

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4456 OF 2018

Omkar Chandrashekhar Kapare.] ... Appellant

Versus

1. The Commissioner of Police, Pune City.	]	
2. The State of Maharashtra,	]	
(Through Addl. Chief Secretary to	]	
Government of Maharashtra,	]	
Home Department, Mantralaya,	]	
Mumbai.	]	
3. The Superintendent,	]	
Yerawada Central Prison, Pune.	]	
4. The Secretary,	]	
Advisory Board for M.P.D.A. Act	]	
C/o. Home Department, Mantralaya,	]	
Mumbai - 400 032.	]	... Respondents

Mr. U. N. Tripathi for Appellant.
Mrs. M. H. Mhatre, APP for State.

CORAM :- INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.
RESERVED ON :- 18 JANUARY, 2019
PRONOUNCED ON :- 28 JANUARY, 2019

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

1. The Petitioner has preferred this petition before this Court invoking the jurisdiction under Article 226 of the Constitution of India. The Petitioner has prayed for quashing and setting aside of the detention order bearing no. PCB/DET/2033/2018 dated 23/04/2018 issued under Section 3(1) of The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons and Video Pirates Act, 1981 (for short, 'MPDA') and for order of his release from detention. The detention order dated 23/04/2018 was passed by the Respondent No.1 - Commissioner of Police, Pune City. The Petitioner is detained at Yerawada Central Prison, Pune, pursuant to the order of detention.

2. The order of detention was passed on 23/04/2018 by the Respondent No.1 as mentioned earlier. It was mentioned in the order that the Respondent No.1 was satisfied that it was necessary to make an order directing him to be detained with a view to prevent him from acting in any manner prejudicial to the maintenance of public order. The order was passed in exercise of the powers conferred by Section

3(2) of the MPDA read with Government Order issued by the Home Department (Special) on 22/12/2017.

3. The Petitioner was served with grounds of detention in pursuance of Section 8 of the MPDA. Section 8 of the MPDA requires the authority passing the detention order to communicate to the detenu the grounds on which the order is made and to afford him the earliest opportunity of making a representation against the order to the State of Maharashtra. The copies of the documents placed before the Respondent No.1 on which the said authority relied and formed her subjective satisfaction, were enclosed with the grounds of detention, except names and identifying particulars mentioned in paragraphs 6.1 and 6.2 of the grounds of detention; for which privilege was claimed.

4. The grounds of detention formulated and served on the detenu consisted of 14 paragraphs. Some of the paragraphs are important because the submissions were advanced and grounds of challenge were raised specifically regarding the language used in those paragraphs. Therefore, we deem it necessary to reproduce the

exact wordings in those paragraphs. We have emphasized the important words and phrases which are subject-matter of the submissions made before us by underlining them. The relevant paragraphs mentioned in the communication forming grounds of detention are as follows :-

(i) In paragraph 1, the Respondent No.1 has informed the detenu that in pursuance of Section 8, she was communicating to him the grounds as mentioned in paragraphs 5.1, 5.2, 6.1 and 6.2 on the 'basis' of which the detention order had been passed by her. The copies of documents placed before her on which she had 'relied and formed' her subjective satisfaction, were enclosed. The names and identifying particulars of witnesses / victims connected with in-camera statements were withheld for which she had claimed privilege in the public interest.

(ii) In paragraph 2, the Respondent No.1 has mentioned the detenu's criminal activities and has observed that the detenu had become a perpetual danger to the lives and properties of people residing and carrying out their daily activities and vocations in the jurisdiction of Kondhwa Police Station of Pune City. It was further mentioned, *inter alia*, that the detenu had been habitually

committing the offences under Chapters XVI and XVII of the IPC as well as under the Chapter V of the Arms Act and thus he was a 'dangerous person' as defined in Section 2(b-1) of the said Act and that his criminal activities were prejudicial to the maintenance of public order.

(iii) In paragraph 3.1, the description of offences registered against the detenu at Kondhwa Police Station were mentioned in tabular form. The particulars of C.R.Nos.3028/2015, 184/2016, 108/2017, 424/2017 and 3097/2017 were mentioned. These offences were registered either under the IPC or under the Indian Arms Act. Paragraph 3.2 mentions a proceedings under Section 110(e)(g) of the Cr.P.C. which were held against him. Paragraph 3.3 mentions C.R.No.108/2017, 424/2017 and 3097/2017 as the offences which were committed by the detenu after the period of interim bond executed by him for keeping good behaviour was over.

