

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

WRIT PETITION NO.1682 OF 2026

Ganesh Mahadev Jetithor

.... Petitioner

versus

Commissioner of Police,
Pune City & Ors.

.... Respondents

.....

- Ms. Jayashree Tripathi a/w Ms. Anjali Raut, Advocate for Petitioner.
- Ms. Madhavi H. Mhatre, 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 30/10/2025 passed by the Commissioner of Police, Pune City/Respondent No.1. The Respondent No.1 also passed the committal order dated 30/10/2025 directing that the Petitioner be detained in Buldhana Prison, Buldhana.

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2. Heard Ms. Jayashree Tripathi, learned Counsel for the Petitioner and Ms. Madhavi H. Mhatre, learned APP for the State.

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3. The Petitioner is served with the grounds of detention dated 30/10/2025.

4. Learned counsel made the following submissions :

The Respondent No.1 has based his subjective satisfaction on two 'In-Camera' statements of witnesses 'A' and 'B'. Both these statements do not show that the Petitioner was engaged in gambling activities. They may indicate that he had threatened the witnesses, but those allegations are beyond the scope of definition under Section 2(e-1b) of The Maharashtra (Prevention of Dangerous Activities) Act, 1981 (for short 'MPDA Act').

5. Ms. Tripathi submitted that the Respondent No.1 has also relied on CR No.345/2025 registered at Loni Kalbhor Police Station on 01/08/2025 u/s 12-A of the Maharashtra Prevention of Gambling Act, 1887. In that case, the Petitioner was not found at the spot. The other accused were arrested and one of

them named the Petitioner as the person who was conducting those activities. Hence, there is no material against the Petitioner. The Respondent No.1 could not have based his subjective satisfaction on the material concerning this registered offence.

6. She submitted that the preventive action taken against the Petitioner was still in operation. There was no necessity to pass the detention order. It could not be said that the normal laws of land were not effective against the Appellant. The Petitioner was not even arrested in CR No.345 of 2025 and the action taken against him u/s 110(e)(g) of Cr.PC. was still in operation when the detention order was passed.

7. The learned APP, on the other hand, submitted that the cumulative effect of the registered offence and the 'In-Camera' statements show that these activities were prejudicial to the maintenance of public order. The Petitioner was continuously involved in gambling activities, and therefore, there was no other option but to pass the detention order to curb his

activities. The detaining authority has rightly relied on the material before him to base his subjective satisfaction that the Petitioner's detention was necessary.

8. We have considered these submissions. Before proceeding further it is necessary to reproduce the relevant provisions of the MPDA Act.

9. Section 2(a)(vi) reads thus :

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

(vi) In the case of a person engaged in illegal gambling or illegal lottery when he is engaged or is making preparations for engaging in any of his activities as a person engaged in illegal gambling or illegal lottery, which affects adversely, or are likely to affect adversely, the maintenance of public order;”

10. Section 2(e-1b) reads thus,

“2(e-1b) – ‘person engaged in illegal gambling or illegal lottery’ means a person who individually or as part of a

group of persons engaged in or in preparing to engage in or associated with or abets illegal gambling or illegal lottery or engaged in selling of illegal lottery tickets, or who commits or attempts to commit or abets the commission of offences in respect of illegal gambling or illegal lottery which are punishable under the provisions of the Maharashtra Prevention of Gambling Act or the Maharashtra Lotteries (Control and Tax) and Prize Competitions (Tax) Act, or the Lotteries (Regulation) Act, 1998;”

11. Therefore, both these provisions require ingredients of illegal gambling. It is an essential requirement of both these provisions.

12. As rightly submitted by the learned counsel for the Petitioner, neither of the witnesses ‘A’ or ‘B’, refers to a particular gambling activity on the part of the Petitioner. Witness ‘A’ has stated about the incident dated 31/07/2025, at around 11.45 pm. At that time, the Petitioner and his three accomplices had stopped the witness. The Petitioner had slapped him, and had questioned him as to why he was telling the labourers not to go to the Petitioner's den for gambling. The description of this

incident shows that the Petitioner had threatened and slapped the witness, but it does not show that the Petitioner was in fact committing gambling activities.

13. The statement of witness 'B' refers to the incident dated 03/08/2025 that had taken place at 09.45 pm. It was a similar incident when the Petitioner and his accomplices had threatened witness 'B'. The Petitioner had warned him that if there was raid on his business of gambling then he would kill witness 'B'. Again, this incident was in respect of threats. At that point, the Petitioner was not seen indulging in any gambling activities.

14. As far as the registered offence CR No.345 of 2025 at Loni Kalbhor Police Station is concerned, as rightly submitted by learned counsel for the Petitioner, the Petitioner was not seen actually taking part in any gambling activity. The incident was dated 31/07/2025, and on prior information, three persons, namely Tatyarao Sasane, Prahlad Gawli and Tanaji Garad were apprehended as they were seen indulging in gambling activities. One of them named him. The Petitioner was not present at the

spot. One of them had informed the police that it was the business of the Petitioner.

15. Significantly, the police did not arrest the Petitioner in connection with the said registered offence. Instead, they served him a notice u/s 35(3)(6) of BNSS. This would mean that the police did not want to arrest him for any purposes in connection with the said offence. And in that case, the authorities could not have resorted to initiate proceedings for passing the detention order against the Petitioner.

16. Apart from these infirmities, there is one more aspect of the matter. The Petitioner had executed a bond u/s 110(e)(g) of Cr.P.C. on 09/08/2025 for a period of 2 years in the proceedings before the Special Executive Magistrate, Hadapsar Division, Pune City, in Chapter Case No.391 of 2023 dated 24/04/2023 registered at Loni Kalbhor Police Station. The said bond was still in operation and during that period, the detention order was passed. CR No.345/2025 was registered on 01/08/2025, which was before execution of the bond on

09/08/2025. Therefore, it cannot be said that a preventive action was taken earlier to the registered offence considered by the Respondent No.1.

17. From the above discussion, it is clear that no effective action under the normal law of land was taken by the authorities and no steps were taken in that regard. He was not even arrested. In this background, passing of the detention order is not justified.

18. Considering all the above aspects, we are satisfied that the detention order is liable to be set aside.

19. Hence, the following order :

ORDER

(i) The Rule is made absolute in terms of prayer clause (b), which read thus:

“b. The order of Detention bearing No. CRIME PCB/ DET/LONIKALBHOR/ JETITHOR/ 886 /2025 Dated 30.10.2025,

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.)