



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 998 OF 2023

Vishal Vijay Sonawne
Age: 27 years, Occ. Agril.,
R/o.: At Farshi Road, Amalner,
Tq. Amalner, Dist. Jalgaon.

... Petitioner

Versus

1. District Magistrate Jalgaon,
Dist. Jalgaon.
2. The State of Maharashtra,
Through the Additional Chief Secretary,
Government of Maharashtra,
Home Department, Mantralaya,
Mumbai- 32.
3. The Jail Superintendent,
Central Prison, Nagpur,
Dist. Nagpur.

... Respondents

...
Mr. H. F. Pawar, Advocate for Petitioner.
Mr. V. K. Kotecha, APP for Respondents.
...

CORAM : R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.

DATE : 05th December, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This petition is filed under Article 226 of the Constitution of

India against order of detention dated 15th March, 2023 passed by respondent No.1 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 (for short "M.P.D.A. Act").

3 The petitioner is detained as per the order of respondent No.1, which was confirmed by respondent No.2 on the ground that the petitioner is a dangerous person. For that purpose, respondent No.1 has relied upon the following crimes:

जळगाव जिल्ह्यातील अमळनेर पोलीस स्टेशन व नाशिक येथे दाखल गुन्ह्यांची माहिती

अ क्र	पोलीस स्टेशन	गुन्हा दाखल दिनांक	गुरनं	कलम	अटक दिनांक	सद्यस्थिती
1	अमळनेर	07.09.2027	187/17	भादंवि कलम 326, 323, 504, 506, 34 सह आर्म ॲक्ट 4/25	07.11.2017	न्यायप्रविष्ट
2	अमळनेर	10.01.2018	08/2018	भादंवि कलम 307, 394	07.11.2017	नाशाबीत
3	अमळनेर	28.05.2018	110/18	भादंवि कलम 307, 143, 147, 148	13.05.2018	नाशाबीत
4	मुंबई नाका नाशिक शहर	20.08.2018	249/18	भादंवि कलम 392, 34	17.09.2018	न्यायप्रविष्ट
5	उपनगर पोस्टे नाशिक	09.09.2018	333/18	भादंवि कलम 379, 34	23.12.2022	न्यायप्रविष्ट
6	अमळनेर	03.10.2019	390/2019	भादंवि कलम 384, 363, 342, 323, 504, 506 सह आर्म ॲक्ट 3/25, 4/25	03.10.2019	एन.सो. फायनल
7	अमळनेर	11.04.2020	CCTNS NO.219/20	भादंवि कलम 143, 147, 148, 149, 295, सह आर्म ॲक्ट 3/25	12.04.2020	नाशाबीत
8	अमळनेर	13.09.2020	CCTNS NO.555/20	मुंबई पोलीस अधिनियम 1951 चे कलम 142 प्रमाणे	13.09.2020	न्यायप्रविष्ट
9	अमळनेर	12.04.2021	CCTNS NO.168/21	भादंवि कलम 354, 323, 504, 506, 427	अटक नाही	एन.सो. फायनल

10	अमळनेर	10.06.2021	CCTNS NO.246/21	भादवि कलम 143, 147, 148, 149, 294, 427, 504, 506	11.06.2021	न्यायप्रविष्ट
11	अमळनेर	23.12.2021	CCTNS NO.554/21	भादवि कलम 307, 143, 147, 148, 149 सह आर्म अॅक्ट 3/25,27	24.12.2021	न्यायप्रविष्ट

अमळनेर पोलीस स्टेशन जि जळगाव येथील प्रतिबंधात्मक कार्यवाहीचा तपशिल

अ.क्र	पोलीस स्टेशनचे नाव	दाखल दिनांक	रजिष्टर क्रमांक	कलम
12	अमळनेर	16.09.2018	340/2018	फौजदारी प्रक्रिया संहिता 1973 चे कलम 107 प्रमाणे
13	अमळनेर	17.04.2020	52/2020	फौजदारी प्रक्रिया संहिता 1973 चे कलम 100 (ई) (ग) प्रमाणे
14	अमळनेर	04.09.2021	216/2021	फौजदारी प्रक्रिया संहिता 1973 चे कलम 100 (ई) (ग) प्रमाणे
15	अमळनेर	09.11.2022	191/2022	फौजदारी प्रक्रिया संहिता 1973 चे कलम 107 प्रमाणे

अमळनेर पोलीस स्टेशन जि जळगाव येथील अदखलपात्र गुन्ह्याचा तपशिल

अ.क्र	पोलीस स्टेशनचे नाव	दाखल दिनांक	गुरनं	कलम
16	अमळनेर	06.11.2022	1053/2022	भादवि कलम 405, 506, 510
17	अमळनेर	22.01.2023	0066/2023	भादवि कलम 323, 504, 506
18	अमळनेर	04.02.2023	0099/2023	भादवि कलम 504, 506, 427

अमळनेर शहर पोलीस स्टेशन जि जळगाव अंतर्गत करण्यात आलेल्या हद्दपार करावाईचा तपशिल

अ.क्र	पोलीस स्टेशनचे नाव	कलम
19	अमळनेर शहर	उपविभागीय दंडाधिकारी अमळनेर भाग अमळनेर जि जळगाव यांचेकडील आदेश क्रमांक हद्दपार प्रस्ताव क्रमांक 06/2019, दिनांक 03/10/2019 अन्वये चोपडा, पारोळा, अमळनेर व धुळे तालुक्यातून 01 वर्षाकरीता हद्दपार करण्यात आलेले आहे.