(iv) Paragraph 4 is of some importance. It is mentioned in the said paragraph by the Respondent No.1 that the detenu was a habitual and dangerous criminal, involved in serious and violent crimes. There was a reference made to the proceedings under

Section 110(e)(g) of the Cr.P.C. It was further mentioned that the detenu had remained absent throughout the whole proceedings to avoid execution of final bond for keeping good behaviour. Even after this action, the detenu had committed serious offences. It is further mentioned in the said paragraph 4 as 'it was evident that the normal laws of the land are insufficient to curtail his dangerous criminal activities' and 'his criminal activities were showing an ascending trend and were prejudicial to maintenance of public order.' Thereafter, the Respondent No.1 has recorded that she was aware that the detenu was released on bail from time to time in different offences. However, he continued to commit various serious offences. Having recorded this, the Respondent No.1 further stated in the same paragraph that in the recent past, his involvement was noticed in the offences mentioned in paragraphs 5.1, 5.2, 6.1 and 6.2. It was observed that his criminal activities were prejudicial to the maintenance of public order. It was specifically mentioned that the Respondent No.1 had considered that two offences mentioned in paragraphs 5.1 and 5.2 as well as two in-camera statements mentioned in paragraphs 6.1 and 6.2 to issue the detention order.

(v) Paragraph 5.1 gave details of C.R.No.424/2017 registered at Kondhwa Police Station under Sections 392, 323, 504, 506(2) and 34 of the IPC read with Sections 4/25 of the Arms Act, 1959 read with Section 7 of the Criminal Law Amendment Act. Some particulars were mentioned in describing the said offences.

Paragraph 5.2 mentioned C.R.No.3097/2017 registered at Kondhwa Police Station under Sections 4/25 of the Arms Act, 1959 read with Section 7 of the Criminal Law Amendment Act read with Section 39(1)/135 of the Maharashtra Police Act, 1951. The details of the said offences were mentioned in the further narration in paragraph 5.2.

(vi) Paragraph 6 mentions two statements recorded in-camera. Paragraph 6.1 pertains to the statement of witness A and paragraph 6.2 pertains to the statement of witness B in respect of the incidents dated 27/10/2017 and 14/11/2017 respectively.

(vii) Paragraph 7 further records that the Respondent No.1, from these facts, was subjectively satisfied that the detenu was a dangerous person as defined in Section 2 (b-1) of the said Act. Paragraphs 8 to 14 mention about the procedure adopted by the Respondent No.1 and apprising the detenu of his rights and making

representation before the Advisory Board and Government of Maharashtra.

5. The grounds of detention are accompanied by the material running into 290 pages. This entire compilation of documents was served on the detenu along with the grounds of detention.

6. Affidavits-in-reply are filed by the Respondent Nos.1 and 2. Affidavit on behalf of the Respondent No.1 is filed by the successor of the officer who had passed the detention order and the Affidavit on behalf of the Respondent No.2 - State is filed by the Deputy Secretary (In-Charge), Government of Maharashtra, Home Department (Special), Mantralaya, Mumbai.

7. We have heard Mr. U. N. Tripathi, learned Counsel for the Petitioner - detenu and Mrs. M. H. Mhatre, learned APP for Respondent - State.

8. Though various grounds were taken in the petition challenging the order of detention, Mr. Tripathi made submissions

before us mainly on two grounds which, in broad terms, are as follows:-

- (i) The Respondent No.1 had taken into consideration and relied on the material which was extraneous and irrelevant; and
- (ii) There was delay in passing the detention order.

9. The specific grounds in respect of these submissions are mentioned in the petition. We are dealing with them separately. For the first submission that the Respondent No.1 has taken into consideration extraneous and irrelevant material, ground (b) is raised in the petition which is as follows :

“(b) The Petitioner says and submits that the order of detention is illegal and bad in law, in view of the fact that the detaining authority has taken into consideration extraneous material to arrive at his subjective satisfaction and for passing the order of detention. The detaining authority has clearly stated in paragraph No.1 of the grounds of detention that he is communicating the Petitioner the grounds as mentioned in paragraph Nos.5.1, 5.2, 6.1 and 6.2 on the basis of which, the order of detention is passed by him under Section 3(2) of the Act. The detaining authority also categorically states further in the paragraph No.1 of the grounds of detention that the copies of documents placed before him on which he has relied and formed his subjective satisfaction are

furnished to the Petitioner, thereby it is clear that in all 67 documents running into 290 pages (as per Index to the compilation of documents) were placed before and are relied on and considered by the detaining authority in order to arrive at his subjective satisfaction and for passing the order of detention. As such, the satisfaction vitiates. The order of detention is illegal and bad in law, liable to be quashed and set aside.”

