

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

CRIMINAL WRIT PETITION NO. 3869 OF 2026

Usha Santosh Sakat

..Petitioner

Versus

The Additional Chief Secretary (Home) & Ors.

..Respondents

Mr. Harshvardhan Suryavanshi for Petitioner.

Smt. M. M. Deshmukh, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.**

DATE : 3 SEPTEMBER 2026

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

1. Rule. Rule is made returnable forthwith with consent of the parties.

2. The Petitioner has challenged the Detention Order dated 30.06.2026 passed by the Commissioner of Police, Pune City under the provisions of the Maharashtra (Prevention of Dangerous Activities) Act, 1981 (for short 'MPDA Act').

3. Heard Mr. Harshvardhan Suryavanshi, learned counsel for the Petitioner and Smt. M. M. Deshmukh, learned APP for the State.

4. Along with the Detention Order, Committal order was passed on 30.06.2026 directing the petitioner to be detained in Kolhapur Central Prison. The Petitioner was held to be a 'Bootlegger' U/s.2(b) of the MPDA Act as per the satisfaction of the Respondent No.2.

5. Learned counsel for the Petitioner submitted that the Petitioner is pregnant of four months and there is no further necessity of her detention. She won't be able to carry out her normal activities, much less commit the offences as is considered by the Authorities. He submitted that, on merits, the subjective satisfaction is not proper. The Detention Order was not necessary. The observation of the Detaining Authority that the normal laws of land are not sufficient to curb her activities, is not correct. The police have never taken any steps to arrest her in respect of her activities and, therefore, it would be wrong to say that normal laws of land are insufficient.

6. Learned APP, on the other hand, submitted that the State Government has restricted the period of detention to nine months

from 30.06.2026. She submitted that the Petitioner shall be given all the care in respect of her pregnancy. She will be given all the medical facilities and medicines as per Rules. She further submitted that the Petitioner is repeatedly committing these offences and, therefore, there was no option but to detain her under the provisions of the MPDA Act.

7. We have considered these submissions. The paragraph-3.1 refers to eleven offences registered against the Petitioner from the year 2023 to 2025. They were committed between the period from 28.07.2023 to 18.02.2025. She was arrested only on one occasion i.e. on 30.10.2023 in connection with C.R.No.362 of 2023. All these offences are registered at Sinhgad road police station for commission of the offence punishable U/s.65(e) of the Maharashtra Prohibition Act. On all the ten other occasions, the Petitioner was served with a notice; either U/s.41(a)(1) of the Cr.P.C. or U/s.35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS 2023'). On none of these occasions the Petitioner was ever arrested. Instead of that, the Respondent No.2 has taken a recourse to invoke the provisions of the MPDA Act to

detain her.

8. The paragraph-3.2 refers to three preventive actions taken against the Petitioner. The first action was U/s.93 of the Maharashtra Prohibition Act initiated at the instance of Sinhgad Road police station vide Chapter Case No.1 of 2024 dated 19.05.2024. Pursuant to those proceedings, the Petitioner had executed a bond of Rs.50,000/- on 05.06.2024 for good behaviour for one year. But during that period, she had committed an offence and, therefore, to initiate more effective action, the case was withdrawn on 03.10.2024. Thereafter, the next preventive action U/s.56(1)(bb) of the Maharashtra Police Act was initiated at the instance of Sinhgad Road police station and the Petitioner was externed from the area of Pune Police Commissionerate for a period of six months from 04.10.2024. After completion of that period, another preventive action was taken against her at the instance of Sinhgad Road police station vide Chapter Case No.47 of 2025. It was dated 15.04.2025. The Petitioner had executed a bond of Rs.50000/- for good behaviour for two years on 31.05.2025. The period of that bond was still in operation. In the

meantime, she committed the offence registered vide C.R.No.48 of 2026 at Sinhgad Road police station. Therefore, to initiate more effective action, the case was withdrawn on 25.06.2026 U/s.137 of BNSS 2023 and the Detention Order was passed on 30.06.2026.

9. The averments and the grounds of Detention Order from paragraph-5 made reference to C.R.No.48 of 2026 registered at Sinhgad Road police station U/s.65(e) of the Maharashtra Prohibition Act. It was registered on 05.02.2026. She was issued Notice U/s.35(3) of the BNSS 2023. She was not arrested. The offence pertains to the incident dated 05.02.2026. At about 2:30p.m., on a prior information, the Petitioner was apprehended carrying plastic pouches containing illicit liquor. The samples were sent for the chemical analysis. The samples contained 10%, 8% and 10% v/v ethyl alcohol in water.

