

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3065 OF 2026

Saksham Brijesh Singh @ Don,

Age: 22 years, Occ.: Nil R/a. Omkar
Rahiwashi Chawl, Beside Sant
Rohidas Temple, Ambika Nagar -2,
Wagle Estate, Thane

.. Petitioner

Versus

1. The State of Maharashtra,
Through the Additional Chief
Secretary, (Home), Mantralaya,
Mumbai

2. Ashutosh Dumbare,
Commissioner of Police, Thane

3. Senior Police Inspector, Wagle
Estate Police Station, Thane

4. The Superintendent, Yerwada
Central Prison, Pune

5. The Chief Secretary

of Advisory Board Constituted
under section 9 of the MPDA Act,
C/o. Desk Officer, Desk - 10, Home
Department, (Special) Mantralaya)
Mumbai

.. Respondents

...

Mr. Dadhichi Mhaispurkar a/w Mr. Rushikesh Kale and Mr.
Suraj Gadkari, for the Petitioner.

Ms Sangeeta D. Shinde, APP, for the Respondent-State.

...

**CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

DATED : 25th AUGUST, 2026

Judgment [Per Ashish S. Chavan, J.]:-

1. The Petitioner has challenged the order of detention dated 22.01.2026 passed by Respondent No. 2, i.e. the Police Commissioner of Thane. Along with the detention order, committal order was also passed on the same day committing the detainee to Yerwada Central Jail, Pune with direction to be detained therein.

2. Heard learned counsel, Mr. Dadhichi Mhaispurkar representing the Petitioner and the learned APP, Ms Sangeeta Shinde, representing the State.

3. Along with the detention order, the petitioner was served with the grounds of detention. The grounds of detention are important since they afford an opportunity to the detainee to make representation effectively at the earliest as per Article 22(5) of the Constitution of India. Learned counsel for the Petitioner made submissions on the basis of the various grounds taken and materials relied upon by the Detaining Authority in the grounds of detention furnished to the Petitioner. The grounds of detention run into eighteen paragraphs.

4. Paragraph 1 is in respect of the authority of Respondent No. 2 to pass the detention order in terms of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons Engaged in Black-Marketing of Essential Commodities Act, 1981, herein after referred to as **“the said Act”**.

5. Paragraph 2 sets out the observation of the Detaining Authority that the Petitioner has unleashed a reign of terror in the areas of Wagle Estate Police Station in Thane Commissionerate. Paragraph 3 sets out the category of offences viz. Hurt, extortion, attempt to commit murder, disruption of government work and other offences punishable under IPC, BNS, Arms Act, Maharashtra Police Act and Criminal Law Amendment Act, and pertinently notes that the action of detention taken against the detainee is relied on offences falling under Section 309(4), 126(2), 115(2), 352, 351(2) of BNS r/w Section 4, 25 of the Arms Act. The Detaining Authority also notes the activities of the detainee are prejudicial to the maintenance of public order peace and tranquility in the localities referred to herein above in the Thane Commissionerate.

6. Immediately, thereafter the Detaining Authority has set out ten offences which lists the antecedents of the Petitioner for offences during the years 2023-2025 as under:

- (i) C.R. No. 220 of 2023, dated 29.09.2023, under Sections 323, 324, 504, 506, 34 of IPC, registered by Wagle Estate Police Station.
- (ii) C.R. No. 270 of 2023, dated 25.11.2023, under Sections 386, 34 of IPC, registered by Wagle Estate Police Station.
- (iii) C.R. No.450 of 2024, dated 24.03.2024, under Section 142 of the Maharashtra Police Act.
- (iv) C.R. No. 458 of 2024, dated 25.03.2024, under Sections 307, 323, 504, 34 of the IPC r/w Sections 4, 25 of the Arms Act, r/w Sections 37(1), 135, 142 of the Maharashtra Police Act, r/w Sections 3, 7 of the Criminal Law Amendment Act, registered by Wagle Estate Police Station.
- (v) C.R. No. 928 of 2024, dated 31.08.2024, under Section 142 of Maharashtra Police Act, registered by Wagle Estate Police Station.
- (vi) C.R. No. 969 of 2024, dated 17/09/2024, under Sections 142 of the Maharashtra Police Act, registered by Wagle Estate Police Station.
- (vii) C.R. No. 1280 of 2024, dated 29.12.2024, under Section 142 of the Maharashtra Police Act, registered by Wagle Estate Police Station.
- (viii) C.R. No.76 of 2025, dated 24.01.2025, under Section 132 of the BNS r/w Section 142 of the Maharashtra Police Act, registered by Wagle Estate Police Station.

