

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 179 OF 2026

Wasim Salim Patel. ... Petitioner.
Versus
The State of Maharashtra and others. ... Respondents

Mr.Ramji T. Kotali for the Petitioner.
Ms.M.M.Deshmukh, Addl.PP for the Respondent- State.

**CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.**

DATE : 21st AUGUST 2026.

JUDGMENT : (Ranjitsinha Raja Bhonsale, J.)

1. By the present Petition, Petitioner seeks to challenge the Detention Order bearing No.CRIME/ PCB/ DET/ KONDHWA/ PATEL/ 773/ 2025 dated 23rd September 2025 passed by Respondent No.3- Commissioner of Police, Pune City under section 3(2) of the Maharashtra Prevention of Dangerous Activities Act, 1981 (for short "MPDA Act") and also the Committal Order dated 23rd September 2025 whereby the Petitioner has been detained in Chhatrapati Sambhajinagar Central Prison, Chatrapati Sambhajinagar.

2. Heard Mr.Kotali learned counsel for the Petitioner and Ms.Deshmukh, learned Addl.PP for the Respondent- State.

3. The learned counsel appearing for the Petitioner has restricted his arguments to the ground of subjective satisfaction arrived at by the Detaining Authority in the grounds of detention. He submitted that the detaining Authority has based his satisfaction on stale and old offences and that the same does not warrant the invocation of the preventive detention law. Learned counsel for the Petitioner further submitted that by relying upon the past offences and not providing the details and material in respect thereof, the Petitioner's right to make an effective representation as provided under the Act has been adversely affected. It is submitted that on this ground alone the Detention Order is liable to be quashed and set aside. Learned counsel further submitted that the stand taken by the Detaining Authority in respect of the offences relied upon to pass the Detention Order is, in fact, contrary and inconsistent.

4. The learned A.P.P appearing for the Respondent- State submitted that, the subjective satisfaction arrived at by the Detaining Authority is based on cogent and valid material. She submitted that, the Detention Order is passed by relying upon the offences mentioned in paragraph-5.1 of the grounds of detention and two in-camera statements of Witness "A" and Witness "B" as

mentioned in paragraphs-6.1 and 6.2 of the grounds of detention. Learned A.P.P. further submitted that there is a specific reference made in paragraph-8 wherein the Detaining Authority has specifically stated that for the purpose of passing the Detention Order, the Authority has relied upon the material mentioned in paragraphs-5.1, 6.1 and 6.2 of the grounds of detention for arriving at the subjective satisfaction that the Petitioner is a dangerous person as defined in section 2(b-1) of the MPDA Act and that the activities of the Petitioner are prejudicial to the maintenance of the public order. It is submitted that the Detention Order is based on the cogent material.

5. On perusal of the grounds of detention dated 23rd September 2025 we are of the opinion that the subjective satisfaction arrived at by the Detaining Authority is based on past offences; the material in respect of which was not provided to the Detenue. The Detaining Authority, in paragraph-2 of the grounds of detention, has specifically stated that the Petitioner is a weapon-wielding dangerous recidivist of violent nature and by his acts has indulged in criminal activities which had spread terror in the society. It is further specifically mentioned that, the Petitioner has become a perpetual danger to the lives and properties of people residing and carrying out their daily activities and vocations in the jurisdiction of Shivajinagar, Bibwewadi, Parvati and other police stations and in Pune city. It was further mentioned that, the

Petitioner and his accomplices moved around armed with deadly weapons such as sword, koyta, knife etc. Based on these observations the Detaining Authority has concluded that the Petitioner is a habitual offender having committed various offences under the Indian Penal Code (for short “IPC”) and Bharatiya Nyay Sanhita, 2023 (for short “BNS”) as well as offences under the Arms Act and, thus, is a dangerous person as defined in section 2(b-1) of the MPDA Act. Based on the said satisfaction, it is further specifically stated that the criminal activities of the Petitioner are prejudicial to the maintenance of the public order.

6. In paragraph-3 of the Detention Order, the Detaining Authority has listed the past offences and preventive actions taken against the Petitioner. Perusal of the list in paragraph-3.1 of the Detention Order would indicate that all the past offences are mentioned. As far as preventive action mentioned in paragraph-3.2 is concerned, it refers to the externment action taken against the Petitioner. We have noted that the Detaining Authority after recording the action taken against the Petitioner and the offence committed by the Petitioner, recorded specific satisfaction that the actions have had no deterrent effect on the activities of the Petitioner.

7. In paragraph-5.1, the Detaining Authority has referred to CR No.673/2025 dated 28th August 2025 registered with Kondhwa Police Station under sections 351(2)(3), 352 of BNS and under sections 37(1)/135 and 142 of the Maharashtra Police Act. We

have also noted that the record also indicates that notice under section 35(3) of the BNSS was served upon the Petitioner.

8. The Detaining Authority also further relied upon in-camera statements of witness “A” and witness “B”. As far as statement of witness “A” is concerned, the same has been recorded in respect of incident dated 20th August 2025 and pertains to the snatching of purse of the complainant’s wife. It is alleged in the said statement that when the said witness tried to stop the Petitioner, he showed Koyta and threatened the witness. The in-camera statement of witness “B” is recorded in respect of an incident of 22nd August 2025.

9. Perusal of paragraph-8 of the Detention Order would indicate that the Detaining Authority has specifically mentioned that he has relied upon the material mentioned in paragraphs-5.1, 6.1 and 6.2 of the grounds of detention to arrive at the subjective satisfaction that the Petitioner is a dangerous person as defined in section 2(b-1) of the MPDA Act and his criminal activities are prejudicial to the maintenance of public order. The statements made in paragraph-8 and paragraph-2 of the grounds of detention, in our opinion, are clearly contradictory and at variance with each other. The contents of paragraph-2 of the Detention Order, show that the Detaining Authority, before even considering the material available in paragraphs-5.1, 6.1 and 6.2 of the ground of detention, was already satisfied that the Petitioner was a dangerous person and his criminal activities were prejudicial to the

maintenance of public order. This being the case, the subjective satisfaction arrived at by the Detaining Authority is clearly untenable and faulty. We also find that the Detaining Authority has not provided the details and material in respect of the conduct and offences mentioned in paragraph-2, paragraphs-3.1 and 3.2 of the grounds of detention. We find that there is no material provided in respect thereof to support the said contentions. In doing so, the Detaining Authority has adversely affected the ability of the detainee to file an effective and meaningful representation against the grounds of detention. In our opinion, such a contradiction and non supply of material relied upon would, impair the ability of the detainee to file an effective representation. Any order based on ground which adversely affect the right of the detainee to file an effective representation, cannot be sustained.

10. In view of the aforesaid observations, we are of the opinion that the Detention Order and the observations made therein have affected the right of the Petitioner to make an effective representation. In view thereof, the Detention Order cannot be sustained.

11. Hence, the following order:

ORDER

(i) The Petition is allowed in terms of prayer clause (b).

- (ii) The Detention Order bearing No.CRIME/ PCB/ DET/ KONDHWA/ PATEL/ 773/ 2025 dated 23rd September 2025 passed by Respondent No.3- Commissioner of Police, Pune City is quashed and set aside.
- (iii) The Petitioner be released forthwith, if not required in any other case.
- (iv) Rule is made absolute in the above terms.

(RANJITSINHA RAJA BHONSALE, J.) (SARANG V. KOTWAL, J.)