



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL WRIT PETITION NO.1480 OF 2023

Vishal Dashrath Choudhari

...Petitioner

Versus

- 1) The District Magistrate, Jalgaon
- 2) The State Of Maharashtra
- 3) The Superintendent
Yerwada Central Prison, Pune.

...Respondents

...
Advocate for Petitioner : Mr. Mahajan Sudhakar T
APP for Respondents: Mr. A.R. Kale

.....

**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 8th DECEMBER, 2023.**

PER COURT:-

Heard.

2. The challenge in this petition is to the order of detention passed 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 (for short "M.P.D.A. Act"). The challenge is mainly on the ground of not submitting the proposal to the State Government for approval forthwith. Moreover, there is delay of not less than 7 months

between the registration of last crime and the date of passing the order impugned herein. The petitioner has been detained on the ground of he being a dangerous person. For confirmation of the said order, it was submitted to the State Government 8 days after the order was passed. There is also no satisfactory explanation in this regard in the affidavit in reply.

3. Learned A.P.P. has strong reservations to allow the writ petition. Learned A.P.P. first took us through entire order of detention to submit that the crimes registered against the petitioner indicate his activities prejudicial to the maintenance of public order. He would further submit that subjective satisfaction of the detaining authority cannot be subject of the judicial review in the petition under Article 226 of the Constitution of India. He meant to say that the sufficiency of the material relied upon for passing the order impugned herein could not be questioned in writ petition.

4. The affidavit in reply is however, silent to explain the delay in passing the order. Admittedly, there is delay of not less than 7 months between registration of last crime and the passing of the order. As such, there is no live link between the crimes in question and the passing of order of detention.

5. In view of the above, we are inclined to allow this writ petition. Hence the following order:-

O R D E R

- I. Criminal writ petition is allowed in terms of prayer clause "B".
- II. The petitioner is on provisional bail. He need not surrender back to jail.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

rlj/