(ix) C.R. No. 146 of 2025, dated 23.02.2025, under Section 132 of the BNS r/w Section 142 of the Maharashtra Police Act, registered by Wagle Estate Police Station.

(x) C.R. No. 246 of 2025, dated 14.04.2025, under Section 132 of the BNS r/w Section 142 of the Maharashtra Police Act, registered by Wagle Estate Police Station.

7. The Detaining Authority has also enumerated the preventive action taken against the Petitioner as under:

(i) Chapter Case No. 118 of 2023 dated 16.10.2023, under Section 107 of Cr.P.C. This proposal for chapter proceedings was cancelled on 20.12.2023 in order to take more effective action against the Petitioner.

(2) Proposal No. 11 of 2023 dated 22.12.2023 under Section 56(1)(a)(b) of the Maharashtra Police Act by which the Petitioner was externed by DCP, Zone-V, Wagle Estate from Mumbai City, Mumbai Suburban, Navi Mumbai and Thane for 18 months.

8. Paragraphs 4 and 5 set out one more offence against the Petitioner, namely, CR. No. 655 of 2025 dated 25.10.2025 invoking offences punishable under Sections 309(4), 126(2), 115(2), 352, 351(2) of BNS r/w 4, 25 of the Arms Act and two in-camera statements recorded on 24.12.2025 regarding incident dated December 2025 and

25.12.2025 regarding incident dated December 2025. The gist of the allegations spelt out in CR No. 655 of 2025 are also set out along with the narration of the in-camera statements.

9. Paragraph 6 records the finding that the Petitioner is a “Dangerous Person” within the meaning of Section 2(b-1) of the said Act. It also records that the subjective satisfaction of the Detaining Authority that normal law of the land is insufficient and ineffective to deter the Petitioner from indulging in criminal activities prejudicial to the maintenance of public order and that the criminal activities of the Petitioner are disturbing the normal tempo of life of citizens of the said localities and areas.

10. Paragraph 7 records the finding of the Detaining Authority that preventive action taken against the Petitioner has not prevented him from indulging in similar activities and that criminal activities of the Petitioner are likely to disturb public order in Wagle Estate Police Station area in Thane City.

11. Paragraph 8 records the subjective satisfaction of Detaining Authority to detain the Petitioner under the provisions of the said Act with a view to prevent him from acting in any manner prejudicial to the maintenance of public order.

12. Paragraphs 9 and 10 essentially reiterate the

subjective satisfaction of the Detaining Authority recorded in Paragraph No. 8.

13. Paragraph 11 sets out the communication of the detention order to the detainee as required under Section 8(1) of the said Act r/w Article 22(5) of the Constitution of India. It also records the satisfaction that the facts given in the statement and apprehension entertained by the witnesses A and B are true and reasonable.

14. Paragraph 12 reiterates the subjective satisfaction of the Detaining Authority on the basis of the contents of the paragraphs Nos. 6 to 11 that the conduct of the Petitioner is prejudicial to the maintenance of the public order.

15. Paragraph 13 records that all the relevant documents which were considered by the Detaining Authority at the time of passing the detention order are enclosed with the grounds of detention and also informs the Petitioner of his right to make a representation to the Detaining Authority through the Superintendent of jail where he has been detained, in case there is any fault in the documents supplied to him.

16. By way of paragraph 14, the Detaining Authority has informed the Petitioner that pending approval of the detention order under Section 3(3) of the said Act, the Petitioner would have a right to make representation to the Detaining Authority.

17. Paragraphs 15 to 18 set out the various rights of the Petitioner to make representation to the State Government and Advisory Board against the detention order and the timeline prescribed and the manner set out for the same.

