

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

CRIMINAL WRIT PETITION NO. 1099 OF 2016

Mohammed Asif @ Mental Abdul]
Sattar Shaikh @ Mohd. Asif @ Mental]
Abdul Sattar Khan]
Age - 32 Years, Residing at Plot No.]
13/K/7, Road No. 3, Shivaji Nagar,]
Govandi, Mumbai - 400 043.].. Petitioner

Vs.

1. The Commissioner of Police,]
Mumbai.]
]]
2. The State of Maharashtra]
(Through Addl. Chief Secretary]
to Government of Maharashtra]
Home Department, Mantralaya]
Mumbai]
]]
3. The Superintendent]
Nashik Road Central Prison,]
Nashik.].. Respondents

....
Mr. Udaynath Tripathi Advocate for Petitioner
Mrs. M.H. Mhatre, APP for the State
....

**CORAM : SMT.V.K.TAHILRAMANI AND
MRS. MRIDULA BHATKAR, JJ.**

RESERVED ON : JUNE 24, 2016

PRONOUNCED ON : JULY 12, 2016

JUDGMENT [PER SMT. V.K.TAHILRAMANI, J.] :

1 The petitioner / detenu - Mohammed Asif @ Mental Abdul Sattar Shaikh @ Mohd. Asif @ Mental Abdul Sattar Khan has preferred this petition questioning the preventive detention order passed against him on 15.10.2015 by respondent no.1 i.e. Commissioner of Police, Mumbai. The said detention order has been passed in exercise of powers under Section 3(1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons and Video Pirates Act, 1981 (No. LV of 1981) (Amendment-1996 and 2009) (hereinafter referred to as the "MPDA Act"). The said detention order is based on two C.Rs. i.e. C.R. No. 152 of 2015 of Shivaji Nagar Police Station, C.R. No. 373 of 2015 of Shivaji Nagar Police Station and two incamera statements. C.R. No. 152/2015 is under Sections 392, 384, 323 and 506 II of IPC r/w Section 37(1)(a) and 135 of Maharashtra Police Act. In the said case, the detenu is on bail.

C.R. No. 373 of 2015 is under Sections 394, 323, 504 and 506 II of IPC. The detention order was passed whilst the detenu was already lodged in Jail in connection with C.R.No. 373 of 2015. After passing of the detention order, the said detention order along with grounds of detention was served to the detenu in Jail.

2 The petitioner has raised only one ground i.e. ground (a) in the petition. In the said ground (a), it is stated as under:

"(a) The petitioner says and submits that there is a reference to C.R. No. 373 of 2015 under Section 394, 323, 504, 506(2) of IPC in the grounds of detention. The Bail application preferred by the petitioner in this case was rejected on 25.8.2015 by the Ld. Metropolitan Magistrate's 57th Court, Kurla. The petitioner submits that thereafter, he has not preferred any Bail Application in any other Courts in the said case. The order of detention came to be passed on 15.10.2015, it is therefore, clear that on the date of detention, the petitioner was in judicial custody without

availing bail in the said case. There was no material before the detaining authority and moreover, the imminent possibility and / or real possibility of release on bail is not disclosed with reliable material by the detaining authority in the grounds of detention. This is in clear violation of the condition laid down by the Hon'ble Supreme Court. This shows total non-application of mind of the detaining authority. There is no necessity to pass order of detention against a person who is already in custody. The order of detention is illegal and bad in law, liable to be quashed and set aside."

3. The sole contention raised before us, is that, the detenu was already in jail as his bail application in C.R. No. 375/2015 was rejected on 25.8.2015 by the Learned Magistrate. Thereafter, the detenu had not preferred any application for bail before any Court, hence, there was no material before the detaining authority that the detenu would be released on bail and moreover, the imminent possibility and / or real possibility of release on bail is not disclosed with reliable material by the detaining authority in the grounds of

detention, hence, the detention order is not sustainable. The subjective satisfaction recorded by the detaining authority for issuing the impugned detention order is vitiated. The subjective satisfaction of the detaining authority is not supported by any circumstance or material indicative of real possibility of release of the detenu on bail, who was already in custody. The learned counsel for the petitioner has stretched his argument to the extreme by contending that on the date of passing of the detention order, if no bail application has been moved by the detenu or was pending, then it necessarily follows that there was no likelihood of the person in custody being released on bail, hence, in such cases, the detention order would be nothing, but illegal.

