

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

WRIT PETITION NO. 1101 OF 2026

Mohammed Shoheb Sher
Rehmat Ullah Shaikh @Toya ..Petitioner
Versus
The State of Maharashtra & Ors. ..Respondents

Mr. Narayan Rokade a/w Mr. Swapnil Kalokhe i/by Sana R. Khan
for the Petitioner.
Ms. M. M. Deshmukh, APP for the Respondent-State.

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

DATE : 9th OCTOBER 2026

JUDGMENT : (PER : SARANG V. KOTWAL, J.)

1. The Petitioner has challenged the Detention Order dated 26th December 2025 passed by the Respondent No.2, the Commissioner of Police, Brihanmumbai. By a separate committal order passed on the same date, the Respondent No.2 directed that the Petitioner be detained at Thane Central Prison, Thane and thereafter at Nashik Road Central Prison.

2. Heard, Mr. Narayan Rokade learned Counsel for the

Petitioner and Ms. M. M. Deshmukh, learned APP for the Respondent-State.

3. The Petitioner was served with the grounds of detention along with the Detention Order. The grounds of detention run into 16 paragraphs. Paragraph 4 refers to his past criminal history. The grounds of detention in the said paragraph mentions four offences registered at Kherwadi Police Station between the period of 25th June 2023 to 23rd March 2025. In three of these offences, he was arrested, and in the last offence he was served with a notice under Section 35(3) of the BNSS. In one of the offences, he was convicted by a competent Court. In the said paragraph, there is a reference to two preventive actions taken against him in the past. One was under Section 110(g) of the CrPC, and the other was an externment proceeding taken in the year 2024. The period of externment was for two years. He repeatedly violated the externment orders at least on six occasions. For each of these violations a separate offence was registered at Kherwadi Police Station under Section 142 of the Maharashtra Police Act. It was clear that all these preventive actions were not

effective and externment order was cancelled by intimation dated 20th November 2025. Paragraph 7 specifically mentions that paragraph nos. 4 to 6 constitute the preamble and introductory reference to his criminal history. It is specifically mentioned that no reliance was placed upon those paragraphs for considering the proposal for his preventive detention.

4. Thereafter, paragraph 8 starts with the heading 'Grounds of Detention'. The reference to incidents in paragraph 8 form the basis of detention. The first incident relates to the offence registered vide C.R. No. 437 of 2025 at Kherwadi Police Station under Section 109(1), 126(2), 351(2), 351(3) of Bharatiya Nyaya Sanhita, 2023, read with Sections 4 and 25 of the Arms Act, 1959 and Sections 37(1), 135, 142 of the Maharashtra Police Act. The said incident is in reference to the offence committed by the Petitioner on 8th August 2025. He had assaulted the complainant with a sickle causing injuries to the complainant's left thumb and nose. The complainant started shouting for help. The police deployed on bandobast duty rushed there, but even then, the Petitioner attempted to assault the complainant. The Police tried to

control him. The Petitioner was brandishing his weapon and was threatening the people who had gathered at that place. He thereby created panic amongst people. Somehow the police managed to overpower him. Importantly, he had entered that area in breach of the existing externment order. The investigation was carried out. The Petitioner was arrested at the spot itself on 8th August 2025. Initially, his bail application was rejected before filing of the chargesheet. It was rejected on 8th September 2025. After that, the chargesheet was filed and he was granted bail by the Additional Session Judge, Mumbai, vide Order dated 07th November 2025. The Petitioner availed of the bail order on 11th November 2025 and was released.

5. The authorities conducted confidential enquiries and statements of two witnesses were recorded 'in camera'. Those statements are referred to in paragraph 8(b)(i) & (ii). Witness A's statement was recorded on 19th November 2025. It was in respect of the incident that had taken place in the second week of November 2025, at about 10.00 p.m., near an autorickshaw stand. The Petitioner had threatened him with a big knife and had

forcibly removed cash of Rs.2,700/- from him. The Petitioner had threatened the crowd in that area.

6. Witness B's statement was recorded on 21st November 2025. This was in respect of the incident that had taken place about 7 to 8 days prior to 21st November 2025. At about 5.30 p.m., witness B was walking through Dnyaneshwar Nagar, the Petitioner approached him and threatened him with a knife. He removed Rs.3,300/- from witness B. He also threatened the people gathered there, causing panic.

7. Based on these three incidents, Respondent No.2 passed the Detention Order. It is specifically mentioned in paragraph 9 that, from those facts, he was subjectively satisfied that the Petitioner was a dangerous person as per Section 2(b-1) of the Maharashtra Prevention of dangerous activities Act, 1981 and that his activities were prejudicial to the maintenance of public order in those localities.

