

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

WRIT PETITION NO.1540 OF 2026

Peshnawaj Asarar Khan

.... Petitioner

versus

Commissioner of Police

Mira Bhayandar, Vasai-Virar & Ors.

.... Respondents

.....

- Ms. Jayashree Tripathi a/w Ms. Anjali Raut, Advocate for Petitioner.
- Mr. S. V. Gavand, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 01st OCTOBER, 2026**

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

1. The Petitioner has challenged the detention order dated 22/11/2025, passed by the Respondent No.1, Commissioner of Police, Mira Bhayandar, Vasai-Virar. By a separate committal order dated 22/11/2025, the Petitioner was directed to be detained in Thane Central Prison, Thane.

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2. Heard Ms. Jayashree Tripathi, learned Counsel for the Petitioner and Mr. S. V. Gavand, learned APP for the State.

3. The detention order was served along with the grounds of detention on the Petitioner. The grounds of detention run into 14 paragraphs. In paragraph 3, a list of six past offences is mentioned from the year 2021 up to 2025. They were registered at Nayanagar and Kashmirira Police Stations. There is reference to two externment proceedings taken against him in the years 2022 and 2023. On both these occasions, he was externed from Thane, Palghar, Mumbai, Navi Mumbai, and Raigad Districts for a period of 6 months each. The grounds of detention specifically mention that two offences in particular were taken into consideration and relied upon for passing the detention order. They are as follows:

(1) CR No.170 of 2025, registered at Nayanagar Police Station on 24/05/2025 under Sections 109, 115(2), 189(2), 191(2), 191(3), 118(1), 118(2), 351(2), 351(3), and 352 of the BNS. The Petitioner was arrested on 25/05/2025 and was subsequently released on bail.

(2) CR No.390 of 2025, registered at Kashmirira

Police Station under Sections 351(2), 352, 324(4), 329(4) of BNS, dated 05/09/2025. In this case, he was not arrested, but notice was issued to him on 08/09/2025.

4. Besides these two registered offences, the Respondent No.1 relied on statements of two witnesses recorded 'In-camera'. Witness 'A' gave a statement regarding an incident dated 19/10/2025, and Witness 'B' gave a statement in respect of an incident which had taken place about two months prior to the recording of his statement. Both these incidents were in the nature of issuing threats and committing the offence of extortion. However, both these witnesses did not come forward to lodge FIR.
5. The registered offences were mentioned in paragraph Nos.5.1 and 5.2, and the statements of the two witnesses were mentioned in paragraph Nos. 6.1 and 6.2.
6. The detention order was passed based on these four incidents. Though the Petitioner has raised many points in the

Petition, the learned counsel for the Petitioner restricted her arguments to ground (e) raised in the Petition, which reads as follows :-

“e. The petitioner says and submits that the detaining authority has taken C. R. No. 170 of 2025 u/sec 109, 115(2), 189(2), 191(2), 191(3), 118(1), 118(2), 352, 351(2) 352(3) dated 24.05.2025 to arrive at his subjective satisfaction and pass the detention order. The petitioner submits that in the narration of the relied on C.R. i.e. C.R. No. 170 of 2025 in the grounds of detention, the complainant is one Mr. Kaif Aftab Khan, Age 19 years who has given the complaint and registered the F.I.R. on 24.05.2025, the complainant has alleged the petitioner of attempt to murder on him and his friend by inflicting serious injuries. The petitioner submits that on a scrutiny of the documents furnished to the petitioner no statement of complainant or any other witness corroborating the said incident and any injury certificate and or medical yadi etc is given/furnished to the detenu. Statement of the complainant, witness statement, injury certificate etc., are vital documents that the detaining authority may have considered before arriving at a satisfaction that the petitioner is a dangerous person. Although chargesheet in the

said C.R is filed on 27.09.2025 incomplete set of documents is furnished to the detenu, thereby the petitioner is deprived of making any effective representation. In any given case the above mentioned documents are the most vital and important. Non furnishing vital document also amounts to non-communication of grounds of detention vitiating the first facet of Article 22(5) of the Constitution of India, as a result of non-furnishing vital document the petitioner is also deprived of making any effective representation against the order of detention, thus vitiating the second facet of Article 22(5) of the Constitution of India. Thus both the facets of Article 22(5) of Constitution of India is vitiated. The order of detention is illegal and bad in law for non-supply of vital and most important document, liable to be quashed and set aside.”

7. Learned counsel submitted that if the Respondent No.1 had issued the detention order based on CR No.170 of 2025, then, firstly, he had to consider all the papers of investigation in respect of that offence, and secondly, all the vital documents pertaining to the said offence were required to be served on the Petitioner to enable him to make an effective representation

before the Respondent No.1, the Advisory Board and the State of Maharashtra. But the Petitioner was not given the vital documents, which are mentioned in ground (e) of the Petition.

8. Learned APP, on the other hand, relied on the affidavit of the Respondent No.1. The detaining authority has dealt with ground (e) raised by the Petitioner in the memo of the Petition in paragraph Nos.11 and 12 of the affidavit-in-reply. These paragraphs are as under :

“11) With reference to para no. 5(e) of the Petition, it is submitted that the detention order came to be passed after subjective satisfaction on the basis of the material placed before me. The grounds of detention furnished to the detenu clearly disclosed the nature of allegations, the role attributed to the detenu, and the basis on which the Detaining Authority formed its subjective satisfaction.