In support of his contentions, Mr. Tripathi heavily relied on the averments made by the Respondent No.1 in paragraph 1 of her communication forming the grounds of detention. We have already highlighted the exact words mentioned in the said paragraph which has caused this submission to be advanced before us. Mr. Tripathi submitted that the Respondent No.1 has categorically stated that she was communicating to the detenu the grounds as mentioned in paragraphs 5.1, 5.2, 6.1 and 6.2 on the 'basis' of which the detention order was passed. The Respondent No.1 has further stated that the copies of documents placed before her were relied on by her for forming her subjective satisfaction. Mr. Tripathi submitted that from these averments, it was clear that the two offences registered vide C.R.Nos.424/2017 and 3097/2017 at Kondhwa Police Station and the two in-camera statements in respect of the two incidents dated 27/10/2017 and 14/11/2017 were the only basis on which the

detention order was passed. According to Mr. Tripathi, all the other offences mentioned in paragraph 3.1 viz. C.R.Nos. 3028/2015, 184/2016 and 108/2017 and Chapter Case No.20/2016 (mentioned in paragraph 3.2) were extraneous insofar as paragraphs 5.1, 5.2, 6.1 and 6.2 were concerned. Mr. Tripathi submitted that the material in support of all these offences and Chapter proceedings, therefore, was irrelevant insofar as C.R.Nos.424/2017 and 3097/2017 as well as the incidents in relation to two in-camera statements were concerned. Mr. Tripathi submitted that the Respondent No.1 has clearly stated that she had relied on all the documents produced before her for forming her subjective satisfaction. Thus, according to Mr. Tripathi, the Respondent No.1 has taken into consideration the irrelevant material which was not concerning the offences and the incidents mentioned in paragraphs 5.1, 5.2, 6.1 and 6.2. Mr. Tripathi, therefore, submitted that the irrelevant material had clouded the Respondent No.1's mind while reaching her subjective satisfaction. He further submitted that it was not possible to segregate different incidents which could have influenced the Respondent No.1's mind in arriving at her subject-matter satisfaction. Mr. Tripathi, therefore, submits that the entire detention order stood vitiated.

10. In support of his contentions, Mr. Tripathi relied on a few Judgments of this Court, which are as follows :-

- (i) Hanuman Rajaram Mhatre Vs. The Commissioner of Police, Thane & Ors. - Writ Petition No.4646 of 2017, decided on 31/01/2018,
- (ii) Kuldeep Balasabeh Ghodake @ Gandhye Vs. The Commissioner of Police, Mumbai & Ors. - Writ Petition No.5271 of 2017, decided on 01/03/2018,
- (iii) Sandesh @ Shilvya Lajras Chopade Vs. The Commissioner of Police, Pune - Criminal Writ Petition No.879 of 2018, decided on 11/04/2018,
- (iv) Kiran Dhanraj Kharat Vs. The Commissioner of Police, Pune, & Ors. reported in 2018 ALL MR (Cri) 4269,
- (v) Sagar @ Lalu Bhoju Rathod Vs. The Commissioner of Police, Solapur - Criminal Writ Petition No.1619 of 2018, decided on 19/06/2018,

He has relied on a few other Judgments of this Court basically taking a similar view as mentioned in these Judgments.

11. In response to the grounds raised by the detenu in this petition, an Affidavit dated 04/12/2018 was filed. The said Affidavit was affirmed by the Commissioner of Police, Pune, who was a successor of the officer who had passed the detention order. In response to the specific grounds mentioned hereinabove, the averments in the said Affidavit are as follows :

“It is submitted that out of 290 pages of the documents the then Detaining Authority only relied upon the documents related with the offence mentioned in the Para no.5.1 and 5.2 of the grounds of detention and in-camera statements of the witnesses mentioned in Para no.6.1 and 6.2 while issuing the order of detention. It is further submitted that the documents on which the then detaining authority has relied are the vital documents and the same are duly furnished to the Detenu and his signature has been obtained on the office copy as an acknowledgment.

