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

CRIMINAL WRIT PETITION NO. 2714 OF 2021

Pralhad Chandrakant Macchalu }
Age : 23 years, Occ : Service }
R/o. R.T.P.K. Road, Gavani Pada, }
'Vidyapati' Society, }
1st Floor, 'A' Wing, }
Room No. 101, Mulund (West) }
Mumbai 400 080 }
At present Thane Jail } ...PETITIONER
(Detenue)

VERSUS

1. The State of Maharashtra }
(through Commissioner }
of Police Brihanmumbai) }

2. Senior Inspector of Police, }
Mulund Police Station, }
Mulund, Mumbai } ...RESPONDENTS

Mr. R.R. Salvi, i/by Mrs. Suvarna Telgote, for the
Petitioner.

Mr. J. P. Yagnik, APP for Respondent - State

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : APRIL 05, 2022.

JUDGMENT (PER PRASANNA B. VARALE, J)

1. Heard learned Counsel appearing for respective
parties.

2. Challenge in the present Writ Petition is of
quashing and setting aside the order of detention

passed by Respondent No. 1 – Commissioner of Police, Brihanmumbai dated 16th April, 2021, issued under sub-section (2) of Section 3 of Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug offenders, Dangerous persons and Video Pirates Act, 1981 (hereinafter referred to as '**said Act**') read with Government Order, Home Department (Special) No. MPDA-1220/CR-200/Spl-3(B) Dated 6th January, 2021 in respect of Petitioner – Pralhad Chandrakant Macchalu @ Ekka.

3. The said detention order has been issued as the Detenue is a Dangerous person whose activities are prejudicial to the maintenance of public order. The detention order is based on latest crime i.e. C.R. No. 806 of 2020 dated 29th December, 2020 registered with Mulund Police Station, Mulund for the offences punishable under Sections 387, 504, 506 (II) of the the Indian Penal Code, 1860 read with 4, 25 of Arms Act, read with 37(1), 135, 142 of Maharashtra Police Act, along with two in-camera statements of witnesses 'A' and 'B', recorded on 17th February, 2021 and 19th February, 2021 respectively and other past offences in which the externment order was issued against the

Petitioner and Petitioner committed breach of the said orders.

4. Though, number of grounds have been raised in the present Petition whereby the detention order has been assailed, however, learned Counsel appearing for the Petitioner vehemently submitted that though Petitioner is a peaceful citizen, at the instance of some notorious persons, Petitioner is falsely implicated in various crimes to show that the Petitioner having criminal antecedents. Learned Counsel appearing for Petitioner further submitted that in a dispute between two groups the Petitioner intervened with a *bona fide* intention to stop the dispute, but, Petitioner was picked up as one of the assaulter. The police authorities are acting in a vindictive manner at the instance of group having grudge against the Petitioner and therefore, false cases are registered against the Petitioner so as to initiate externment proceedings against the Petitioner. Petitioner was subjected to an externment order and the Petitioner left Mumbai and started residing at his maternal aunts place at Bangalore.

5. It is also submitted that the police authorities purposely made phone calls to the Petitioner and promoted him to return to Mumbai. Petitioner was given a false information and he was called upon in Mumbai. On reaching Mumbai, the Petitioner was falsely involved in one crime showing that the Petitioner made an assault with knife. It is also submitted to show that the Petitioner used weapon knife, the police authority asked the mother of Petitioner to purchase the knife from open market and mother of Petitioner handed over weapon to police authorities. It is also submitted that by preparation of material the police authorities subjected the Petitioner to detention proceedings. The statement recorded in the said proceedings are stereo type. The another submission is, as the Petitioner was apprehended in the period of externment, he was unable to produce any material to challenge the detention order. The detention order is handy work of the police authorities at the instance of certain influential group which is acting against the Petition. In support of aforesaid legal proposition, learned counsel

appearing for the Petitioner / Detenue placed reliance on ratio laid down in the judgment of Banka Sneha Sheela Vs. State of Telangana and Others¹, Shri Raja@Rajesh Rajan Nair Vs. Shri. R.S. Sharma and Others² & Munagala Yadamma Vs. State of Andhra Pradesh and Others³. Thus, learned Counsel appearing for the Petitioner prayed that Petition may be allowed.

6. *Per contra*, learned APP appearing for the Respondent – State invited attention of this Court to the order of detention, averments in the affidavit filed by Mr. Hemant Nagrale, Commissioner of Police, Brihanmumbai and Mr. Shirish Nagorao Mohod, Deputy Secretary, Government of Maharashtra, Home Department (Special), Mantralaya, Mumbai and submitted that after due consideration and application of mind, the detaining authority passed the order of detention. Learned APP further submits that the proposal of the Petitioner was considered by the State Government expeditiously, therefore, there is no delay in deciding the said representation as alleged by the learned counsel appearing for the Petitioner – Detenue.