4 To buttress this argument, reliance is placed on the decision of the three-Judge bench of the Apex Court in the case of ***Rekha vs. State of Tamil Nadu & anr., (2011) 4 SCC 260.*** Reliance was placed on paragraph 27 of the judgment wherein

it is stated that "there is a real possibility of release of a person on bail who is already in custody provided he has moved a bail application which is pending. It follows logically that if no bail application is pending, then there is no likelihood of the person in custody being released on bail, and hence, the detention order will be illegal."

5 The learned A.P.P. on the other hand placed reliance on a subsequent decision of the Supreme Court in the case of **G. Reddeiah Vs. Government of Andhra Pradesh and another**, reported in **(2012) 2 S.C.C. 389**. The Supreme Court in paragraph 23 of the said decision observed as under:

"23. Though an attempt was made to nullify the order of detention by drawing our attention to the decision of Apex Court in Rekha Vs. State of T.N.(2011) 5 SCC 244 : (2011) 2 SCC (Cri.) 596, on going through the factual position and orders therein and in view of the enormous activities of the detenu violating various provisions of IPC, the A.P. Act and the Rules, continuous and habituality in pursuing the same type of offences, and taking note of the abundant factual details as available in the grounds of detention and also of the fact that

all the procedures and statutory safeguards have been fully complied with by the detaining authority, we are of the view that the said decision is not applicable to the case on hand. On the other hand, we fully agree with the reasoning of the detaining authority as approved by the Government and upheld by the High Court".

We would like to refer to another decision of the Supreme Court in the case of ***D.M.Nagaraja Vs. Government of Karnataka and others***, reported in **(2011) 10 S.C.C. 215**. In this case as well as the case of Reddeiah (*supra*), the Supreme Court considered the earlier decision in the case of *Rekha (supra)* & distinguished it. In the case of Nagaraja, it is observed as under:

"18. The learned counsel for the appellant very much relied on a decision of Apex Court in *Rekha*. In the above case, against the detention order dated 8.4.2010 imposed on Ramkrishnan under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982 on the allegation that he was selling expired drugs after tampering with labels and printing fresh labels showing them as non-expired drugs, his wife filed a habeas corpus petition before the Madras High Court. The said writ petition came to be dismissed. Hence, the

wife of the detenu therein, approached the Apex Court by way of special leave to appeal.

19. In the judgment in Rekha, Apex Court has extracted the detention order and the grounds for detaining him under the Tamil Nadu Act, 1982. The grounds show that there is reference to one incident relating to selling expired drugs and the detaining authority by pointing out that necessary steps are being taken by his relatives to take him out on bail and since in similar case, bails were granted by the courts after lapse of some time and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public health and order and recourse to normal criminal law would not have the desired effect of effectively preventing him from indulging in such activities, on the materials placed and after fully satisfying, the detaining authority has passed an order under the Tamil Nadu Act, 1982. In para 7, the Bench has pointed out that in the grounds of detention, no details have been given about the alleged similar cases in which bail was allegedly granted by the court concerned. The grounds retracted therein also are bereft of any further details. In those circumstances, this Court taking note of various earlier decisions came to the conclusion that normal recourse to ordinary law would be sufficient and there is no need for invocation of the special Act.

20. In the case on hand, we have already extracted criminality, criminal activities starting from the age 30 and details relating to eleven cases mentioned in the grounds of detention.....

21. In view of enormous materials which are available in the grounds of detention, such habituality has not been cited in the above referred *Rekha*, we are satisfied that the said decision is "distinguishable" on facts with reference to the case on hand and the contention based on the same is liable to be rejected."

Thus, from the decision in the case of *Nagaraja* and *Reddeiah* (*supra*), it is clear that each case will have to be decided on the peculiar facts of that case.

6 Thus, in view of the decisions in *Reddeiah* (*supra*) and *Nagaraja* (*supra*), in our opinion, it cannot be said that the decision in *Rekha's case* (*supra*), is an authority on the extreme proposition canvassed before us that in cases where no bail application is pending on the date of passing of the detention order, detention order cannot be passed "at all" against the accused, who is already in jail. The judicial review of the subjective satisfaction reached by the detaining authority, therefore, will have to be tested on case to case basis; and if

tangible justification is spelt out in the grounds of detention that even though the accused is already in jail, yet, it is imminent to issue order of preventive detention qua him, that would be permissible and legitimate.