It is submitted that the then detaining authority categorically mentioned in Para 3.2 of grounds of detention that “There are five offences shown in the above chart of offences as Para no.3.1. Out of these, three offences mentioned at Sr.No.01 to 03 and preventive action taken against you are mentioned to show your continuous criminal activities and the copies of F.I.Rs., charge sheets, arrest forms and relevant documents of preventive action are enclosed herewith and supplied to you so that you can make effective representation.” This shows that the then detaining authority had referred the documents in connection with the aforesaid offences mentioned at Sr.No.01 to 03 which includes copies of F.I.R., charge-sheets, arrest forms of the aforesaid offences and relevant documents of preventive actions i.e. proposal

u/s 110(e)(g) of the Cr.P.C. to show the continuous criminal activities of the detenu.”

12. It appears that the stand taken in the Affidavit filed on behalf of the Respondent No.1 is contrary to the averments made in the communication related to ground of detention. In the Affidavit, it is mentioned that out of 290 pages of the documents, the then detaining authority relied upon the documents related 'only' with the offences mentioned in paragraphs 5.1 and 5.2 of the grounds of detention and in-camera statements mentioned in paragraphs 6.1 and 6.2. Mr. Tripathi, therefore, rightly submitted that the stand taken in the Affidavit is directly contrary to the averments made in the communication dated 23/04/2018 wherein it was mentioned that the authority had relied on the 'entire material' placed before her for forming her subjective satisfaction. At this stage, we may also note that it is not the case of the detenu that the authority had relied on some documents, copies of which were not supplied to him.

13. As against the submissions made by Mr. Tripathi on this point, Mrs. Mhatre, learned APP for State, submitted that the material in respect of the offences and the incidents other than those

mentioned in paragraphs 5.1, 5.2, 6.1 and 6.2 mentioned in the grounds of detention, cannot be termed as extraneous or irrelevant. This material was rightly relied on by the Respondent No.1. Learned APP accepted that in the Affidavit-in-reply, in paragraph 8, it is mentioned that out of 290 pages of the documents, the then detaining authority only relied upon the documents related with the offences mentioned in paragraphs 5.1 and 5.2 and the in-camera statements mentioned in paragraphs 6.1 and 6.2. This stand taken in the Affidavit-in-reply is contrary to the averment made in paragraph 1 of the communication dated 23/04/2018 formulating the grounds of detention. The said paragraph 1 clearly mentions that the then detaining authority had relied on the copies of documents to form her subjective satisfaction. She has not qualified this averment by mentioning that she has relied on the documents only pertaining to the incidents related to paragraphs 5.1, 5.2, 6.1 and 6.2.

14. In case of this apparent conflict, we are taking into consideration the averment made in the grounds of detention dated 23/04/2018. This averment was communicated to the detainee for enabling him to make representation. Even otherwise, the Affidavit

was filed by the successor of the then detaining authority and therefore, he was not in a position to assert as to how the subjective satisfaction was arrived at by the then detaining authority.

15. All the Judgments of this Court relied on by Mr. Tripathi have emphasized the principle that, if the detaining authority takes into consideration relevant as well as irrelevant material for forming its subjective satisfaction, then, the order based on such satisfaction is vitiated because it is not possible to segregate the relevant and irrelevant material which was used by the detaining authority in forming its subjective satisfaction. We are in respectful agreement with this principle laid down in all the Judgments referred to by Mr. Tripathi. However, the question before is, that, whether the material except that which is directly concerning paragraphs 5.1, 5.2, 6.1 and 6.2 of the grounds of detention, can be said to be extraneous or irrelevant. To decide this question, we are guided by the principles laid down by the Hon'ble Supreme Court in the case of ***Veermani Vs. State of T.N. reported in (1994) 2 Supreme Court Cases 337***, as relied on by Mrs. Mhatre.

16. In Veermani's case (*supra*), the challenge was to the detention order issued under the provisions of The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest-Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982. The grounds of detention in this case mentioned six offences registered at various police stations. The first four offences in the list were registered in the year 1991 and the last two offences were registered in the year 1993. After listing these offences in the grounds, there was a reference made to the two offences registered in the year 1993 and the details of these offences were mentioned. After mentioning such details, it was concluded from that material that the authority was satisfied that the Petitioner and his associates had acted in a manner prejudicial to the maintenance of public order. In paragraph 3 of Veermani's Judgment (*supra*), it was observed that 'first' the authority had to be satisfied that the person came within the meaning of 'goonda'. 'Goonda' was defined under that Act to mean :-

“ 'goonda' means a person, who either by himself for as a member or leader of a gang habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter VXi or Chapter XVII or Chapter XXII of the Indian Penal Code (Central Act XLV of 1860);”

It was observed in the said Judgment that the relevant part of the ground would show that the Petitioner Veermani had come to adverse notice in the six cases mentioned and 'thereafter', as referred in Section 3(1) of the said Act, the detaining authority had to satisfy himself that it was necessary to detain such a person. Section 3(1) of the said Act reads thus :-

“3. Power to make orders detaining certain persons.--- (1) The State Government may, if satisfied with respect to any bootlegger or drug-offender or forest-offender or goonda or immoral traffic offender or slum-grabber that with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.”

