

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

CRIMINAL WRIT PETITION NO.624 OF 2021

Faizal Khan s/o Kalil Khan,
Aged 25 years, Occ. Pvt. Work
R/o Purpidit Quarter, Akot Fail,
Akola (At present Central Prison, Nashik)

...PETITIONER

...V E R S U S...

1. State of Maharashtra,
Through Advisory Board of
Government of Maharashtra,
Home Department (Special),
Second Floor, Main Building,
Mangralaya, Mumbai-32.

2. The Collector & District Magistrate,
Akola.

...RESPONDENTS

Shri A.K. Bhangde, Advocate for petitioner.
Shri S.S. Doifode, A.P.P. for respondents.

CORAM:- M.S. SONAK AND PUSHPA V. GANEDIWALA, JJ.
DATE :- 23rd DECEMBER, 2021

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

Heard Shri A.K. Bhangde, learned counsel for the petitioner and Shri S.S. Doifode, learned Additional Public Prosecutor for the respondents.

2. **Rule.** The Rule is returnable forthwith at the request of and with the consent of the learned counsel for the parties.

3. The challenge in this petition is to the detention order dated 14.06.2021 and its confirmation order dated 16.07.2021

preventively detaining the petitioner 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 (for short “the said Act”).

4. Though, several challenges have been raised in this petition, we are satisfied that the petition will have to be allowed for the reasons that we have set out in our judgment dated 21.12.2021 disposing of Criminal Writ Petition No.627 of 2021 (Sheikh Yetal s/o Sheikh Jabbar Vs. State of Maharashtra and another).

5. The ground concerning in-camera statement as raised in this petition is identical to the ground that was raised in Criminal Writ Petition No.627 of 2021. This case is on slightly better footing because Shri Bhangde, learned counsel pointed out that second in-camera statement does not even bear the endorsement that the same was duly verified by the detaining authority. Shri S.S. Doifode, learned Additional Public Prosecutor however submitted that original record will bear such an endorsement. Therefore, even if this aspect is kept aside for the movement, this petition will have to be allowed because there is

no satisfaction recorded about the unwillingness of the witnesses to give in-camera statements to come forward to depose against the petitioner to criminal prosecution should a criminal prosecution be launched against the petitioner.

6. Therefore, by following our earlier decisions rendered in almost identical circumstances in the case of Sheikh Yetal (supra), Pratap s/o Ajay Kharare Vs. The State of Maharashtra and others (Criminal Writ Petition No.531 of 2021 decided on 28.10.2021) and Sanjay s/o Ramlal Shahu Vs. State of Maharashtra and another (Criminal Writ Petition No.768 of 2015 decided on 01.02.2016), we allow this petition and set aside the impugned detention order dated 14.06.2021 and confirmation order dated 16.07.2021.

7. The petitioner is directed to be released forthwith unless his incarceration is required in any other matter.

The Rule is made absolute in above terms. There shall be no order for costs

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)

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