7 From the decisions in the case of Nagaraja and Reddeiah, it is clear that each case will have to be decided on its own facts. The facts in the present case as seen from the preamble which is reflected in paragraph 4(A) of the grounds of detention show that in the last five years, the petitioner is involved in seven other cases. To issue the order of detention, the detaining authority has relied on C.R. No. 152 of 2015 and C.R. No. 373 of 2015 of Shivaji Nagar Police Station. C.R. No. 152 of 2015 is under Section 392, 384, 323 and 506 II of IPC. C.R. No. 373 of 2015 is under Sections 394, 323, 504 & 506 II of IPC. In addition to C.R. No. 152 of 2015 and C.R. No. 373 of 2015, the detaining authority has relied on statements of two incamera witnesses i.e. Witness "A" and Witness "B".

8. The facts pertaining to C.R. No. 152/2015 are that the complainant knew the detenu. According to the complainant, the detenu was of criminal nature and he used to extort money from the shopkeepers, hawkers and scrap dealers in the locality at the point of deadly weapon. Thus, the detenu had unleashed a reign of terror in the said area. On 19.3.2015 at about 12 noon, the complainant opened his mobile repairing shop. At about 5.00 p.m., there were five to six customers in the shop. At that time, the detenu came there. He abused the complainant and threatened him. The detenu told the complainant that if he wanted to run the shop, he would have to give money to the detenu. Saying so, the detenu slapped the complainant. Due to the violent act of the detenu, the customers in the shop got scared and ran away. The complainant loudly shouted for help whereupon the nearby shopkeepers rushed to the spot. On seeing them, the detenu took out a razor and rushed at those persons and shouted loudly saying if anyone come forward, he would kill them one

by one. On account of this, the persons who had come to the spot got scared and ran helter-skelter. Shopkeepers in the area got scared and downed their shutters. The detenu then forcibly opened the drawer of the table in the shop of the complainant and took away Rs. 2000/- and four memory cards of 8 GB.

9. The facts relating to C.R. No. 373/2015 are that on 21.7.2015, the complainant was not feeling well. After purchasing medicines, he was returning home at about 4.00 p.m. At that time, he saw the detenu. The complainant got scared and started walking away, however, the detenu rushed towards the complainant and caught hold of his shirt collar. He raised a barber's razor and abused and threatened the complainant. The detenu told the complainant to take out all the money in his pocket. He then slapped the complainant. The detenu searched the pockets of the complainant and removed Rs. 1500/- and cellphone from the pocket of the

complainant. The complainant shouted for help, thereupon, people rushed to the spot to help the complainant. On seeing those persons, the detenu showed those people the barber's razor and shouted if anyone came forward, he would finish him at the spot. On account of the threats, people got scared and ran helter-skelter. Nearby shopkeepers closed their shops and residents closed the doors of their houses. From the facts relating to C.R. No. 152/2015 and 373/2015, it is seen that the incidents are similar in nature. The facts relating to incamera witnesses A and B are similar to those in C.R. No. 152/2015 and 373/2015.

10. In addition to C.R. No. 152 of 2015 and C.R. No. 373 of 2015, the grounds of detention clearly advert to the fact that confidential enquiries were made about the criminal activities of the detenu in the localities of Shivaji Nagar Police Station, Govandi and adjoining areas wherein it was noticed that a large number of people were victimized by the detenu in the

recent past. It is also noted that the detenu was found to be a dangerous person and nobody was ready to complain and make statement openly against the detenu, due to fear of retaliation. The witnesses, only on being assured that their names and identifying particulars will be kept secret and they would not be called upon to give evidence against the detenu in any Court of Law or any other open forum, have expressed willingness to give their statements about the criminal activities of the detenu. The grounds of detention then reproduce the contents of the in-camera statements of the two witnesses "A" and "B" disclosing the involvement of the detenu in the criminal activities within the area of Shivaji Nagar Police Station and nearby areas, indicating that the detenu unleashed a reign of terror having become a perpetual danger to the society at large in the area falling within Shivaji Nagar Police Station and surrounding area. The grounds further state that the people in the said areas are terror stricken and their normal life is affected. Thus, the activities of the detenu are

prejudicial to the maintenance of public order in the said areas.

