

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1193 OF 2023

Akash Dayanand Nagre

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Ms. A.M.Z. Ansari and Mr. M.R. Shaikh, Advocates for petitioner
Mr. A.R. Kale, A.P.P. for respondents

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 08th NOVEMBER, 2023**

PER COURT :

1. The challenge in this petition, under Article 226 of the Constitution of India, is to the order dated 02nd May, 2023 passed by Respondent No.2 – District Magistrate, Osmanabad having O.W No.2022/Assistance Secretary/M.A.G.-3/KAVI-1459 thereby detaining the detenu under Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons, Video Pirates, Sand Robber and Black Marketing of Essential Commodities Act, 1981 ('M.P.D.A. Act'). The said order of detention is confirmed by Respondent No.1 – Home Department, State of Maharashtra. The period of detention is for twelve months with effect from the date of detention i.e. 02nd May, 2023. Detention of the petitioner is on the ground of he being a

dangerous person and his activities as such, being prejudicial for maintaining public order.

2. This petition has been filed by a friend of the detenu. Learned A.P.P. took objection for maintainability of this petition on the ground *locus standi* of the petitioner. Learned counsel for the petitioner places on record a copy of Apex Court judgment in case of ***Charanjit Lal Chowdhury Vs. The Union of India and Ors., AIR 1951 SC 41*** wherein it has been observed that a friend may file a *habeas corpus* petition on behalf of the detenu. Prayer clause (A) of the petition speaks about the petition to have been filed as *habeas corpus* petition. In the alternate, other reliefs in the nature of writs issued under Section 226 of the Constitution of India were prayed for.

3. So far as to verify whether the petitioner was really concerned and authorized to file the petition, the detenu was contacted online. He appeared before us. According to him, the petitioner herein is his friend. He went on to submit that the petition be treated as filed by his friend on his behalf. Learned A.P.P. has objection to set aside the order of detention on the petition filed by a friend of the detenu. He concedes that a *habeas corpus* petition could be filed by friend of the detenu.

4. The detenu has not been supplied with copies of in-camera statements on the basis of which the order of detention has been passed.

Learned A.P.P. would submit that entire gist of the in-camera statements has been incorporated in the order of detention. He may be correct, but due to non supply of copies of in-camera statements, detenu's valuable right to make an effective representation against his order of detention has been violated. On this sole ground we allow the petition.

5. Criminal writ petition is allowed. Order of detention of the detenu dated 02nd May, 2023 passed by Respondent No.2 – District Magistrate, Osmanabad having O.W No.2022/Assistance Secretary/M.A.G.-3/KAVI-1459 is hereby set aside. The detenu - Prashant Ashok Puratale be released forthwith, if not required in any other proceeding. Parties to act upon authenticated copy of this order.

(SANJAY A. DESHMUKH, J.)

SSD

(R.G. AVACHAT, J.)