sections 509, 323, 504	19.05.2020	Pending before Court R.C.C. No. 09/2023
2	Vita	471/2023	Indian Penal Code	23.09.2023	Pending

			Section 307		before Court Sessions Case No. 456/2024
3	Vita	40/2025	Maharashtra Police Act Section 142	22.01.2025	Pending before Court S.C.C. No. 69/2025
4	Vita	315/2024	Bharatiya Nyaya Sanhita Sections 118(1), 115(2), 352, 351(2), 3(5) and Arms Act Sections 4, 25.	20.03.2025	Pending before Court R.C. C. No. 167/2025

23. The criminal cases at Serial Nos. 1 and 2 are from 2020 and 2023, respectively, and are stale offences. Therefore, it cannot be said that a live and proximate link exists between the detenue's past conduct and the imperative need to detain him. The offence at Serial No. 3 is under Section 142 of the Maharashtra Police Act, registered on the ground that the Petitioner violated the order of externment, and therefore, the only offence at Sr. no. 4, of the year 2025, i.e. Crime No. 315 of 2025, registered at Vita Police Station, is the offence based on which the proceedings were initiated.

24. The Hon'ble Supreme Court and this Court, in a catena of judgments, have held that the mere registration of one offence cannot,

by itself, establish that a person is a dangerous person or that his activities are prejudicial to the maintenance of public order.

25. In the case at hand, the said offence was committed against an individual, not the public at large. The nature of the offence *prima facie* does not indicate that the same is heinous or serious; therefore, it cannot be said that it would affect the maintenance of public order. A mere apprehension of breach of law and order is not sufficient to meet the standard of adversely affecting the maintenance of public order.

26. Even assuming that the allegations against the detainee in the said crime are grave, the personal liberty of a detainee cannot be sacrificed at the altar of preventive detention merely because he is implicated in criminal proceedings. The powers of preventive detention are exceptional and even draconian.

27. Apart from that, to pass an order of detention under the MPDA Act against any person, the Detaining Authority must be satisfied that he is a dangerous person within the meaning of Section 2(b)(1) of the MPDA Act or that he habitually commits, or attempts to

commit, or abets the commission of, any offences punishable under Chapters XVI and XVII of the Indian Penal Code, 1860.

28. Section 3 of the MPDA Act provides that the State Government must be satisfied that a person is required to be detained to prevent him from acting in any manner prejudicial to the maintenance of public order.

29. Section 3(1) of the MPDA Act confers powers on the District Magistrate or the Commissioner of Police, under the direction of the State Government, to detain a person on being satisfied that it is necessary to do so with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. Public order shall be deemed to have been affected adversely, or shall be deemed likely to be affected adversely, *inter alia*, if any of the activities of the person referred to in sub-section (4), directly or indirectly, are causing or are likely to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof, or a grave or widespread danger to life, property or public health.

30. The Hon'ble Supreme Court in *Mallada (supra)* has held that “*mere apprehension of a breach of law and order is not sufficient to meet the standard of adversely affecting the maintenance of public order*”. It has also observed that the personal liberty of the accused cannot be sacrificed at the altar of preventive detention merely because a person is implicated in one or more criminal proceedings. The liberty of a citizen cannot be allowed to be curtailed by reason of any delay on the part of the State.

31. In the case of *Sushanta (supra)*, the Hon'ble Supreme Court, in paragraph Nos. 11 to 13 and 19, has observed as under:

“11. We are persuaded to allow this appeal on the following two grounds:

(i) Delay in passing the order of detention from the date of proposal, thereby snapping the "live and proximate link" between the prejudicial activities and the purpose of detention & failure on the part of the detaining authority in explaining such delay in any manner.

(ii) The detaining authority remained oblivious of the fact that in both the criminal cases relied upon by the detaining authority for the purpose of passing the order of detention, the appellant detenu was ordered to be released on bail by the special court. The detaining authority remained oblivious, as this material and vital fact of the appellant detenu being released on bail in both the cases was suppressed, or rather not brought to the notice of the detaining authority by the sponsoring authority at the time of forwarding the proposal to pass the appropriate order of preventive detention.

DELAY IN PASSING THE ORDER OF DETENTION

*12. We may recapitulate the necessary facts which have a bearing so far as the issue of delay is concerned. **The proposal to take steps to preventively detain the appellant at the end of the Superintendent of Police addressed to the Superintendent of Police (C/S) West Tripura, Agartala is dated 28th of June 2021. The proposal, in turn, forwarded by the Assistant Inspector General of Police (Crime) on behalf of the Director General to the Secretary, Home Department, is dated 14.07.2021. The order of detention is dated 12th of November, 2021. There is no explanation worth the name as to why it took almost five months for the detaining authority to pass the order of preventive detention.***

*13. There is indeed a plethora of authorities explaining the purpose and the avowed object of preventive detention in express and explicit language. We think that all those decisions of this Court on this aspect need not be recapitulated and recited. But it would suffice to refer to the decision of this Court in *Ashok Kumar v. Delhi Administration*, (1982) 2 SCC 403, wherein the following observation is made:*

"Preventive detention is devised to afford protection to society. The object is not to punish a man for having done something but to intercept before he does it and to prevent him from doing it."

