

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 552 OF 2021

Ashfaq Shah Jurawar Shah,
Aged about 40 years,
R/o. Kurum, Tq. Murtizapur,
District – Akola.

... PETITIONER

----VERSUS----

1. Additional Chief Secretary,
Govt. of Maharashtra,
Home Department, Mantralaya,
Mumbai – 440 032
2. Collector and District Magistrate,
Akola, Tq. and District - Akola.
3. Sub Divisional Police Officer,
Murtizapur Sub Division, Murtizapur,
Tq. Murtizapur, District – Akola.
4. Assistant Police Inspector,
Police Station, Mana.

... RESPONDENTS

Mr. S. J. Kadu, Advocate with Mr. Aadil Mirza, Advocate for Petitioner.
Shri T. A. Mirza, Additional Public Prosecutor for Non-applicants/State.

CORAM: **M. S. SONAK AND**
 PUSHPA V. GANEDIWALA, JJ.

DATE: **27.10.2021.**

JUDGMENT : (PER M. S. SONAK, J.)

1. Heard learned Counsel for the parties.
2. Rule was issued in this petition on 09.07.2020 and the
pleadings are completed.

3. The challenge in this petition is to the impugned detention order dated 28.06.2021 issued by respondent No.1 under the provisions 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 (said Act).

4. Mr. S. J. Kadu, learned Counsel for the petitioner at the outset submitted that the issue involved in this petition about non-consideration and non-communication of bail orders was also the issue involved in connected Criminal Writ Petition No.477/2021. He also relies on the decisions of the Division Bench of this Court in the Case of *Criminal Writ Petition No.677/2020 (Elizabeth Ranibhai Prabhudas Gaikwad Vs. The State of Maharashtra and Anr.)* decided on 15.02.2021 and in the case of *Criminal Writ Petition No.470/2006 (Manoj S/o. Dilip Trivedi Vs. The State of Maharashtra and Ors.)* decided on 02.07.2007.

5. Mr. T. A. Mirza, learned Additional Public Prosecutor submits that the specific ground about non-consideration and non-communication of bail orders has not been raised in this

petition and therefore, the detention order may not be interfered with on this ground.

6. We have considered the rival contentions and also perused the record.

7. According to us, the issue involved in this Writ Petition and Writ Petition No.477/2021, is almost identical. True, in this Writ Petition, there was no specific ground raised about the non-consideration and non-communication of the bail orders. However, we find that such ground was specifically raised in the representation made by the petitioner against the impugned detention order. This representation is on record and the State Government has rejected this representation and confirmed the impugned detention order without adverting to this specific contention.

8. Having regard to the above circumstance and also the fact that we are concerned with the liberty of a citizen, we do not think that this petition should be adjourned any further. Ultimately, there is no serious dispute on facts and the position of law is also covered by the two decisions now relied upon by Mr. Kadu, the learned Counsel. Based on these two decisions, we

have allowed the connected Writ Petition No.477/2021 and quashed the detention order.

9. Therefore, by adopting the reasoning in our judgment and order disposing of Writ Petition No.477/2021 and further, relying upon the aforesaid two decisions of Coordinate Benches, we quash the impugned detention order as also the order of the State Government confirming the same.

10. The rule in this petition is made absolute in terms of prayer clauses – (1) and (2) with the rider that the petitioner must be released forthwith unless he is required to be detained in any other matters. There shall be no order for costs.

PUSHPA V. GANEDIWALA, J.

M. S. SONAK, J.