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Reserved on : 20 August 2022
Pronounced on : 22 August 2022

P.C. :-

This Petition takes exception to the order of detention dated 26 August 2021 passed by Respondent Nos.1 under Section 3 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 (hereinafter referred to as “M.P.D.A. Act”).

2. By the order impugned the Petitioner is directed to be detained in prison for one year with a view to prevent him from acting in any manner prejudicial to the maintenance of public order.

3. We have heard the learned Counsel for the Petitioner and the learned APP for the Respondent-State.

4. The Respondent No.1 to reach to the decision that the Petitioner needs to be detained has relied upon the case registered at Shirur Police Station on 18 June 2021 and two in-camera statements dated 7 July 2021 and 9 July 2021.

5. The learned Counsel for the Petitioner submits that there is delay of more than one and half months in passing the order of detention from the date of recording of alleged in-camera statements. It is submitted that there is no explanation at all for the said delay and thus, the order of detention is vitiated.

6. On the other hand, the learned APP submits after the incident dated 18 June 2021, the confidential enquiry was made and it was found that the victims of the criminal activities of the Petitioner were not ready to lodge the complaint due to retaliation. It is submitted that the said victims on the assurance that their identity would be kept secret showed their willingness to disclose about the atrocities of the Petitioner. Accordingly, their statements were recorded on 7 July 2021 and 9 July 2021. It is submitted thereafter the Sub-Divisional Police Officer, Bhore has verified the authenticity of the said in-camera statements. It is submitted that the proposal was

then scrutinized at various levels and then it was sent to Respondent No.1. It is submitted that, thus, there is no delay or for that matter unexplained delay in passing the order of detention.

7. It appears from the record that sponsoring authority submitted a proposal to Respondent No.1 on 15 August 2021 and Respondent No.1 had passed the order of detention within two weeks from the date of receipt of proposal from the sponsoring authority. Though it appears that sponsoring authority submitted the proposal to Respondent No.1 after one month from the date of recording of in-camera statements, however, we cannot lost sight of the fact that after recording of in-camera statements, they were verified by the Sub-Divisional Police Officer and after scrutiny of the proposal, it was sent to Respondent No.1. Considering these facts and circumstances, it cannot be said that there is an undue delay in passing the order of detention.

8. The learned Counsel for the Petitioner further submits that though the order of detention was passed on 26 August 2021, it was served upon the Petitioner on 2 September 2021 i.e. the day on which the State had approved the order of detention. It is submitted that the Petitioner thus lost an opportunity of making representation against the order of detention.

9. The learned APP submitted that the order of detention was served upon the Petitioner on 27 August 2021, however, inadvertently in Affidavit-in-reply the said date came to be mentioned as 2 September 2021.

10. There is no specific statement in the Petition that order of detention was served upon the Petitioner on 2 September 2021. Even otherwise we have perused the original record and the correspondence shows that the order of detention was served upon the Petitioner on 27 August 2021. Therefore, no benefit of inadvertent error of date in Affidavit-in-reply of Respondent No.1 can be given to the Petitioner.

11. No other ground is raised. The Writ Petition is, thus dismissed. Rule discharged.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

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