With regards to Nayanagar PS Cr.No 170 of 2025 the FIR was registered on 24/05/2025 and detention order passed on 22/11/2025. Subsequently upon completion of the investigation, the chargesheet was filed on 15/12/2025. At the time of

passing detention order following documents have been given to detainee and his sign has been obtained as acknowledgement. a) FIR b) Remand report c) Bail application d) I.O to say on bail application e) APP to say on bail application f) Bail Order g) Release order h) Surety bond paper i) Arrest form etc. bearing page No. 89 to 123 in the proposal.

Cr. No. 390/2025 registered on 05/09/2025 at Kashimira Police Station. After completion of investigation, chargesheet was filed on 27/09/2025. In this Crime following documents have been given to detainee and his sign has been obtained as acknowledgement Chargesheet, b) F.I.R., c) Spot Panchnama, d) e Saksh Certificate, e) Statement of Witnesses, f) Notice for accused u/s 35(3) of B.N.S.S, g) Complaint application of the complainant, h) Summons to complainant, i) e-application of complainant, j) Medical papers of complainant etc. bearing page No. 125 to 187 in the proposal.

I submit that we are ready to provide medical certificate, with statements and any other documents.

I further say that in para 10 of the Detention Order, I have specifically informed the detainee that

he can move the representation to me in case he has any complaint about the documents, however no such representation was made.

I say that the non-supply of the said documents at the initial stage was neither deliberate nor intentional. I further say and submit that the aforesaid documents are only corroborative and supportive in nature and do not constitute separate or independent grounds of detention.

- 12) The subjective satisfaction of the Detaining Authority was not based solely upon any individual statement, medical certificate but upon the entirety of the material placed before it. Merely because certain documents came to be supplied subsequently during the pendency of the present proceedings, the same would not ipso facto vitiate the order of detention. I deny that there is any violation of the first facet or second facet of Article 22(5) of the Constitution of India. I deny that there is any non-communication of grounds of detention or that the petitioner was deprived of making an effective representation. Without prejudice to the aforesaid, I say and submit that if the petitioner still requires any additional copies of documents, we are ready and willing to furnish the same.

9. Learned APP therefore submitted that there is no infirmity in the detention order, and the Petitioner was supplied with all the documents. He was offered an opportunity to ask for the vital documents, which he did not avail of, and therefore, he cannot claim that those documents were not given to him, affecting his right to make an effective representation.
10. We have considered the submissions. The grounds of detention are accompanied by various documents. They are described in the index of the compilation. Part 1 of the compilation given to the Petitioner is in reference to the Marathi translation of the detention order, the committal order, and the grounds of detention.
11. Part 2 is with reference to the documents pertaining to CR No.170 of 2025 registered at Nayanagar Police Station and CR No.390 of 2025 registered with Kashimira Police Station.
12. Part 3 refers to the two 'In-Camera' statements of witness 'A' and witness 'B'.

13. Part 2 includes the documents pertaining to CR No.170 of 2025 registered at Nayanagar Police Station. Those documents are from page Nos. 45 to 79 of the compilation. We have perused those documents. Those documents are the First Information Report, which also includes the gist of the informant's statement recorded in column No.12. There are remand applications, orders passed on the remand applications, application for bail preferred by the Petitioner, the say given by the Prosecution, and finally, the order granting bail to the Petitioner. The order was passed by the learned JMFC, Mira-Bhayandar on 17/06/2025. The other documents are the bail bond. These are the only documents given to the Petitioner.

14. These documents do not include the statements of the witnesses, the eyewitnesses, the Panchas, the injury certificate, etc. It is not even clear whether the detaining authority had perused the other documents of investigation. The affidavit-in-reply does not mention that apart from the documents given to the Petitioner, whether other documents were considered or not by the detaining authority. Some of those documents were

definitely vital documents viz. the injury certificates and statements of eyewitnesses. However, the detaining authority has made no reference as to whether he had applied his mind with reference to those documents. If he had indeed applied his mind to those documents, then it was all the more necessary to have supplied those documents to the Petitioner, so that he could make an effective representation in respect of that particular offence.

15. Therefore, we find substance in the submissions of the learned counsel for the Petitioner that the important and vital documents pertaining to CR No.170 of 2025 registered at Nayanagar Police Station were essential to be supplied to the Petitioner. Non-supply of those documents has affected the Petitioner's right to make an earliest effective representation. The affidavit-in-reply mentions that non-supply of the documents at the initial stage was neither deliberate nor intentional. This cannot be an explanation for non-supply of the documents because it affects the valuable right of the Petitioner to make an effective representation. Offering to supply those

documents if the Petitioner had demanded it, cannot be an acceptable explanation. The Petitioner had to be afforded an opportunity to make effective representation at 'the earliest'. Offering to provide them subsequently affects his valuable right to make effective earliest representation.

16. It is further mentioned in the affidavit-in-reply that those documents were only corroborative and supportive in nature and do not constitute separate or independent grounds of detention. From this submission, there are indications that the detaining authority was aware as to what were those documents. Otherwise, he would not be in a position to observe that those documents were only corroborative and supportive in nature. If he had considered those documents, it was all the more necessary for him to have supplied those documents to the Petitioner.

17. Thus, we find that there is a clear violation of the Petitioner's valuable right to make an effective representation. On this ground alone, the Petition deserves to succeed.

18. Hence, the following order :

ORDER

(i) The Rule is made absolute in terms of prayer clause (b), which reads as follows -

“(b). The order of Detention bearing No.CP-MB-VV/MPDA/02/2025 Dated 22.11.2025 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) The Petitioner be released forthwith, if not required in any other case.

(iii) The Petition is disposed of.

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