11 After having adverted to these matters, the detaining authority in paragraph 7 proceeded to record its subjective satisfaction in the following words:

" I have carefully gone through the material placed before me and I am subjectively satisfied that you are acting in a manner prejudicial to the maintenance of Public Order. I am aware that you are granted bail in connection with Shivaji Nagar Police Station in C.R. No. 152/2015 and that you have availed of the said Bail facility. However, in Shivaji Nagar Police Station in C.R. No. 373/2015 you are not yet granted bail. Since the offence is not punishable with death penalty or life imprisonment, you are likely to be released on bail in the aforesaid case also and you may avail of the bail facility and will be a free person. In view of your tendencies and inclinations reflected in the offences committed by you as stated above, I am further satisfied that after your being granted bail, and after release on bail and your becoming a free person, and in the event of your being at large, you being a criminal, are likely to indulge in activities prejudicial to the maintenance of Public Order in future and that with a view to prevent you from acting in such a prejudicial manner in future, it is necessary to detain you under the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug

Offenders, Dangerous Persons and Video Pirates Act, 1981
(Maharashtra Act No. LV of 1981) (Amendment 1996)
(Amendment 2009).

12 The above-mentioned portion leaves no manner of doubt that the detaining authority was fully aware of the fact that the detenu was in custody in the pending criminal case i.e. C.R. No. 373/15 which was mainly under Section 394 r.w. 34 IPC. Moreover, the detaining Authority has expressed its subjective satisfaction that the detenu is likely to be released on bail and after his release on bail, he will again indulge in activities which are prejudicial to the maintenance of public order. From the grounds of detention, it is clear that the detaining authority was aware that the charge sheet in the said criminal case was filed on 19.9.2015. It is well known that in cases which do not attract the death penalty or life imprisonment and attract lesser punishment, after the charge sheet is filed, bail is normally granted.

13. Mr. Tripathi submitted that the order of the learned Magistrate rejecting the application of the petitioner for bail in C.R. No. 373/15 shows that the detenu was involved in 25 cases. He submitted that in such case, it was impossible for the detenu to get bail in C.R. No. 373/15. As far as this aspect is concerned, it is seen that the detenu has been involved in number of cases but they are of petty nature and the detenu is released on bail in all these cases except C.R. No. 373/15. The facts relating to C.R. No. 152/15 are similar to the facts in C.R. No. 373/15, yet bail was granted in that case. At that time, the detenu was involved in 24 cases, yet he was granted bail in C.R. No. 152/2015. Moreover, the order rejecting the bail application in C.R. No. 373/15 is passed by a Magistrate. The said order can easily be challenged before the Sessions Court and thereafter the High Court. Moreover, the facts of C.R. No. 373/15 are such that they do not attract the death penalty or life imprisonment and the maximum punishment is upto 10 years. Moreover, it is seen that the said case is triable by the

Magistrate in which case sentence of imprisonment of 10 years would not be imposed on the detenu. If all these facts are considered, there is every likelihood of the detenu being released on bail once the charge sheet is filed. Thus, it cannot be said that there was no cogent material before the detaining authority to come to the conclusion that there was an imminent possibility of the detenu being released on bail in CR No. 373/15 as contended in the ground raised by the petitioner.

14. It is also to be borne in mind that before the detaining authority, the facts of C.R. No. 373/15 were placed. The detaining authority was aware it was mainly a case under Section 394 of IPC. While considering the possibility whether bail can be granted, the nature of offence has also to be seen i.e. type of crime. The detenu was in custody in a case which was mainly under Section 394 of IPC. The maximum punishment for the said offence is ten years. The offence is not punishable with death or life imprisonment and hence, the

apprehension of the detaining authority that there was imminent possibility of petitioner being released on bail cannot be faulted. Thus, it cannot be said that there was no cogent and tangible material before the detaining authority to arrive at subjective satisfaction that there was imminent possibility of the detenu being released on bail considering the fact that the detenu was not involved in an offence punishable with death or life imprisonment. Further as stated earlier, granting bail in such cases after filing of the charge-sheet, is a normal practice of most Courts. A priori, it cannot be argued that this is a case of mere *ipse dixit* of the detaining authority regarding the likelihood of the detenu coming out on bail. Looking to the history of the detenu, it cannot be said that there was no material before the detaining authority to reach the subjective satisfaction that if released on bail, the detenu would again indulge in similar prejudicial activities. Keeping that in mind, the detaining authority arrived at the subjective satisfaction that the detenu may be granted bail and hence, it was

necessary to issue an order of detention to prevent the detenu from again indulging in similar activities which are prejudicial to the maintenance of public order.

