

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

CRIMINAL WRIT PETITION NO. 486 OF 2021

Swapnil alias Lalya Ashok Palkar
Aged about 30 years Occ: Private
R/o Panchsheel Nagar, Washim Bypass
Road, Old City, Akola.

... PETITIONER

---VERSUS---

1. State of Maharashtra,
Through Home Department (Special),
2nd Floor, Main Building, Mantralaya,
Mumbai-32.
2. District Magistrate,
District Akola
3. Police Station Officer,
Police Station, Old City Akola,
District Akola

...RESPONDENTS

Shri K.H. Anandani, Advocate for petitioner.
Shri S.S. Doifode, Additional Public Prosecutor for respondent nos.1 to 3.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 4th APRIL, 2022.

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.

3. By this writ petition under Articles 226 and 227 of the Constitution of India the petitioner is challenging the order of detention passed by the respondent no.2 dated 09.04.2021.

4. On 03.04.2021, a proposal was sent by respondent no.2 to detain the petitioner under the provisions of Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous persons and video pirates Act, 1981 (for short “the MPDA Act”).

5. On 09.04.2021, respondent no.2 issued order of detention in exercise of powers under Section 3(1) of the said Act directing the petitioner be detained for a period of one year.

6. The order of detention has been confirmed by order dated 12.05.2021.

7. The petitioner therefore challenged the order of detention by filing this writ petition. The petitioner has raised various grounds in the petition. Learned Advocate for the petitioner submitted that proposal for detention against petitioner has been made on 03.04.2021, but statement of secret witnesses

were recorded on 15.03.2021 and same was verified by the District Magistrate on 09.04.2021. Therefore order of detention is bad in law.

8. The respondents have filed the reply justifying the order of detention by stating that the petitioner is dangerous person; due to several criminal offences pending against the petitioner no citizen is coming forward to depose against petitioner; the order of detention can be justified for the reasons stated in the order of detention. It is submitted that insofar as the submission that the statements of the witnesses were recorded prior to initiation proposal under the provisions of the said Act is concerned, SDPO has verified the said information on 05.04.2021, therefore there is no prejudice caused to the petitioner resulting into order being made illegal.

9. We have heard the learned Advocate for the petitioner and learned Additional Public Prosecutor for the respondents. On careful consideration of the order of detention and the order of confirmation along with the reply filed by all the respondents, we are satisfied that petitioner has failed to make out a case for set aside the detention. Insofar as ground argued by the learned

Advocate for the petitioner is concerned, as can be seen from the record though statement of witnesses were recorded on 15.03.2021, the same have been verified by the SDPO on 09.04.2021. No ground is argued whatsoever mentioned in the petition. In case of petitioner, the sponsoring authority satisfied that the illegal activities of the petitioner were prejudicial to the maintenance of public order and also danger to the society at large. Therefore, sponsoring authority have no other alternative way except to select the remedy to detain the petitioner under the MPDA Act. The Senior Police Officers have verified and examined the material placed before them by the sponsoring authority and after their satisfaction they have recommended the proposal under MPDA Act to the detaining authority. Detaining authority after application of mind passed the order of detention. The petition is, therefore, dismissed.

Rule stands discharged. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE

Wagh