18. The learned counsel for the Petitioner invited our attention to ground 11(b) and 11(c) ventilated by him to quash and set aside the order of detention. For the sake of convenience, they are reproduced as under:

“b) That in para 3 of the grounds of detention the Detaining Authority has made reference to the earlier criminal cases registered against Petitioner and preventive action taken in past. Thereafter the Detaining Authority has stated that contents of para 2 & 3 are preamble introduction to the grounds of detention and the facts mentioned in para 2 & 3 are not relied upon by the Detaining Authority while forming his subjective satisfaction to issue the present order of detention. However, from perusal of the subjective satisfaction as recorded by the Detaining Authority in para 6 and 7 of the grounds of detention, it is amply clear that the Detaining Authority has referred to and relied upon the preventive action taken against Petitioner in past, yet the detenue was not supplied with the copies of preventive action taken against him in past. Therefore, this discloses non application of mind on the part of detaining authority, thereby, vitiated the subjective satisfaction arrived at while issuing the detention order.

c) The Detaining Authority ought to have supplied Petitioner all the material referred and relied upon by the Detaining Authority, while arriving at its

subjective satisfaction about preventive action taken against Petitioner in past, which has resulted in depriving Petitioner's right to make effective representation at an earliest opportunity, on this count alone the order of detention is liable to be quashed and set aside."

19. In response thereto, learned APP has invited our attention to affidavit in response filed on behalf of Respondent No. 2, more particularly, paragraph 9 therein, which deals with ground 11(b) and 11(c), which are reproduced as under:

"9. With reference to ground 11 (b) of the Petition, it is denied that from perusal of the subjective satisfaction as recorded by the Detaining Authority in para 6 and 7 of the grounds of detention, it is amply clear that the Detaining Authority has referred to and relied upon the preventive action taken against Petitioner in past, yet the detenu was not supplied with the copies of preventive action taken against him in past. It is further denied that this discloses non application of mind on the part of detaining authority, thereby, vitiated the subjective satisfaction arrived at while issuing the detention order.

It is submitted that preamble of the ground of the detention shows previous criminal activities of the detenu. The record shows that the detenu is violent type of criminal and committed various offences like Hurt, Extortion, Attempt to commit murder, Disruption of government work, abusing, threatening, robbery etc. for the sake of easy money and has become perpetual danger to the life of people residing and carrying out their daily vocation in the locality.

The cases registered against detenu at age of 22 years i.e. 10 offences within 2 years and initiation

of the prevention action shows only history of the detenu. This shows that the detenu has continued to commit offences even after release on bail in earlier offence and has no respect towards law as there is no improvement in behaviour of the detenu.

In the para No. 3 of the grounds of the detention, it is clearly mentioned that the para No. 2 and 3 are the preamble introduction to the grounds of the detention and not relied upon by the Detaining Authority for forming the subjective satisfaction to issue the order of the Detention against the detenu. Therefore, it is not necessary to supply the copies of preventive action taken against the detenu in past and thereby it does not disclosed no application of mind on part of Detaining Authority and does not vitiate conclusion arrived at while issuing the Detention Order,

In the para No. 4 of the grounds of the detention, the details of relied upon case i.e. C.R. No. 655 of 2025 registered at Wagle Estate Police Station and the 2 in-camera statements of witness "A" and "B are given. The in-camera statements were personally verified by the Divisional Asst. Commissioner of Police, Wagle Estate Division, Thane and thereafter I have recorded subjective satisfaction that the detenu's conduct is prejudicial to the maintenance of public order. I say that, on the basis of these material I was subjectively satisfied that, the activities of the Detenu falls under Section 2(b-1) of the MPDA Act, wherein the Detenu falls within the definition as "Dangerous Person" under the said Act. I say that, considering the activities of the Detenu and since I was subjectively satisfied, I have issued the Detention Order on 22/01/2026 against the Detenu as a preventive measure. I have recorded my subjective satisfactions at Para No. 6 to 11 of the grounds of detention is justified.

It is submitted that, twice Preventive actions such as 107 of the Cr.P.C. and 56(1)(a)(b) of the

Maharashtra Police Act were initiated against the Detenu under ordinary law, is mentioned in the preamble of the grounds of detention at para No. 3 as past history. The record shows that the Chapter proceedings under Section 107 of Cr. P.C. was initiated against the detenu; however during the proceedings the detenu committed one more offence which was registered as C.R. No. 270 of 2023 at Wagle Estate, Police Station for the offence under Section 386, 34 of IPC. Again the detenu was externed from Mumbai City, Mumbai Suburb, Navi Mumbai and Thane by order dated 05.03.2024 for period of 18 months i.e. from 14.03.2024 to 13.09.2025. The chart annexed to the preamble of grounds of detention shows that during the period of externment, the detenu has entered the jurisdiction of Wagle Estate, Police Station, District- Thane and committed various offences.