15. Before this Court in the case of **Pramod Ashok Pujari Vs. The State of Maharashtra and Anr.¹**; reliance was placed on the decision in the case of *Rekha (supra)* to contend that if no bail application is pending, no detention order can be passed. This Court observed as under:

" The decision in *Rekha case (2011) 4 SCC 260* is not an authority on the extreme proposition canvassed before this Court that in cases where no bail application is pending on the date of passing of the detention order, detention order cannot be passed "at all" against the accused, who is already in jail. The judicial review of the subjective satisfaction reached by the detaining authority, therefore, will have to be tested on case to case basis; and if tangible justification is spelt out in the grounds of detention that even though the accused is already in jail, yet, it is imminent to issue order of preventive detention qua him, that would be permissible and legitimate".

In the case of *Rekha (supra)*, the detenu was involved

1 2012 SCC OnLine Bom 1136 : (2012) 5 AIR Bom R 638

in only one offence whereas the present detention order has been passed on basis of four incidents i.e. two CR and two incamera witnesses. Looking to the facts of the present case therefore, the exposition in *Rekha (supra)*, pressed into service by the learned counsel for the petitioner, will be of no avail. Moreover, the grounds of detention in the present case show that there was reliable material before the detaining authority on the basis of which, the detaining authority would have reason to believe that there was real possibility of his release on bail. One of the materials as stated earlier being the nature of the offence which was mainly under Section 394 read with Section 34 IPC for which the maximum sentence of imprisonment is ten years. This offence is not punishable with life or death. Thus, we can say that the main material before the detaining authority to reach his subjective satisfaction that there was real possibility of the detenu being released on bail is the nature of the offence.

16 Useful reliance can be placed on the decision of the Apex Court in the case of **Noor Salman Makhani vs. Union of India**². In that case, the grievance of the detenu was that the detention order as passed, suffered from non-application of mind because of the bald statement made by the detaining authority about the possibility of detenu being likely to be released on bail. The Apex Court rejected that plea in the facts of that case by observing that nothing more could have been said in the grounds of detention by the detaining authority in the context of its subjective satisfaction about the possibility that the detenu was likely to be released on bail.

17 In a decision of the Division Bench of this Court in the case of **Omprakash Parshuram Rihal vs. C.D. Singh**³, the challenge was on similar lines, as in the present case. In that case, the detenu had moved a bail application which was rejected on 10.10.1994. In spite of that, detention order was

² 1994 Cr.L.J. 602

³ 1995(1) ALL. M.R. 491

passed on 24.11.1994 under the provisions of Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. The argument was that the subjective satisfaction of the detaining authority lacked awareness of any compelling necessity. The Court negated the said plea and while doing so, relied on the observation of the Apex Court in the case of **Biru Mahato vs. District Magistrate, Dhanbad**⁴, **Merugu Satyanarayana vs. State of Andhra Pradesh & ors.**⁵, **Devi Lal Mahto vs. State of Bihar & anr.**⁶, *and* **Vijay Kumar vs. Union of India**⁷. The Apex Court in these decisions has observed that the awareness must be of the fact that the person, against whom the detention order is being made, is already under detention or in jail in respect of some offence. This awareness must find its place either in the grounds of detention or in the affidavit justifying the detention order when challenged.

4 AIR 1982 SC 1539

5 AIR 1982 SC 1543

6 AIR 1982 SC 1548

7 (1988) 2 SCC 57

18 The Supreme Court in the case of **Ahamed Nassar Vs. State of Tamil Nadu and others**⁸ has observed that "Thus inspite of rejection of the bail application by a court, it is open to the detaining authority to come to his own satisfaction based on the contents of the bail application keeping in mind the circumstances that there is likelihood of the detenu being released on bail. Merely because no bail application was then pending, is no premise to hold that there was no likelihood of his being released on bail".

