

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

CRIMINAL WRIT PETITION NO. 1539 OF 2026

Joravarsing Sambhaji Rathod

... Petitioner

Versus

Commissioner Of Police And Ors.

... Respondents

Ms. Jayshree Tripathi a/w Ms. Anjali Raut for Petitioner.

Ms. M. M. Deshmukh, APP for 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 30th December 2025, passed by Respondent No. 1, the Commissioner of Police, Pimpri Chinchwad. On the same date the Committal Order was passed by Respondent No. 1, directing him to be detained at Central Prison, Chhatrapati Sambhajinagar, Maharashtra.

2) Though there are other grounds in the Petition, the learned Counsel for the Petitioner has relied only on one main

ground. According to her, the normal laws of the land were sufficient to take action against the Petitioner. So it was not correct to say that the normal laws were not sufficient to curb his bootlegging activities. This observation is not correct. This shows non-application of mind. She submitted that there was no necessity to pass the detention order.

3) Learned Counsel for the Petitioner submitted that there are two registered offences and two in-camera statements considered by Respondent No. 1. In the first registered offence, the Petitioner was not even arrested. Only a notice was served on him. In the second registered offence, he was arrested but was released on the very same day. Therefore, when it was not thought necessary to keep him in custody, Respondent No. 1 could not have resorted to invoking the powers under the Maharashtra Prevention of Dangerous Activities Act, 1981. On this ground alone, the Petitioner deserves to be released, and the detention order is required to be set aside.

4) Learned APP, on the other hand, submitted that the

detention order was passed based on two in-camera statements and two registered offences, which show his continuous indulgence in bootlegging activities. Therefore, as a last resort Respondent No. 1 passed the impugned detention order.

5) We have considered these submissions. The Petitioner was served with the grounds of detention, which run into 14 paragraphs. Paragraph 3 refers to the Petitioner's past activities, which include six registered offences. In four of those offences, only a notice was served, and he was not arrested. However, Respondent No. 1 has not relied on these past activities to pass the detention order. Paragraph 3.1 specifically refers to two preventive actions taken in the past. The first was initiated at the instance of Shirgaon Parandwadi Police Station under Section 93 of the Maharashtra Prohibition Act. On that occasion, the Petitioner had executed an interim bond for a period of one year. However, the second preventive action initiated against the Petitioner is more important. It was taken at the instance of Shirgaon Parandwadi Police Station under Section 93 of the Maharashtra Prohibition Act. On this occasion, the Petitioner executed a final bond of Rs.

1,00,000/- for one year from 1st September 2025. Thus, the said bond was in operation when the detention order was passed on 30th December 2025. The Petitioner was actually detained on 7th January 2026.

6) Respondent No. 1 has noted that he was placing his subjective satisfaction on C.R. No. 234 of 2025, registered at Shirgaon Parandwadi Police Station under Sections 65(c), 65(f) and 65(e) of the Maharashtra Prohibition Act, C.R. No. 282 of 2025, registered at Shirgaon Parandwadi Police Station under Section 65(e) of the Maharashtra Prohibition Act and two in-camera statements of witnesses 'A' and 'B'.

7) C.R. No. 234 of 2025 refers to the offence dated 5th August 2025. At about 5.50 p.m., the Petitioner was found in possession of 1,000 litres of jaggery-mixed raw chemical kept illegally in an iron drum by the roadside. Significantly, in this case, he was not even arrested. Instead, a notice under Section 35(3) of the BNSS was served on him on 29th August 2025.

8) C.R. No. 282 of 2025 refers to the offence dated 12th

September 2025, which took place at about 11.49 a.m. At that time, the Petitioner and his wife were found in possession of illicit liquor worth Rs. 3,500/- for sale. On that occasion, he was arrested on 12th September 2025 and immediately granted bail on the very same day. On these two occasions, the Petitioner was not kept behind bars even for one full day.

9) It is necessary to refer to the bond taken from him for a period of one year on 1st September 2025. Action was taken under Section 93 of the Maharashtra Prohibition Act. The said section reads as under:

“93. Demand of security for good behaviour.

(1)Whenever a Presidency Magistrate specially empowered by the State Government in this behalf in Greater Bombay and elsewhere, a District Magistrate or Sub-Divisional Magistrate receives information that any person within the local limits of his jurisdiction habitually commits or attempts to commit or abets the commission of any offence punishable under this Act such Magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate may direct.

(2)The provisions of the Code of Criminal Procedure, 1898, shall in so far as they are applicable apply to any proceedings under sub-section (1) as if the bond referred to

therein were a bond required to be executed under section 110 of the said Code.”

Now of course, the corresponding provisions under BNSS would apply.

10) The breach of the bond entails not only the cancellation of the bond but also action by way of arresting the person who executed the bond. In this case, no steps were taken for the alleged breach of the bond. Instead, a detention order was passed. Therefore, the statement in paragraph 8 states that the normal laws were not sufficient to curb the Petitioner's bootlegging activities is not correct. It shows non-application of mind and also shows that passing the detention order was not necessary, as the authorities could have resorted to the normal laws of the land, particularly when the offence in C.R. No. 282 of 2025 was allegedly committed after the execution of the bond. The bond was executed on 1st September 2025 and the said offence was committed on 12th September 2025.

11) These facts show that the detaining authority had not

applied his mind to the question why normal laws of land were not sufficient or effective to curb his activities. Resorting to passing of detention order without addressing this important issue, was not proper. In this view of the matter, the impugned detention order is not sustainable and is required to be set aside.

12) Hence the following Order :-

(i) Rule is made absolute in terms of prayer clause

(b) which reads as follows:

“b. The order of Detention bearing No. PCBDET/409/2025, Pimpri Chinchwad dated 30/12/2025 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;”

(ii) Petitioner be released forthwith, if not required in any other case.

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

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