8. The Respondent No.2 showed awareness that the Petitioner had availed of the bail order in C.R. No. 437 of 2025

registered with Kherwadi Police Station. It was further recorded by the Respondent No.2 that, having regard to the Petitioner's criminal activities, even after availing of bail in the past, there existed an imminent likelihood of his indulging in activities prejudicial to the maintenance of public order in the foreseeable future as well. Therefore, with a view to prevent him from acting in such a prejudicial manner in future, it was necessary to detain him under MPDA Act.

9. The learned Counsel for the Petitioner made the following submissions :-

The Respondent No.2 did not consider the reasons for granting bail. The Additional Sessions Judge had given his reasons in paragraph 6 of the Order dated 7th November 2025, passed in Criminal Bail Application NO. 2817 of 2025, which is part of the documents supplied to the Petitioner and was considered by the Detaining Authority. According to the learned Counsel, the Detaining Authority had not referred to the reasons given by the learned Additional Sessions Judge, Mumbai, for releasing the

Petitioner on bail.

According to the learned Counsel for the Petitioner, the authorities had not challenged the order granting bail to the Petitioner. The authorities could have taken steps for making application for cancellation of bail instead of taking a drastic step of passing the Detention Order. The ordinary law of the land was sufficient to take care of any apprehension that was expressed by the Respondent No.2. In any case, the act attributed to the Petitioner did not disturb the public order.

His last submission was that there was a delay in passing the Detention Order. The Petitioner was released on bail on 11th November 2025, and the Detention Order was passed on 26th December 2025.

In support of his case, the learned Counsel relied on the judgment of the Hon'ble Supreme Court in the case of ***Dhanya M. Vs. State of Kerala and Others***, reported in *2025 SCC OnLine SC 1315*. Paragraph 20 of the said judgment mentions that the authority had stated that the detenu in that case was violating the

conditions of bail imposed upon him in the cases that had been considered for passing the Detention Order. However, no application was filed by Respondent-State in any of those four cases alleging violation of conditions and those violations have not been spelt out in the Detention Order. There was a reference to earlier judgment wherein there was observation that the remedy of the step of Detention Order should not have been resorted to when ordinary criminal law provided sufficient means to address the apprehension leading to the impugned Detention Order.

10. Learned APP, on the other hand, submitted that the Petitioner had created terror in the area and, therefore, no one was willing to come forward to give statements against him. Therefore, it was not possible to make an application for cancellation of bail. She submitted that the in-camera statements of the witnesses showed as to why people were not coming forward to give statements against him and in any case those two instances independently formed basis for passing of the Detention Order. She submitted that the Detaining Authority was not required to consider the reasons for granting bail to the Petitioner. The learned

APP lastly submitted that there was no delay in passing of the Detention Order. The in-camera statements were recorded on 19th November 2025 and 21st November 2025, and the Detention Order was passed on 26th December 2025 after collecting and verifying the relevant material.

11. We have considered these submissions. In the present case, as rightly submitted by the learned APP, the witnesses were not willing to come forward to give statement against the Petitioner, and therefore, it was not possible for the State to move any application for cancellation of bail.

12. The only relevant condition imposed in the order granting bail by the Additional Sessions Judge, Mumbai was that the Applicant therein (Petitioner) shall not directly or indirectly make any threat or pressurize any person acquainted with the facts of that case so as to dissuade him from disclosing such facts in the Court. Hence, that particular condition pertained to that particular offence. It did not cover his other activities. Therefore, we do not find force in the submissions of the learned Counsel for the

Petitioner that the State could have moved an application for cancellation of bail instead of passing the Detention Order. In any case the witnesses were not willing to come forward to give statements regarding his activities. Therefore, the State could not have moved effectively for cancellation of bail.

13. Even otherwise besides the registered offence, there were two separate incidents which are recorded in the statements of witness A and B. Those two instances on their own could have also formed basis for passing the Detention Order and it could be the basis of subjective satisfaction. From the record, it is apparent that those two instances had taken place after the Petitioner was released on bail. That indicates that his arrest had not curbed this activities.

14. Significantly, he had committed the offence which was registered while the externment order was in operation. He had entered the area in violation of externment order and had committed that offence. Therefore, it is quite clear that the normal law of land was not sufficient to curb his activities.

15. As rightly submitted by the learned APP, the last in-camera statement was recorded on 21st November 2025. After that, the in camera statements were verified, the material was collected, grounds were formulated and the Order of Detention was passed. Therefore, some reasonable time was required to undertake all this process. The Detention Order was passed on 26th December 2025. We do not find any delay in passing of the Detention Order.

16. As a result, we do not find merit in the Petition. The Petition is dismissed. Rule is discharged.

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