19. Thereafter, Mr. Tripathi placed reliance on a decision of the Supreme Court in the case of **Kamarunnissa Vs Union of India**⁹. He placed reliance on paragraph 13 thereof. Mr. Tripathi submitted that in the said paragraph, the Supreme Court has set out the criteria when a detention order would be held to be valid even if it first passed when the detenu was in custody. The Supreme Court in paragraph 13 has observed as

8 (1999) 8 SCC 473

9 (1991) 1 SCC 128

under:-

" From the catena of decisions referred to above it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition, to question it before a higher court."

In the present case, all the criteria as set out in paragraph 13 of *Kamrunissa* are clearly met. On reading the grounds of detention in the present case, it is seen that the detaining authority has shown its awareness of the fact that the detenu is in custody. Thereafter, the detaining authority on the basis of the material which was placed before him specially the facts relating to C.R. No. 373/15 showed that he had reason to believe that the detenu is likely to be granted

bail in the said case. The detaining authority, in view of the facts mentioned in the grounds of detention, has expressed its subjective satisfaction that if the detenu is released on bail, he would again indulge in prejudicial activity, hence, it was necessary to detain him. Thus, the criteria as set out by the Supreme Court in the case of Kamarunnissa (supra) is met with in the present case. Thus, this decision would be of no help to the petitioner.

20. Lastly, reliance was placed by Mr. Tripahi on the decision of the Supreme Court in the case of **Rivadeneyta Ricardo Agustin Vs Government of the National Capital Territory of Delhi & Ors.**¹⁰. Reliance was placed on paragraphs 8 and 10. In paragraph 8, it is reflected that the ground of detention do not show that such release was "likely or that it was imminent." In the present case, in the grounds of detention, the detaining authority has clearly stated that

¹⁰ 1994 Supp (1) Supreme Court Cases 597

looking to the facts of C.R. No. 373/15, it is "likely" that the detenu will be released on bail. Thereafter, Mr. Tripathi pointed out that in paragraph 10 of Agustin (*supra*), the Supreme Court observed that the counsel for the respondent could not bring to the notice of the Supreme Court any material indicating that the release of the petitioner (detenu) was likely or that there was a real possibility of his being released and / or that the authority was satisfied about the said aspect. In the present case, the detaining authority has clearly shown his awareness that the detenu is in custody in C.R. No. 373/15. The detaining authority has further shown his awareness that the offence is not punishable with death or life imprisonment and hence, it is likely that the detenu is released on bail. The nature of the offence in C.R. No. 373/2015, the quantum of punishment and the fact that charge sheet was filed in that case was the material before the detaining authority. Based on this material, the detaining authority was satisfied that the detenu is likely to be released on bail. This subjective

satisfaction has been clearly expressed in the grounds of detention. Thus, this decision also would not come to the aid of the petitioner.

21 In the present case, the grounds of detention, in no uncertain terms, mention about the likelihood of petitioner being released if he moved an application for bail and on becoming a free person there was likelihood of him again indulging in similar activities which are prejudicial to the maintenance of public order. Looking to the nature of the offence, it cannot be said that there was no material before the detaining authority to reach his subjective satisfaction that there was an imminent possibility of the detenu being released on bail and looking to the past history of the detenu, it cannot be said that there was no material before the detaining authority to reach his subjective satisfaction that if the detenu is released on bail, he will again indulge in similar activities which are prejudicial to the maintenance of public order.

22 Moreover, the subjective satisfaction has been reached in the present case, keeping in mind that the petitioner was a habitual offender and continued to indulge in criminal activities prejudicial to public order, unabatedly. In substance, the subjective satisfaction is not founded on one factor but, combination thereof and totality of all the circumstances indicative of the fact that there was imminent possibility of the detenu being released on bail and if released, he would again indulge in similar activities which were prejudicial to the maintenance of public order. Accordingly, there is no substance in the argument under consideration.

23 In view of the above, in our opinion, the ground raised by the learned counsel for the petitioner to espouse the case of the detenu, is of no avail. Accordingly, the petition is dismissed. Rule is discharged.

[MRS. MRIDULA BHATKAR, J.]

[SMT. V.K.TAHILRAMANI,J.]