

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

CRIMINAL WRIT PETITION NO.1705 OF 2026

Nagesh Gopinath Shinde

.....Petitioner

Versus

State of Maharashtra and others

.....Respondents

Mr. Shailesh Kharat, Advocate a/w. Onkar Chaudhari for the
Petitioner.

Mr. S.V. Gavand, APP for the Respondent-State.

**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 20.11.2025 passed by the Respondent No.2 – Commissioner of Police, Pune City. By a separate committal order dated 20.11.2025, he was directed to be detained in Central Prison, Nagpur.

2. Heard Mr. Shailesh Kharat, the learned counsel for the Petitioner and Mr. S.V. Gavand, the learned APP for the Respondent-State.

3. The learned counsel for the Petitioner submitted that the grounds of detention served on the Petitioner contained conflicting statements in different paragraphs and, therefore, it has created confusion affecting the Petitioner's valuable right of making earliest effective representation. He submitted that in paragraph-2 there is a clear satisfaction recorded by the Detaining Authority that the Petitioner was a dangerous person and his activities were prejudicial to the maintenance of public order. Paragraph-3 refers to his past activities. In paragraph-5.1 there is a description of the last registered offence against him; and in paragraph-6 there is a reference to the two in-camera statements of two witnesses who did not wish to come forward. In paragraph-7, there is an averment that the Detaining Authority was subjectively satisfied based on the facts mentioned in paragraphs-5 and 6 that he was a dangerous person.

4. The learned counsel for the Petitioner submitted that this averment in paragraph-7 is directly contrary to the averments made in paragraph-2 and, therefore, it showed non-

application of mind on the part of the Detaining Authority and it has affected the Petitioner's right to make effective representation.

5. The learned APP, on the other hand, submitted that the Detaining Authority was clear in his averments. He has specifically mentioned that the detention order was passed based on the registered offence and two in-camera statements as can be seen in paragraphs-7 & 8 of the grounds of detention.

6. We have considered these submissions. Before proceeding further it is necessary to refer to the relevant provisions under the Maharashtra [Prevention of Dangerous Activities] Act, 1981 (for short, 'MPDA Act'). The term 'dangerous person' is defined under Section 2(b-1) of the MPDA Act which reads thus:

“2(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.”

7. In reference to the the activities of the dangerous person, Section 2(a)(iv) of the MPDA Act reads thus:

“2. Definitions : In this Act, unless the context otherwise requires, --

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

(i) xxxxx

(ii) xxxxx

(iii) xxxxx

(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.”

8. In this background of the provisions, it is necessary to see what the Detaining Authority has stated in paragraph-2. In that paragraph, the Respondent No.2 has mentioned that the Petitioner moved armed with deadly weapon and used it while committing the offences such as attempt to murder, causing grievous hurt, unlawful assembly, extortion etc.. It is further mentioned that he had become danger to the life of the people residing in the jurisdiction of the Mahalunge MIDC police

station. As such, due to his criminal activities there is terror in the minds of the people and that he had habitually committed the offences under Chapter XVI of IPC and Chapter XVII of BNS and thus he was a “dangerous person” as defined under Section 2(b-1) of the MPID Act and that his criminal activities are prejudicial to the maintenance of the public order. Paragraph-3 then mentions all his past registered offences. They were registered at Chakan police station between 2017 to 2023. They were C.R. Nos.1192/2017, 695/2018, 713/2018 and 174/2023. There is a reference to C.R. No.698/2025 of Mahalunge MIDC police station but that offence was referred to in paragraph-5 of the grounds of detention. Besides these registered offences, paragraph-3 mentions two preventive actions taken by Chakan Police Station. They were from the year 2019 and 2023 respectively.

9. In paragraph-5, the details of C.R. No.698/2025 registered at Mahalunge MIDC Police Station under Section 308(3), 308(4), 74, 352 of BNS read with Section 7 of the Criminal Law Amendment Act are mentioned. It is in respect of

the incident dated 17.9.2025 which had occurred in a hotel. The Petitioner had allegedly outraged modesty of a worker's wife. Paragraph-6 refers to the two in-camera statements of witnesses "A" and "B" in respect of the incidents dated 5.9.2025 and 12.9.2025. Both the incidents were in the nature of extortion.

10. Paragraph-7 specifically mentions thus :

"I am substantially satisfied from the above mentioned facts in paragraph-5.1, 6.1 and 6.2 that you are a dangerous person as defined under Section 2(b-1) of the said Act".

Paragraph-8 further mentions that the offences and the preventive action mentioned in paragraphs-3 & 3.1 showed that he was a habitual criminal involved in continuous criminal activities. He has further mentioned as follows :

"Accordingly I have relied upon the facts mentioned in paragraphs-5.1, 6.1 and 6.2 of the grounds of detention to arrive at my subjective satisfaction that you are a dangerous person and your criminal activities are prejudicial to the maintenance of public order".

11. Thus, it can be seen that in paragraphs-7 & 8 of the grounds of detention of Detaining Authority has restricted his subjective satisfaction to C.R. No.698/2025 of Mahalunge MIDC police station and the two in-camera statements. However, paragraph-2 clearly mentions that based on his past activities he was a dangerous person as defined in Section 2(b-1) and his criminal activities were prejudicial to the maintenance of public order. Thus, there is a clear conflict between the two averments which has created confusion and has affected the Petitioner's right to make effective representation.

12. In this view of the matter, the detention order is not sustainable and the Petition deserves to succeed.

13. Hence, the following order:

:: O R D E R ::

- i. Rule is made absolute in terms of prayer clause (b) which reads thus :

“b. The order of Detention bearing Out Ward No.PCB/DET/328/2025 dated 20.11.2025 issued u/s. 3(2) of M.P.D.A. Act, 1981, by the Respondent No.2 be quashed and set aside and on quashing the same the Petitioner be ordered to be released forthwith;”

- ii. The Petitioner be released forthwith if not required in any other case.
- iii. The Petition is disposed of accordingly.

(RANJITSINHA RAJA BHONSALE, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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