10. Confidential enquiry was conducted and two 'in-camera' statements were recorded. Those statements are of Witness 'A' and Witness 'B'. The first Witness 'A' has given an information about the incident dated 01.05.2026. At around 2:30p.m. this witness was

returning home and was walking in front of the Petitioner's liquor den. There was a small fight between this witness and a person under the influence of liquor. The Petitioner came out and threatened this witness. The Petitioner slapped the Witness 'A'.

11. The Witness 'B' informed about the incident dated 15.05.2026 at about 7:00p.m. The Petitioner and her accomplice collided with this witness. The Petitioner was on a two wheeler. The Petitioner then kicked and punched the witness. She took out Rs.2000/- forcibly from this witness.

Thus, based on one registered offence and these two 'in-camera' statements, the Detention Order was passed.

12. The Respondent No.2 in paragraph-4 specifically mentioned that, he had considered the offence mentioned in paragraph-5.1 and the confidential statements mentioned in paragraph-6.1 and 6.2. Those are the two 'in-camera' statements and the registered offence based on which the Detention Order was passed. These three instances were the basis on which the Detaining Authority has reached subjective satisfaction.

13. As far as the 'in-camera' statements of the Witnesses 'A' and 'B' are concerned, they were in respect of the activities which would attract the definition of 'dangerous person' and not the definition of 'bootlegger' as defined U/s.2(b) of the said Act; which reads as under:

"2(b) "bootlegger" means a person, who distills, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicants in contravention of any provisions of the Bombay Prohibition Act, 1949 and the rules and orders made thereunder, or of any other law for the time being in force or who knowingly expends or applies any money or supplies any animal, vehicle, vessel or other conveyance or any receptacles or any other materials whatsoever in furtherance or support of the doing any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such thing;"

The definition of 'dangerous person' as defined U/s.2(b-1) of the said Act; reads as under:

"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."

14. Therefore, reaching subjective satisfaction that she was a 'bootlegger' based on these two instances referred in the 'in-camera' statements is not proper and shows non application of mind.

15. Learned APP submitted that, in such situation, Section 5A of the MPDA Act will be applicable and the Detention Order can be based on recording subjective satisfaction on the registered offence. However, in that case, the Petitioner was not even arrested. Only a notice U/s.35(3) of the BNSS 2023 was served on her. There are no allegations that, she had committed any breach of that notice. In that case, the police had chosen not to arrest her. We have taken this aspect into consideration in deciding this petition.

16. Apart from this, we find that the Detaining Authority has referred to the preventive actions taken against the Petitioner in the past. The last preventive action was the Chapter Case No.47 of 2025. It was U/s.129(g) of the BNSS 2023. The Petitioner had executed a bond of Rs.50000/- for good behaviour for two years.

This bond was executed on 31.05.2025. Therefore, the period of bond was up to 30.05.2027. During that period, according to the police, she committed the offence vide C.R.No.48 of 2026 registered at Sinhgad police station. It is mentioned in the order that to initiate more effective action, the case was withdrawn on 25.06.2026 U/s.137 of the BNSS 2023. Within four days thereof, the impugned Detention Order was passed on 30.06.2026. The Respondent No.2 has observed in paragraph-9 that, normal laws of land were not sufficient to curb her bootlegging activities and, therefore, it was necessary to detain her under the MPDA Act. This observation is incorrect because the normal laws of land empowers the police officers to cancel the bond executed by her U/s.129(g) of the BNSS 2023 and take her into custody immediately. In this context, Section 141(1)(b) of the BNSS 2023 is important; which reads thus:

“141(1)(b)- if any person after having executed a bond or bail bond for keeping the peace in pursuance of an order of a Magistrate under section 136, is proved, to the satisfaction of such Magistrate or his successor-in-office, to have committed breach of the bond or bail bond, such Magistrate or successor-in-office may, after recording the grounds of such proof, order that the person be arrested and detained in

prison until the expiry of the period of the bond or bail bond and such order shall be without prejudice to any other punishment or forfeiture to which the said person may be liable in accordance with law.”

17. The police did not refer to this power. They had not arrested the Petitioner in connection with C.R.No.48 of 2026 registered at Sinhgad road police station. Therefore, it cannot be said the normal laws of land were insufficient to curb her activities. The subjective satisfaction reached in that behalf is not correct. Therefore, on this ground alone, the impugned Detention Order deserves to be set aside and the petition is required to be allowed.

18. Hence, the following order:

ORDER

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