The detaining authority in that case had mentioned the two incidents having taken place in the year 1993 to conclude that those instances affected the maintenance of public order.

17. Thus, in Veermani's case (*supra*), the Hon'ble Supreme Court has held that the detaining authority had to satisfy himself that the detenu fell within the definition of a particular category mentioned in the definition provided under the Act and then the

detaining authority has to satisfy himself that the passing of the detention order was necessary. Similar provisions are found in the MPDA. Section 2(b-1) defines 'dangerous person' 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 (LIV of 1959).”

And Section 3 mentions the power to make orders detaining such person. Section 3 reads thus :-

“3. Power to make orders detaining certain persons.

(1) The State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may by order in writing, direct, that during such period as may be specified in the order such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section :

Provided that the period specified in the order made by the State Government under this sub-section shall not, in the first instance, exceed six months, but the State Government may, if satisfied as aforesaid that it is

necessary so to do, amend such order to extend such period from time to time by any period not exceeding six months at any one time.

(3) ”

Thus, in the case before us, the detaining authority has properly relied on the material pertaining to the other offences mentioned in paragraph 3.1 and the Chapter case mentioned in paragraph 3.2. In paragraph 4, as mentioned earlier, the then detaining authority had clearly averred that on going through his criminal record, it was evident that he was a habitual and dangerous criminal involved in serious violent crimes. The detaining authority has recorded her satisfaction that the normal laws of the land were insufficient to curtail his dangerous criminal activities' and that 'his criminal activities were showing an ascending trend and were prejudicial to maintenance of public order. Having recorded her satisfaction to that effect, the detaining authority has gone on to mention that in the recent past, his involvement was noticed in the offences which were of serious nature involving criminal activities which were prejudicial to the maintenance of public order and therefore, she had considered these 2 offences mentioned in paragraphs 5.1 and 5.2 and 2 in-camera

statements mentioned at paragraphs 6.1 and 6.2 to issue the detention order. Hence, the detaining authority has relied on the entire material before her for different reasons. By applying the ratio of Veermani's case (*supra*) as well as taking into consideration the averments made by the detaining authority in paragraph 4 of the grounds of detention, we do not think that the material other than that connected with paragraphs 5.1, 5.2, 6.1 and 6.2 was either extraneous or irrelevant. In fact, in our considered view, the detaining authority has correctly relied on the entire material to arrive at her subjective satisfaction that the detenu was a 'dangerous person' within the meaning of the Act and for the said purpose, she had to rely on his past history and the material connected with it. Therefore, we are unable to agree with the submission of Mr. Tripathi that the detaining authority had taken into consideration any extraneous or irrelevant material.

18. In this context, it is useful to refer to the observations of the Constitution Bench of the Hon'ble Supreme Court in the case of *Rameshwar Shaw Vs. District Magistrate, Burdwan and another reported in AIR 1964 Supreme Court 334*. In that case, the Hon'ble Supreme Court was considering detention of a detenu under the order

of detention passed under Section 3(1) of the Preventive Detention Act, 1950. In paragraph 9 of the said Judgment, it is observed thus :-

“(9) It is also true that in deciding the question as to whether it is necessary to detain a person, the authority has to be satisfied that if the said person is not detained, he may act in a prejudicial manner, and his conclusion can be reasonably reached by the authority generally in the light of the evidence about the past prejudicial activities of the said person. When evidence is placed before the authority in respect of such past conduct of the person, the authority has to examine the said evidence and decide whether it is necessary to detain the said person in order to prevent him from acting in a prejudicial manner.”

Hence, from the observations of the Hon'ble Supreme Court in these two cases of Veermani (*supra*) and Rameshwar Shaw (*supra*) , it is quite clear that the detaining authority has appropriately relied on the past activities and the material pertaining to the same for arriving at her subjective satisfaction. The particular reference to the incidents mentioned in paragraphs 5.1, 5.2, 6.1 and 6.2 was for emphasizing the necessity to pass the detention order as the detenu's activities were prejudicial to the maintenance of public order.

