

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1350 of 2023

Suraj @ Balli Bhagwan Salve
Age 35 years Occ. Nil,
R/o. Near Savitribai Phule School
Bhimnagar, Bhavsingpura, Aurangabad
Tq. and dist. Aurangabad

...Petitioner

versus

1. The State of Maharashtra
Through Section Officer
Home Department,
Mantralaya, Mumbai – 400 032.
2. The Commissioner of Police
Office of the Commissioner of Police
Mill Corner, Aurangabad
District Aurangabad
3. The Superintendent,
Aurangabad Central Jail,
Harsul, Aurangabad
District Aurangabad

...Respondents

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Mr. Praveen B. Waghmare, advocate for the petitioner
Mr. M.M. Nerlikar, A.P.P. for respondents.

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

**Date of Reserving : 10.10.2023
the Order**

**Date of pronouncing : 10.11.2023
the Order**

ORDER (PER SANJAY A. DESHMUKH, J.) :-

1. Heard learned advocate for the petitioner and learned A.P.P. for the respondents.
2. This petition is filed under Article 226 of the Constitution of India, challenging the order of detention dated 22.02.2023 passed by respondent No.1 under Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons and Video Pirates Act, 1981 (for short the M.P.D.A. Act”), thereby detaining the petitioner, on the grounds that his activities as dangerous person were prejudicial to the maintenance of public order.
3. Mr. Waghmare, learned advocate for the petitioner submits that the petitioner is not a dangerous person. He was falsely implicated in the alleged crimes. The most of the offences considered are bailable. All the cases were falsely registered against him. He is likely to be acquitted from those cases. The impugned order does not disclose sufficient material to hold the petitioner as dangerous person. False confidential statements of secret witnesses are recorded. The reasons and findings of the respondents are not sustainable. The family members of the petitioners are facing great hardship and starvation. He lastly prayed to quash and set aside the impugned order by allowing this petition.

4. Learned A.P.P. for the respondents strongly objected this writ petition by pointing out that there is sufficient material against the petitioner and the order of detention is based on sound reasons, in which according to him, the time frame is properly followed by the authority. There is no any procedural defect or error.

5. To respond the grounds raised by the petitioner, respondent No.2 has filed affidavit in reply. It is contended that all the criminal activities of the petitioner can be gathered from crimes registered against him, as mentioned in the following chart:-

Sr. No.	Police Station	C.R. No. & under Section	Present Status
1	Cantonment	07/2019, U/s. 324, 323, 504, 427, 34 IPC	Pending trial
2	Cantonment	28/2019, U/s. 326, 341, 504 IPC	Pending trial
3	Cantonment	40/2019, u/s 354, 323, 504, 34 IPC	Acquitted on 20.04.2023
4	Cantonment	291/2019 U/s. 65(C) Maharashtra Prohibition Act 1949.	Pending trial
5	Cantonment	319/2020, U/s. 452, 323, 504, 506, 34 IPC.	Pending trial
6	Cantonment	460/2021, U/s. 65(C) Maharashtra Prohibition Act 1949.	Pending trial

7	Cantonment	198/2022, U/s. 324, 504, 506, 34 IPC	Pending trial
8	Cantonment	414/2022, U/s. 324, 323, 504, 506, 34 IPC.	Pending trial
9	Cantonment	27/2023, U/s. 324, 323, 504, 34 IPC.	Pending trial

Preventive Action

Sr. No.	Police Station	Chapter case No. & under Section	Disposal
1	Cantonment	137/2021, U/s. 107 Cr.P.C.	Disposed

Externment proceeding

Sr. No.	Police Station	Externment order No.	Under Section & disposal
1	Cantonment	Order No. DCP/ Externment/25/9944/2010, Office of the Dy. Commissioner of Police, zone-I, Aurangabad, dated 10.12.2010.	56(1) (a) (b) of Maharashtra Police Act, 1951. Externed from Aurangabad city and Aurangabad District for two years.

6. Learned A.P.P. submitted that the statements of two secret witnesses are duly recorded and verified in accordance with law. The copies of relevant documents and the orders were supplied to the petitioner alongwith the grounds of detention. The detaining authority after considering all the legal requirements and the grounds, held that the petitioner is dangerous person and due to his fear of retaliation, nobody dares to make complaint against him

openly. The authority has passed the order of detention on subjective satisfaction. It is lastly prayed to dismiss the writ petition.

7. Perused the impugned order and the material, on the basis of which the impugned order has been passed.

8. The authority has discussed the crime history of the petitioner in the impugned order alongwith the confidential statements of secret witnesses at "A" and "B" which were recorded on 03.02.2023. These statements were properly verified by the authority and the report was submitted on 09.02.2023. After having subjective satisfaction, the impugned order of detention was passed on 22.02.2023. It was served on the petitioner on 25.02.2023 alongwith all necessary documents. Thereafter, the Home Department of State Government approved the detention order on 03.03.2023. Advisory Board heard the petitioner on 03.04.2023. Thereafter, the State Government confirmed the order on 19.04.2023. In para Nos.6 to 11 of the order, it is held that it has been subjectively satisfied that the action taken against the petitioner under normal law of land is found insufficient and effective to deter him from his criminal activities which are prejudicial to the maintenance of public order. Admittedly, the petitioner is not gainfully employed and therefore, he is likely to continue such criminal dangerous activities in future which are likely to disturb the public order in the cantonment and adjoining areas of Aurangabad city.

9. In view of the above reasons we found that there is no any procedural defect in passing the detention order, by the respondent authority. A reasonable opportunity was given to the petitioner as per Article 22(5) of the Constitution of India. Upon considering the material available before us, we found that the authorities have subjectively satisfied and the order of detention was legally passed. Each stage of the proceeding was complied by the authorities within reasonable time, as discussed above.

10. For the aforesaid reasons, we hold that there is no scope for interference in the impugned order. Thus, there is no substance in the grounds of objections raised by the petitioner. The petition deserves to be dismissed and it is dismissed accordingly. No costs.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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