

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

WRIT PETITION NO. 1469 OF 2026

Gaurav Manoj Dhumal

..Petitioner

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Swapnil Kalokhe i/by A. J. Shaikh Azad 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 10th October 2025 passed by the Respondent No.2, the Commissioner of Police, Pune City. Respondent No.2 had passed a separate committal order dated 10th October 2025, directing the Petitioner's detention at Chandrapur from Prison.

2. Heard, Mr. Swapnil Kalokhe learned Counsel for the Petitioner and Ms. M. M. Deshmukh, learned APP for the Respondent-State.

3. Along with the Detention Order, the Petitioner was served with grounds of detention. Though a specific ground is not taken, the learned Counsel for the Petitioner submitted that there are contrary statements made in paragraphs 2 and 8 of the grounds of detention, which has caused prejudice to the Petitioner in making his earliest effective representation.

4. Learned APP, on the other hand, submitted that there is no contrary stand taken by Respondent No.2. He has very specifically stated that he has relied on one registered offence and two in-camera statements.

5. We have considered these submissions. The Affidavit in Reply filed by the Deputy Secretary, Home Department, gives certain dates. The Order was passed on 10th October 2025. The report under Section 3(3) was received by the Government on 15th October 2025. The order was approved by the Government on 20th October 2025. The detenu was actually detained on 1st November 2025. The reference was made to the Advisory Board on 11th November 2025. The report of the Advisory Board was received on

21st November 2025 and finally the order was confirmed on 2nd December 2025.

6. The grounds of detention run into 15 paragraphs. Paragraph 2 specifically mentions that the Petitioner was a weapon-wielding dangerous recidivist of violent nature indulging in criminal activities that foster terror in society. The Petitioner has been habitually committing offences under chapter XVI and XVII of IPC and VI and XVII of BNS as well as under chapter V of the Arms Act and it is further specifically mentioned that the Petitioner was thus a dangerous person as defined under Section 2(b-1) of the Maharashtra Prevention of Dangerous Activities Act, 1981, and that his criminal activities were prejudicial to the maintenance of public order.

7. The list of past offences is mentioned in paragraph 3.1, which refers to C.R. No. 61/2024, C.R. No. 314/2024 and C.R. No. 07/2025 all registered at Yerwada Police Station under various Sections of Indian Penal Code as mentioned in paragraph 2. Those offences were committed between the period of 6th February 2024

to 3rd January 2025.

8. There was one preventive action taken under Section 107 of CrPC, that was Chapter case No. 33/2024, in which the Petitioner had executed a bond for good behaviour on 6th February 2024, but that case was withdrawn under Section 137 of BNSS on 4th October 2025 to initiate more effective action.

9. Paragraph 5.1 refers to C.R.No. 313 of 2025 registered under Section 118(2), 189, 190, 191, 111 of BNS, under Section 37(1)/135 of MPA and under Section 3 and 7 of Criminal Law Amendment Act. The incident took place on 3rd May 2025. The Petitioner and his companion had assaulted the complainant on the public road and had also threatened the public in that area. They hit the doors and windows of the surrounding houses with wooden stick. In that case, the Petitioner was arrested on 12th May 2025.

10. The statement of witness 'A' was recorded on 30th June 2025 in respect of an incident that had taken place at 8.30 p.m. on 5th June 2025. The Petitioner had threatened that witness and had

extorted Rs. 815/- from him.

The statement of witness 'B' was recorded on 30th June 2025. It was in respect of the incident that had taken place at 10.00 p.m on 1st June 2025. It was also in the nature of extortion by show of koyta. The Petitioner had removed Rs. 2380/- from that witness's pocket.

11. Paragraph 8 specifically mentions that the Detaining Authority had relied upon the material mentioned in paragraphs 5.1, 6.1 and 6.2 i.e., one registered offence and two in-camera statements to arrive at its subjective satisfaction that the Petitioner was a dangerous person as defined in paragraph 2(b-1) of the MPDA Act and that his criminal activities were prejudicial to maintenance of public order.

12. For passing the Detention Order under MPDA Act, the ingredients of the definition of dangerous person and the concept of activities causing prejudice to the maintenance of public order are important concepts, and they have to be strictly complied with. Both these provisions read as follows:-

“2. Definitions

(a)-“acting in any manner prejudicial to the maintenance of public order” means-

(iv) in the case of a dangerous person, when he is engaged, or is making preparation for engaging, in any of his activities as a dangerous person, which affect adversely, or are likely to affect adversely, the maintenance of public order.”

“Section 2(b-1) defines a “dangerous person” as:

(b-1) “dangerous person” means a person, who either by himself or as a member or leader of a gang, habitually commits, or attempts to commit or abets the commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code or any of the offences punishable under Chapter V of the Arms Act, 1959.”

13. The Detaining Authority in paragraph 2 has specifically mentioned that the Petitioner was committing offences under chapter XVI and XVII of IPC and under Section chapter VI and XVII of BNS and chapter V of Arms Act and ‘thus’ was a Dangerous Person as defined in paragraph 2(b-1) of the Act and his criminal activities were prejudicial to maintenance of public order (emphasis supplied). These particular reference is obviously with reference to his past activities because, then IPC offences were mentioned. The BNS offence was applied only at the time of the last registered offence in the year 2025. Therefore, it is quite clear that the Respondent No.2 has noted his subjective satisfaction in

paragraph 2 based on the Petitioner's past activities. In that case, his observation is directly contrary to his averment in paragraph 8 where he has stated that he had relied upon the material mentioned in paragraph 5.1, 6.1 and 6.2 (one registered offence and two in-camera statements) to arrive at the similar subjective satisfaction.

Thus, both these averments are in conflict with each other and create confusion. This has directly affected the Petitioner's valuable right of making the earliest effective representation before the authorities. In this view of the matter, the Detention Order is not sustainable and is liable to be set aside. Hence, the following order;

ORDER

- (i) The rule is made absolute in terms of prayer clause (B).
- (ii) The Petitioner be released forthwith, if not required in any other case.

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