अलीकडील 06 महिन्याच्या आत दाखल गुन्ह्याचा तपशिल

अ क्र	पोलीस स्टेशन	गुन्हा दाखल दिनांक	गुरनं	कलम	अटक दिनांक	सद्यस्थिती
20	अमळनेर	02.11.2022	CCTNS NO.506/22	भादवि कलम 324, 143, 147, 149, 504, 506, 500	03.11.2022	तपासावर
21	अमळनेर	26.01.2023	CCTNS NO.0028/2023	भादवि कलम 394, 323, 504, 506	04.02.2023	तपासावर

4 The in-camera statements of two witnesses are also relied upon, which were recorded on 31st January, 2023 and 1st February, 2023. The detaining authority came to the conclusion that the petitioner is a dangerous person as defined under the M.P.D.A. Act and passed the impugned order. The order was confirmed by the Advisory Committee.

5 The petitioner has challenged the impugned order on the following grounds:

- I) The petitioner is falsely detained due to some political rivalry without any justifiable ground for subjective satisfaction. The order is passed mechanically and in very casual manner.
- II) There is no substance in the in-camera statements of witnesses 'A' and 'B' to arrive at a subjective satisfaction. Neither the detaining authority verified it nor the remarks have been put under it, that it is satisfied upon reading those statements that the petitioner is dangerous person as defined under Section 2(b-1) and 2(e-2) of the M.P.D.A. Act.
- III) The two crimes registered against the petitioner for sand

smuggling are not establishing to have effect on public order. The detaining authority did not apply its mind and arrive at subjective satisfaction while passing order. The detaining authority did not consider the status of other crimes and it also failed to consider that in crimes bearing CCTNS No.506 of 2022 and CCTNS No.28 of 2023, the petitioner is released on bail. The said orders are not challenged by the respondents. The detaining authority relied upon old and stale cases, which have no nexus and proximity with the purpose of detention order.

6 The learned counsel for petitioner pointed out that though the alleged two crimes are relied upon by respondent No.1 bearing CCTNS No.506 of 2022 and CCTNS No.28 of 2023 are alleged to have been occurred within six months, are not establishing that the petitioner is a dangerous person and his activities are affecting the maintenance of public order. He further pointed out that the in-camera statements of the witnesses also do not establish that because of the overt acts of the petitioner, maintenance of public order is likely to be affected. The learned counsel for petitioner lastly submitted that the impugned order passed by the authority relying upon those two crimes and two in-camera statements of the witnesses, is without subjective satisfaction having no proximity with the alleged detention. It is lastly

prayed to allow the petition by quashing and setting aside the impugned order.

7 The learned APP for the State strongly opposed the petition and submitted that the authorities have rightly believed the two in-camera statements of the witnesses and the alleged two crimes. He pointed out the affidavit-in-reply filed on behalf of respondent No.1, in which it is averred that after verifying the in-camera statements of the witnesses and those two crimes, the authorities have subjectively satisfied and the detention order is passed, as the petitioner is found to be a dangerous person and his activities are prejudicial to the maintenance of public order. It is lastly prayed to dismiss the petition.

8 Perused the impugned order and all the documents. The crime bearing CCTNS No.506 of 2022 is registered on 2nd November, 2022 and the crime bearing CCTNS No.28 of 2023 is registered on 26th January, 2023. The impugned order is passed on 15th March, 2023. Admittedly, the petitioner was released on bail in those two cases and those bail orders are not challenged by the respondents. Thus, it shows that there is no live link between those two crimes for passing of the impugned order to show that petitioner is dangerous person.

9 The in-camera statements of the witnesses show allegations of general nature and not specifying a specific date and time of incidents stated therein. While verifying those statements, the detaining authority has not concluded and observed that because of such overt acts of the petitioner, there is likelihood of disturbance of maintenance of public order. Thus, respondent No.1 wrongly came to the conclusion that the petitioner is a dangerous person and his activities are causing obstruction to the maintenance of public order and will also cause obstruction to the public order in future. There is no live link between those two crimes and the alleged maintenance of public order. It is sufficient to hold that the impugned order is not legal and correct. Therefore, the impugned order requires to be quashed and set aside. The criminal writ petition deserves to be allowed. Hence, the following order:-

ORDER

- I. The criminal writ petition is allowed in terms of prayer clause "B".
- II. The petitioner be set at liberty forthwith, if not required in any other case.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]