It is submitted that, the Order of Detention was issued on the basis of incidents mentioned in Para No. 4(a), 5(a) and 5(b) of grounds of detention, as I was satisfied that, the public order in the locality mentioned in above relied upon offence and in the statements of witnesses 'A' and 'B' was disturbed badly. I say that the statement of said in-camera witnesses shows that the detenu extorted money from witnesses and the action of the detenu also adversely affected the general public at the spot. I was also satisfied that, the criminal activities of the Detenu could not be curbed under the normal law of the land as the preventive action taken against the Detenu found to be inadequate and ineffective. Hence, after considering the incidents from various angles and after looking to the involvement of the Detenu. I as the Detaining Authority was subjectively satisfied that, it was absolutely necessary to detain him under the M.P.D.A. Act. It is submitted that, from the past prejudicial activities of a person a reasonable forecast about his future activities can be reasonably made. I say that

considering the fact that, the people in the area were afraid to come forward to give their complaints or to help other victims out of the fear of the Detenu and having regards to the facts and circumstances of the case it is clear that, the people were living under the constant shadow of fear whereby the even tempo of the life of the people in the said area was affected.

I was subjectively satisfied that, as he was a free person he was likely to revert to similar criminal activities which would be prejudicial to the maintenance of Public Order in future and hence it was necessary to detain and to prevent him from acting in a similar manner in future. It is stated that, since the action taken against the Detenu under the normal law of the land is found to be inadequate and ineffective to prevent the criminal activities of the Detenu i.e. the criminal activities which are prejudicial to the maintenance of Public Order, hence, I issued the Order of Detention against the Detenu. It is stated that, in the past punitive action was taken against the Detenu, however, the said action was not sufficient to curb the criminal activities of the Detenu, hence, to prevent the Detenu from acting in similar prejudicial activities in future, it was necessary to prevent by detaining him.

Hence it is denied that, I as the Detaining Authority I have issued the order of detention against the Detenu mechanically in a n a very casual and cavalier manner and it is not true that, there is non-application of mind on my part of being the Detaining Authority. I further deny that, The order of detention is not illegal and bad in law and not liable to be revoked and set aside.

Thus there is no substance in the say of the Detenu in this para.

10. With reference to ground 11 (c) of the Petition, it is denied that the Detaining Authority while

arriving at its subjective satisfaction about preventive action taken against Petitioner in past, which has resulted in depriving Petitioner's right to make effective representation at an earliest opportunity, on this count alone the order of detention is liable to be quashed and set aside. It is also denied that the Detaining Authority did not provide the Petitioner original index in English which was placed and relied upon by the Detaining Authority and thereby detenu was deprived of right to make representation at an earliest opportunity.

It is submitted that the Detaining Authority has supplied the order of detention along with the compilation of document to the detenu on 23/01/2026 while executing of the detention order. The signature of the detenu taken on each page provided to him. The said order of the detention was also explained to the detenu in the language known to him. The statement of the detenu shows that he knows Marathi language and he studied upto 10th Standard from English Medium School. The Detaining Authority while passing order of detention has relied upon C.R. No. 655/2025 u/s 309(4), 126(2), 115(2), 352, 351(2) of the B.N.S. Act, r/w. section 4, 25 of the Arms Act on 25/10/2025 at Wagle Estate Police Station and 2 in-camera statements of witnesses "A" and "B" is personally verified by Divisional Asst. Commissioner of Police, Wagle Estate Division, Thane. The Detaining Authority has merely referred the past offences and preventive action and not relied upon the past offences and the Preventive action taken against the detenu in the past. I say that in para 13 to 18 of the grounds of detention the detenu was informed all his right more particularly the detenu was told in para 13 that upon communication made with me all required documents shall be furnished to him, however, no such request was made. The detenu was also informed that he has right to make the representation to the State Government against the

Detention order and that he shall be afforded the earliest opportunity to make such Representation. The detenu has submitted the Representation dated 11/04/2026 to the State Government. Therefore, it is incorrect to state that the detenu was deprived of right to make effective Representation at an earliest opportunity and thereby the order of detention is liable to be quashed and set aside."