x

xx

xxx

*19. Chinnappa Reddy. J. speaking for the Bench in *Bhawarlal Ganeshmalji v. State of Tamil Nadu*, (1979) 1 SCC 465, has explained as follows:*

"It is further true that there must be a "live and proximate link" between the grounds of detention alleged by the detaining authority and the avowed purpose of detention, namely the prevention of smuggling activities. We may in

appropriate cases assume that the link is "snapped" if there is a long and unexplained delay between the date of the order of detention and the arrest of the detenu. In such a case, we may strike down an order of detention unless the grounds indicate a fresh application of the mind of the detaining authority to the new situation and the changed circumstances. But where the delay is not only adequately explained but is found to be the result of the recalcitrant or refractory conduct of the detenu in evading arrest, there is warrant to consider the "link" not snapped but strengthened."

(Emphasis supplied)."

32. In the case of ***T. A. Abdul (supra)***, the Hon'ble Supreme Court, in paragraph No. 10, has observed as under:

"10. The conspectus of the above decisions can be summarised thus: The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made, or the live-link between the prejudicial activities and the purpose of detention is snapped, depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances, and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting the number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the court has to scrutinise whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the court has to investigate whether the causal connection has been broken in the circumstances of each case."

33. In the case of *Pradeep (supra)*, the Hon'ble Supreme Court, in paragraph No. 13, has observed as under:

“13. Coming to the case on hand, the detention order was passed after 5 months and 8 days from the date of the registration of the last case and more than 4 months from submission of the proposal. What disturbs our mind is that the statements from the witnesses A to E were obtained only after the detenu became successful in getting bail in all the prohibition cases registered against him, that too in the later part of March 1991. These statements are very much referred to in the grounds of detention and relied upon by the detaining authority along with the registration of the cases under the Act.”

34. In *Ram (supra)*, the Hon'ble Supreme Court interpreted the expression “*public order*” in paragraph Nos. 51 and 52 and, therefore, in paragraph No. 53, held that the meaning of the expression “*public order*” is distinct from expressions such as “*public safety*” and “*security of the State*.”

35. To summarise the above discussion, it appears that initially, vide communication dated 12th November 2025, Respondent No. 1-Authority returned the proposal for passing the detention order and, without complying with the defects mentioned in the said letter or explaining the same, merely on the basis of the further communication dated 29th November 2025, passed the impugned order. Therefore, the

said order suffers from the defects already noticed in the communication dated 12th November 2025. Secondly, it appears that the offence was registered on 20th March 2025 and the impugned order was passed on 2nd March 2026, i.e. nearly eleven months thereafter. This fact itself indicates that the order of detention has failed to advert to the material aspects and suffers from non-application of mind on the part of the Detaining Authority to the fact that the conditions imposed on the detainee while granting bail had been duly fulfilled. Therefore, the impugned order suffers from delay and laches, and such delay does not serve the purpose for which it was passed. Thirdly, there is no nexus or live link between the last offence registered against the Petitioner and the detention order passed by the Authority.

36. Consequently, the order of detention suffers from a serious infirmity and defect that goes to the root of the matter. The liberty of the detainee is an extremely precious right which cannot be taken away by passing the impugned order without the requisite satisfaction being recorded by Respondent No. 1-Authority. Fourthly, Respondent No. 1 has not verified the confidential statements of the witnesses recorded by the SDPO and, therefore, it cannot be said that

the order passed by the Authority is justified or that, on the basis of the said statements, it can be held that the activities of the detenue would cause disturbance to public order. No material was placed before Respondent No. 1-Authority in respect of the bail orders, and this lacuna, in our opinion, vitiated the satisfaction reached by the Detaining Authority, as it was deprived of the opportunity to consider the relevant material, though the same was available.

37. In the light of the above discussion and the dictum laid down by the Hon'ble Supreme Court and this Court in the above-cited decisions, it is apparent that Respondent No. 1 failed to record its subjective satisfaction while passing the detention order nearly after eleven months. Therefore, in our opinion, in the present case, for more than one reason, including non-recording of subjective satisfaction, delay and laches, and failure to explain the delay and laches while passing the impugned order, the order passed by Respondent No. 1 cannot be sustained in the eyes of law and stands vitiated.

38. In the result, the *Writ Petition is allowed in terms of prayer clause (c)*, which reads as under:

“(c) The order of Detention bearing No. Home-1/Section-6/MAG-1/MPDA/SR-02/2025 dated 02.03.2026 issued under Section 3 of M.P.D.A. Act 1981 by the Respondent No. 1 be quashed and set aside and on quashing the same the Petitioner be ordered for release forthwith.”

39. Needless to clarify, the Detaining Authority-Respondent No.1 is directed to forthwith release the Petitioner, if not required in any other case.

40. Rule is made absolute in the above terms. No order as to costs.

41. The Petition is disposed of in the above terms.

(ABHAY J. MANTRI, J.)

(RAJESH S. PATIL, J.)

TALLE
SHUBHAM
ASHOKRAO
Digitally
signed by
TALLE
SHUBHAM
ASHOKRAO
Date:
2026.10.07
15:15:34
+0530