

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

WRIT PETITION NO.6233 OF 2025

Deepak Rohidas Lohkare

.... Petitioner

versus

Commissioner of Police, Pune & Ors

.... Respondents

.....

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

**CORAM : SARANG V. KOTWAL &
ASHISH S. CHAVAN, JJ.**

DATE : 06st AUGUST, 2026

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

1. The Petitioner has challenged the 'Detention Order' dated 01/09/2025 passed by Respondent No.1, Commissioner of Police, Pune, under Section 3 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 (for short 'MPDA Act').

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2. The Respondent No.1, by a separate committal order,

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directed that the Petitioner be detained at Kolhapur Central Prison, Kolhapur.

3. Heard Ms. Jayshree Tripathi, learned Counsel for the Petitioner and Mr. S. V. Gavand, learned APP for the State.
4. The Petitioner was served with the grounds of detention along with the 'Detention Order'. The grounds of detention mention that the Respondent No.1 had considered the offence mentioned in Paragraph 5.1 and the 'In-Camera' statements mentioned in Paragraphs 6.1 and 6.2 while issuing the 'Detention Order'.
5. The main submission of the learned counsel for the Petitioner was that there was non-application of mind on the part of Respondent No.1, because the registered offence, i.e., C.R. No.528 of 2025 under Section 65(e) of the Maharashtra Prohibition Act, registered at Kondhwa Police Station, does not make out the said offence against the present Petitioner, even after taking into consideration the entire material filed with the

charge-sheet. She further submitted that the two 'In-Camera' statements refer to two incidents, but neither of these incidents or the activities mentioned therein fall within the definition of a 'Bootlegger' as defined under the MPDA Act.

6. Mr. Gavand, learned APP, submitted that the Petitioner was continuously indulging in these activities and, therefore, the 'Detention Order' was rightly passed by Respondent No.1.

7. The Respondent No.1 has recorded his subjective satisfaction with reference to Paragraphs 5.1, 6.1, and 6.2. In Paragraph 8, he has stated that, from those facts, he was subjectively satisfied that the Petitioner was a 'Bootlegger' as defined under Section 2(b) of the said Act. These activities were causing and calculated to cause widespread danger to the life and health of the people within the jurisdiction of Kondhwa Police Station, Pune.

8. In Paragraph 9, he has recorded the satisfaction that the Petitioner would again revert to similar activities which were

prejudicial to the maintenance of public order, and that the normal laws were not sufficient to curb his bootlegging activities. Therefore, it was necessary to prevent him from acting in such a prejudicial manner in future.

9. The description of C.R. No.528 of 2025 registered at Kondhwa Police Station is given in Paragraph 5. On 07/07/2025, on prior information, the police team, along with the Panchas, went to the spot mentioned in the FIR. They found one person selling balloons of illicit country-made liquor in an open field in a tin shed near Shivneri Nagar, Kondhwa Khurd, Pune, and collecting money from the customers. The police staff and the Panch witnesses raided the place at 8:45 p.m. The seller of the illicit country-made liquor was taken into custody. His name was Deepak Koram. He informed the police that Madhukar Lohkare and the present Petitioner were the owners of the said illicit country-made liquor business. Deepak Koram was found in possession of illicit country-made liquor and cash amounting to Rs.2,340/-. On that basis, the FIR was registered.

10. During the course of the investigation, the police

served a notice under Section 35(3)(1) of the BNSS on the Petitioner on 09/07/2025. The charge-sheet contains the chemical analysis report stating that the sample contained 41% v/v ethyl alcohol in water. The Professor and Head of the Department of Pharmacy, Sassoon Hospital, submitted a report stating that the consumption of ethyl alcohol was harmful to the human body. The charge-sheet was submitted on 25/07/2025. The documents in the charge-sheet were supplied to the Petitioner along with the grounds of detention. As far as this offence is concerned, the charge-sheet contains the Panchnama and the statements of the police officers who had taken part in the raid. All these statements are similar and refer to the fact that Deepak Koram was caught selling liquor. From these documents, it is quite clear that the Petitioner was not present at the spot. Section 65(e) of the Maharashtra Prohibition Act was mentioned in the charge-sheet.

11. Section 65(e) provides that whoever, in contravention of the provisions of the Maharashtra Prohibition Act or of any rule, regulation or order made or any licence, pass, permit, or

authorization granted thereunder; sells, buys, possesses, uses, keeps, or has in possession any intoxicant other than opium or hemp shall, on conviction, be punished for each such offence with imprisonment for a term which shall not be less than 2 years but which may extend to 5 years, or with a fine which shall not be less than Rs.25,000/- but which may extend to Rs.50,000/-, or with both.

12. In the present case, the documents show that the Petitioner was not found in possession of the illicit liquor. He was not even present at the spot. He is shown as an accused only on the basis of the statement given by the co-accused Deepak Koram. From the perusal of the charge-sheet, the ingredients of Section 65(e) of the Maharashtra Prohibition Act are not made out against the Petitioner. There was no material to show that the Petitioner owned that business or abetted the crime in any manner. The Detaining Authority has not taken this aspect into consideration.

13. As far as the two 'In-Camera' statements are concerned,

they are described in Paragraphs 6.1 and 6.2. In Paragraph 6.1, the incident is described by Witness 'A'. He has stated that on 15/07/2025, in the morning, he was repairing his car. The Petitioner and his two accomplices came near him with an iron pipe and wooden sticks. They threatened Witness 'A' and told him that if the Petitioner found him shooting a video regarding his business, or if it was found that Witness 'A' was giving information to the police, the Petitioner would finish him. The Petitioner also threatened the people gathered there.

14. Witness 'B', in his statement mentioned in Paragraph 6.2, stated about the incident dated 19/07/2025. At that time, Witness 'B' saw the Petitioner and his two associates beating a person. The Petitioner was saying that he regularly beat people who gave information about his business to the police. The Petitioner threatened the people who were watching the incident. They ran away out of fear. Even Witness 'B' ran away from the spot.

15. These are the nature of the incidents mentioned by

Witnesses 'A' and 'B'. Those instances may attract the definition of a 'Dangerous Person' under Section 2(b-1) of the MPDA Act, but the definition of a 'Bootlegger' is a separate definition given under the said Act, which reads as follows:

“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;”

16. Thus, causing threats or giving threats to witnesses does not attract the definition of a 'Bootlegger', though it may fall within the definition of a 'Dangerous Person' in a given case. In the present case, neither of these three activities referred to by the Detaining Authority attracts the definition of a bootlegger. Therefore, the detention order could not have been based on these three instances. As a result, the petition succeeds.

17. Hence, the following order :

ORDER

- (i) The Rule is made absolute in terms of Prayer Clause (b), which reads thus :

“The order of Detention bearing No.CRIME PCB/DET/KONDHWA/LOHAKARE/724/2025 dated 01.09.2025 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.

(ASHISH S. CHAVAN, J.)

(SARANG V. KOTWAL, J.)