20. In the context of the specific challenge to the detention order, at the outset, it is settled position of law that when some documents are referred to or relied on the grounds of detention, the copies thereof necessarily have to be furnished to the detenu. Failure to furnish such copies which are relied upon by the Detaining Authority and have formed the basis of order of detention would deprive the detenu of an opportunity to make an effective representation to the Detaining Authority and this infirmity would certainly amount to violation of the fundamental right guaranteed under Article 22(5) of the Constitution. The copies of all documents which constituted the grounds of detention and the subjective satisfaction of the Detaining Authority have to be supplied to the detenu and non-supply of the same would also amount to depriving the detenu of his personal liberty without following the due process of law. The fallout of such non-supply of '*relied upon documents*' would necessarily vitiate the detention itself. This position of law has been distilled and settled by the Hon'ble Supreme Court in a catena of judgments, the latest being the judgment in the matter of **Jaseela Shaji**

Vs. Union of India & Ors¹ wherein it is observed thus:

“36... it has been held that when a detention order is passed all the material relied upon by the detaining authority in making such a order must be supplied to the detainee to enable him to make an effective representation. This court held that this is required in order to comply with the mandate of Article 22(5) of the Constitution, irrespective of whether the detainee had knowledge of such material or not.

37. It is thus a settled position that though it may not be necessary to furnish copies of each and every document to which a casual or passing reference has been made, it is imperative that every such document which has been relied upon by the detaining authority and which affects the right of the detainee to make an effective representation under Article 22(5) of the Constitution has to be supplied to the detainee.”

21. In the light of the aforesaid position of law, the question that arises for consideration before us is whether the Detaining Authority has supplied the documents and relevant materials of the cases which are relied upon by it to arrive at the subjective satisfaction of detaining the Petitioner under the provisions of the said Act.

¹ (2024) 9 SCC 53

22. In this context, it would be germane to revisit paragraph 3 of the grounds of detention, penultimate paragraph of which is reproduced for the sake of convenience as under:

*“The paragraph Nos. 2 and 3 are the preamble introduction to the grounds of detention and the said facts mentioned in paragraph No. 2 and 3 are **not only relied upon** by me while forming my subjective satisfaction to issue the present order of detention against you.”*

23. A plain reading of paragraph 3 of the grounds of detention as set out herein above clearly indicate that the Detaining Authority has relied upon the prior antecedents of cases registered against the Petitioner from 2023 to 2025 and the preventive action taken against the Petitioner. The reply of the Detaining Authority makes it further evident that since the paragraph Nos. 2 and 3 mention that they are preamble introduction to the grounds of detention, hence the Detaining Authority did not feel it necessary to supply the copies of the documents pertaining to the cases reflected in paragraph 3 including the preventive action against the Petitioner. The use of the words **“not only relied upon”** clearly mean that paragraph Nos. 2 and 3 are relied upon by the Detaining Authority to form the subjective satisfaction to issue the order of detention. In other words, the antecedents of the Petitioner as reflected in paragraph 3 have been relied upon and considered by the Detaining Authority. As seen

from the reply, the Detaining Authority has admitted that no documents pertaining to the aforesaid antecedents have been supplied/furnished to the Petitioner.

24. In the light of the aforesaid discussion it is evident that the Detaining Authority has failed to supply documents which have been relied upon by him to issue the order of preventive detention against the Petitioner and this infirmity has deprived the Petitioner of an opportunity to make effective representation before the Detaining Authority. Consequently, it amounts to a violation of fundamental right guaranteed under Article 22(5) of the Constitution of India.

In these circumstances, the order of detention passed by Respondent No. 2 dated 22.01.2026 bearing No. TC/PD/DO/MPDA/02/2026 is quashed and set aside and the Petitioner be released forthwith, if not required in any other case.

Rule is made absolute in the aforesaid terms.

(ASHISH S. CHAVAN, J.)

(BHARATI DANGRE, J.)