1 2021 SCC OnLine 530

2 2005 SCC OnLine Bom 413

3 (2012) 2 SCC 386

7. Learned APP further submitted that detaining authority considered recent crimes registered against the Petitioner and two in-camera statements of two witnesses. Learned APP, therefore, submitted that the detaining authority after proper application of mind considered the material / documents on record and on arriving at the subjective satisfaction passed the order of detention. Thus, learned APP appearing for the Respondent – State submitted that Petition may be rejected.

8. We have considered the rival contentions so also perused the original record pertains to the case of the Petitioner placed before us by learned APP and the grounds taken in the Petition and replies filed by Respondents.

9. It seems that notices were issued to the Petitioner under Section 111 of Code of Criminal Procedure. Perusal of these show cause notices show that the notice were issued for breach of conditions. Petitioner was arrested in connection with C.R. No. 589 of 2020 and the Petitioner was released on bail and

while he was on bail, he committed breach of the order. The conditions imposed upon the Petitioner for grant of bail were not followed by the Petitioner as such, notices were issued. Respondent No. 1 in paragraph no. 7(a) of the order clarified that the offences mentioned in said paragraph registered against the Petitioner have not been relied by the said authority while passing the order of detention, however, those offences are only referred to show that the Detenue has been habitually committing serious offences. The said offences show the criminal history of the Detenue. There is also reference is paragraph 7(b) that to curb the criminal activity of the Petitioner, in past preventive actions are taken. It is also mentioned that the though initiating actions against the Petitioner, the Petitioner did not stopped and committed breach of those orders. It is stated by the detaining authority that an investigation of crimes revealed that the Detenue created terror in the said area and also disturbed public order.

10. An incident which gave rise to register Crime No. 806 of 2020 is also elaborately discussed in the

detention order and after considering the seriousness of the said offence, Senior Inspector of Mulund Police Station, Mulund conducted confidential inquiries into criminal activities and the inquiry revealed that the Petitioner has created terror and terrorized the residents of the area where he is residing as well residence of the adjoining area. The Assistant Commissioner of Police, Mulund Division has duly verified the statements. The gist of the statements of witness no. 'A' and witness no.'B' is also mentioned in the grounds of detention. From reading the incident dated 29th December, 2020, the authority arrived at the satisfaction that due to said incident at public place, and people residing in said vicinity got scared. It is specifically mentioned by the detaining authority in the order that he is subjectively satisfied that Petitioner is dangerous person as defined in Section 2(b-1) of the said Act. Detenue has unleashed a reign of terror and have become a perpetual danger to the society at large in the area of Mulund Police Station, Mulund. The people residing in the said area are experiencing a sense of insecurity and are living under a shadow of constant fear, whereby even day to day

businesses and activities of citizens are under thereat from Detenue. Detenue has no respect to the law of the land and to the citizens of the society where he lives. It is also stated that Detenue is an impulsively violent man who wants to spread terror in the society by his violent criminal activities, in connivance with the Detenue's criminal associates.

11. It appears that first Respondent i.e. detaining authority relied upon the material mentioned in grounds of detention to arrive at subjective satisfaction that Detenue is dangerous person as defined in para 2(b) of the said Act and his criminal activities are prejudicial to maintenance of public order. It is mentioned in grounds that in view of Detenue's tendencies and inclinations reflected in the offences committed by him, as stated above, as well as the incidents recorded in the in-camera statements and in view of the fact that he has availed bail facility in the said offences and also jumped the conditions of said orders and committed breach of externment order, I am further satisfied that he is again likely to revert to similar activities which are prejudicial to the

maintenance of public order in future and hence, it is necessary to detain him under the said Act.

12. Upon careful perusal of detention order it can safely be said that the Petitioner is history-sheeter and he is habitual offender. The contention of the learned Counsel appearing for the Petitioner that the Petitioner is falsely implicated in various offences and is targeted group of persons, in our considered view this submissions cannot be accepted.

13. The submission of learned Counsel appearing for the Petitioner cannot be accepted for the reason that the Petitioner was involved in various crimes and reference is also made to earlier crimes. The statement of witnesses show that the witnesses were under constant threat and were not coming forward to lodge report against the Petitioner. All necessary documents were supplied to the Petitioner before passing order of detention. And, to this, the Petitioner also submitted his reply. Therefore, the principles of natural justice are also complied with and opportunity of hearing is also offered to the Petitioner. It is also important to note that the translated copy order of detention, and

grounds of detention also served on the Petitioner.

14. Though, there cannot be any dispute on the proposition of law, considering the facts of the matter and perusal of material placed before us, we are of the opinion that the Respondent Authorities committed no error in initiating action against the Petitioner. As such, the judgments relied on by learned Counsel appearing for the Petitioner are of no help to the Petitioner.

15. In the light of the above discussions in forgoing paragraph, we are of the opinion, that there is no merit in the Petition. Accordingly, Writ Petition is dismissed. Rule is discharged.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)