19. The next point raised by Mr. Tripathi was in respect of delay in passing the order of detention. Mr. Tripathi has invited our

attention to grounds (d) and (f) mentioned in the memo of the petition. Grounds (d) and (f) read thus :-

“(d) The Petitioner says and submits that there is gross delay in passing the order of detention. The Petitioner says and submits that even though the Petitioner availed bail in both the criminal cases on 23.10.2017 and 24.10.2017, whereas the order of detention came to be issued after about six months. The Petitioner submits that both the in-camera statements of witness 'A' and 'B' are recorded on 29.11.2017 and 05.12.2017, both are recorded after the Petitioner availed bail in both C.Rs. granted by competent Court of law. Both the camera statements are verified belatedly on 20.03.2018 i.e. after about four months. The Petitioner submits that if the alleged prejudicial activities were harmful to the Society, authorities should have taken prompt action to issue the order of detention, which is not done in this case. It is clear that the camera statements are recorded only after availing bail, thus causing delay in passing the order of detention. Authorities have to explain the said delay to the satisfaction of this Hon'ble Court, failing which the order of detention will be held illegal. The order of detention is illegal and bad-in-law, liable to be quashed and set-aside.

(f) The Petitioner says and submits that the detaining authority has referred to and relied on 2 in-camera statements of witnesses 'A' and 'B' which are recorded on 29.11.2017 and 05.12.2017 whereas they are verified belatedly on 20.03.2018. Delayed verification of camera statements throws doubt in arriving at satisfaction of the detaining authority. The Petitioner further submits that as a result of delay in verification of camera statements there is further delay in passing the order of detention, belatedly after about 5 months i.e. on 23.04.2018. The detaining authority is called upon to explain the said delay from the date of proposal till the order of detention passed, failing which the continued detention will be held as illegal. The order of

detention is illegal and bad-in-law, liable to be quashed and set-aside.”

The Respondent No.1, in the Affidavit-in-reply, has responded to these grounds in paragraph 10. It was denied that there was gross delay in passing the order of detention. It was mentioned that the in-camera statements of the witnesses were recorded on 29/11/2017 and 05/12/2017. Thereafter, the proposal for detention was sent by the sponsoring authority on 17/03/2018. Some time was consumed in collecting the relevant certified copies in respect of the pending cases and then to prepare a proposal. The proposal was sent to the ACP, Wanawadi Division, Pune on 19/03/2018 who verified the truthfulness of these in-camera statements on 20/03/2018 and then the proposal was sent to the DCP, Zone-IV, Pune City who, in turn, sent the proposal to the Joint CP, Pune on 24/03/2018. The Joint CP, Pune, scrutinized the proposal and sent it to the detaining authority on 04/04/2018 and the order came to be passed on 23/04/2018.

20. Thus, after recording the second in-camera statement on 05/12/2017, various steps taken in the process were explained in the Affidavit. Mr. Tripathi particularly emphasized the fact that there was

no explanation for the period between 04/04/2018 and 23/04/2018 i.e. the date on which the detaining authority received the proposal and the date on which the detention order was actually passed. In reply to this submission, learned APP Mrs. Mhatre has relied on the case of Shri Nagnarayan Saryu Singh Vs. Shri A. N. Roy & Ors. reported in 2006 ALL MR (Cri) 2147. In the said case, the proposal was submitted to the detaining authority on 07/06/2005 and the detention order was passed on 22/06/2005. Thus, the detaining authority took about 15 days time in passing the order from the date on which the proposal was put up before him. In the instant case, the proposal was put up before the detaining authority on 04/04/2018 and the order was passed on 23/04/2018. Thus, there is hardly any difference between these two cases and such delay was not held to be unreasonable in Nagnarayan's case (*supra*). In the Affidavit-in-reply in the present case, the steps taken by the various authorities, including the sponsoring authority, till 04/04/2018, are mentioned in detail and in our opinion, in view of this explanation, there is no delay in passing the detention order. The time consumed in preparing the proposal and verifying the facts was reasonable and there is no inordinate delay. Therefore, in these circumstances, even the second

ground raised by Mr. Tripathi in respect of delay in passing the order, has no substance.

21. In view of all the above discussion, in our considered view, the Petitioner has failed to make out his case for setting aside the detention order. Hence, the Petition is dismissed and the Rule is discharged.

(SARANG V. KOTWAL, J.)

(INDRAJIT MAHANTY, J.)