

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

CRIMINAL WRIT PETITION NO. 1229 OF 2023

Baban Raghoji Darade

..PETITIONER

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. S.S. Thombre, Advocate h/f Mr. S.B. Musale, Advocate for petitioner
Mr. S.N. Morampalle, A.P.P. for respondent no.1 - State

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 03rd OCTOBER, 2023**

PER COURT :

1. Heard.

2. The challenge in this petition is to order dated 20th June, 2023 passed by Respondent No.2 – District Magistrate, Hingoli in DC-1/KAVI-397/2023/3021 detaining the petitioner 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 ('the M.P.D.A. Act'). The said order is confirmed by Respondent No.1 - Home Department (Spl.), Government of Maharashtra in MPDA-0623/CR.248/Spl-3B vide order dated 08th August, 2023. The period of detention is of twelve months from 21st June, 2023.

3. Although the order impugned herein has been challenged on very many grounds, the petition is being allowed on the ground the petitioner has not been supplied with copies of in-camera statements relied on by the detaining authority in respect of order impugned herein. The petitioner has specifically raised this ground in this petition. He had also made a representation to the advisory committee specifically mentioning therein the very ground.

4. Learned A.P.P. adverted our attention to the affidavit-in-reply filed on behalf of Respondent No.2, wherein it has been stated that each and every document including the in-camera statements relied on in respect of the detention order were supplied to the petitioner. When called upon learned A.P.P. to place on record some tangible proof in support of the in-camera statements to have been supplied to the petitioner, learned A.P.P., on instructions, submits to have no such material to show the petitioner to have been in receipt of copies of those statements. In view of the same, we have no option but to observe the detaining authority to have failed to supply the petitioner copies of in-camera statements which were relied on for passing the order impugned herein. Non-supply of those copies lead us to observe the petitioner to have been prejudiced, in view of Article 22(5) of the Constitution of India to make effective representation against order of his detention. In view of same, we are inclined to grant relief to the petitioner.

5. In view of above, criminal writ petition is allowed. Order of detention dated 20th June, 2023 passed by Respondent No.2 – District Magistrate, Hingoli in DC-1/KAVI-397/2023/3021 and confirmed by Respondent No.1 - Home Department (Spl.), Government of Maharashtra in MPDA-0623/CR.248/Spl-3B vide order dated 08th August, 2023 are hereby set aside. The petitioner be set at liberty forthwith, if not required in any other case.

(SANJAY A. DESHMUKH, J.)
SSD

(R.G. AVACHAT, J.)