

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

CRIMINAL WRIT PETITION NO.147 OF 2022

Rohit @ Karan s/o Purshottam
Naukariya, aged about 19 years,
occupation : labour, r/o Plot
No.54, Ingole Layout, Sant
Lahanuji Nagar, Mankapur
Ring Road, Nagpur, P.S. Mankapur,
Nagpur (presently at Central Prison,
Nagpur).

... Petitioner

- Versus -

- 1) State of Maharashtra, through
Secretary, Home Department,
Mantralaya, Mumbai.
- 2) The Commissioner of Police,
Nagpur City, Nagpur.
- 3) The Superintendent,
Central Prison, Nashik.

... Respondents

Shri V.N. Mate, Advocate for petitioner.

Shri M.K. Pathan, Additional Public Prosecutor for respondents.

CORAM: SUNIL B. SHUKRE AND
G.A. SANAP, JJ.

DATED : JULY 7, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

Heard Shri Mate, learned Counsel for the petitioner and Shri Pathan, learned Additional Public Prosecutor for the respondents.

2) Rule. The rule is made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

3) The petitioner has been detained by the order dated 22/12/2021 passed by the respondent no.2 under Section 3(2) 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 (in short “MPDA” Act). This order is under challenge before this Court.

4) Shri Mate, learned Counsel for the petitioner, submits that the impugned detention order is illegal on two counts. In the impugned order, reliance is placed on two in-camera statements of

confidential witnesses, but these statements were not verified by the Detaining Authority himself. It is further submitted that these statements being vague, did not provide any relevant material to the Detaining Authority for arriving at the requisite satisfaction.

5) Shri Pathan, learned Additional Public Prosecutor for the respondents, submits that it is not in dispute that the statements were verified by the Assistant Commissioner of Police, Sadar Division, Nagpur and they were found to be totally genuine and these facts are mentioned in the impugned order. He further points out that the period, time and place of incidents all have been specifically mentioned in the in-camera statements and, therefore, it cannot be said that these were vague statements.

6) Upon consideration of the reasons stated in the impugned order and the material available on record, we find substance in the argument of the learned Additional Public Prosecutor for the respondents and no merit in the argument of

the learned Counsel for the petitioner.

7) The statements of confidential witnesses were verified for their genuineness by the Assistant Commissioner of Police, Sadar Division, Nagpur and report to that effect was submitted by him to the Detaining Authority. The Detaining Authority has considered these statements and this is evident from the discussion made in the impugned order. There is no law, which mandates that it is only the Detaining Authority, which must personally verify the genuineness of the statements of the confidential witnesses. The principle of fairness would require that verification of in-camera statements is done by an independent Officer, who has not recorded the statements. This requirement of fairness has already been complied with in the present case. The statements were recorded by the senior Police Inspector, Police Station, Mankapur, Nagpur while their verification was conducted by the Assistant Commissioner of Police, Sadar Division, Nagpur – an independent Police Officer.

We, therefore, do not think that the verification conducted by an independent Officer, who was not the Detaining Authority in the present case was vitiated in law. This is also the view taken by the other coordinate Bench of this Case in the case of *Pravin @ Bhayya Pratap Shinde vs. Commissioner of Police, Pune, State of Maharashtra; Superintendent, Yerwada Central Prison, Pune* (2020 LawSuit (Bom) 50) wherein the Division Bench was satisfied with the verification of the in-camera statements made by the Assistant Commissioner of Police even though the Detaining Authority was different Officer.

8) About the argument of the learned Counsel for the petitioner that the in-camera statements are vague in nature, we must say that the argument is completely against the record of the case. The statements of witnesses “A” and “B” show that both of them have referred to the period, time and place of the incidents. It is also stated in sufficient details as to how the incident leading to instilling fear in the mind of witnesses took place. The material provided in the statements is of such a nature that proper

verification of the incident is possible. This indeed has been done and the statements have been found to be genuine. Thus, we are of the view that there is no merit in the petition.

9) In the result, the petition is dismissed. Rule is discharged. No costs.

JUDGE

JUDGE

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