

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.3064 OF 2022**

Sandeep Kamlakar Chavan

.....Petitioner

**V/s.**

The Commissioner of Police, Pune &amp; Anr.

.....Respondents

Mr. Rajesh More for Petitioner.

Mrs. S.D. Shinde, A.P.P. for the Respondent-State.

**CORAM : A. S. GADKARI AND  
PRAKASH D.NAIK, JJ.****DATE : 7<sup>th</sup> FEBRUARY, 2023.****PC.:-**

1. Petitioner is aggrieved by an Order of Detention dated 10.05.2022 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"). The Order of Detention was served upon Petitioner along with the Grounds of Detention formulated by Detaining Authority and compilation of documents relied upon by Detaining Authority while issuing Order of Detention.

2. Perusal of Grounds of Detention indicate that, the Detaining Authority while issuing Order of Detention has relied upon C.R. No.205 of 2021 registered with Faraskhana Police Station for offences under Sections

326, 504, 506(2) of Indian Penal Code (for short 'IPC') on 08.12.2021 and C.R. No.20 of 2022 registered with Faraskhana Police Station for offences under Sections 354(A), 354, 504, 506(2) of IPC on 15.02.2022. The Detaining Authority has also relied upon the statements of two witnesses recorded in-camera on 23.02.2022 and 28.02.2022.

3. Mr. More, learned Advocate for Petitioner submitted that, the Order of Detention is required to be set aside on several grounds. There has been delay in issuing Order of Detention. The Detaining Authority has relied upon C.R.No.205 of 2021 registered on 08.12.2021, C.R. No.20 of 2022 registered on 15.02.2022 and two in-camera statements recorded on 23.02.2022 and 28.02.2022. The said two witnesses have referred to the incidents dated 02.02.2022 and 24.02.2022. However, the Order of Detention was issued on 10.05.2022. The delay in issuing Order of Detention has snapped the live link between the activities and the need for detention. The second ground urged by Petitioner is that, the incident referred to by the Detaining Authority would at the most disturb the law and Order situation and does not amount to breach of public Order. The Order of Detention has been issued with a view to prevent the detenu from acting in any manner prejudicial to the maintenance of public Order. In the absence of any material indicating that, the detenu is indulging in any activity prejudicial to the maintenance of public Order, the Detention Order is bad in law and deserves to be set aside. The third submission made by

learned Advocate for Petitioner is that, the Detaining Authority in the Grounds of Detention has recorded that, the detenu is dangerous person as defined in Section 2(b-1) of the M.P.D.A. Act. However, there is no material to determine that, the Petitioner is a dangerous person as defined in the said Act. The next submission advanced by the learned Advocate for Petitioner is that, the Petitioner was arrested in connection with the offences registered against him and granted bail by the concerned Court. While granting bail, the Court had imposed conditions upon him and therefore there were restrictions on his activities. There was no need of issuing the Order of preventive detention. Lastly, it is submitted that, there was no need of any action under the law of preventive detention. The normal law of land was sufficient to control the alleged activities of Petitioner. Two cases were registered against Petitioner. He was arrested and granted bail. There was no necessity of issuing impugned Order of Detention.

Learned Advocate for Petitioner has relied upon the decision of the Supreme Court in the case of *Mallada K. Ram Vs. State of Telangana and Others* reported in 2022 DGLS (SC) 424 to support his arguments.

4. Learned A.P.P. has relied upon the Affidavit-in-reply filed by the Respondents dealing with the grounds urged by Petitioner. It is submitted that, there is no delay in issuing Order of Detention. The steps taken while issuing the Detention Order are explained. The cases registered against

Petitioner and in-camera statements of witnesses clearly refers to the incidents which disturbs the maintenance of public Order. There is sufficient material before the Detaining Authority to determine that, the Petitioner is a dangerous person. Merely on the ground that, the detenu was released on bail on certain conditions, it cannot be said that, the Detention Order ought not to have been issued against Petitioner. Since the normal law of land was not sufficient to curb the activities of Petitioner, it was necessary to issue the impugned Order of Detention.

5. We have perused the Affidavit-in-reply filed by Respondents. There is requisite explanation to the grounds urged by Petitioner in the reply. C.R.No.205 of 2021 was registered on 08.12.2021. Petitioner was arrested on 09.12.2021. C.R.No.20 of 2022 was registered on 15.02.2022 and Petitioner was arrested on the same day. Statements of two witnesses were recorded in-camera on 23.02.2022 and 28.02.2022. They have referred to the incidents of 20.02.2022 and 24.02.2022. The impugned Order of Detention was issued on 10.05.2022. In the Affidavit-in-reply, the Detaining Authority has stated that, proposal dated 09.03.2022 was submitted to Assistant Commissioner of Police, (A.C.P) Faraskhana Division, Pune for taking action against the detenu on 10.03.2022. The proposal was then forwarded through proper channel and scrutinized by various authorities at various levels. Firstly, the proposal was submitted to A.C.P on 10.03.2022 and after verification of in-camera statements it was submitted

to D.C.P Zone-I, who made endorsement on 12.03.2022. After perusal of proposal with documents it was forwarded to Addl.C.P on 14.03.2022. Thereafter, it was forwarded to P.C.B, Crime on 22.03.2022 and the P.C.B. Crime made endorsement on 05.04.2022. Then it was forwarded to D.C.P Crime on 09.04.2022, who gave endorsement on 14.04.2022. The papers were forwarded to Addl. C.P, Crime and he gave endorsement on 23.04.2022 and thereafter, it was put up before Detaining Authority on 03.05.2022. The Detention Order was issued on 10.05.2022. Thus, there is plausible explanation offered in respect to the time consumed in issuing Order of Detention. Hence, according to us there is no delay in issuing Order of Detention. The incidents relied upon by the Detaining Authority, which are subject matter of two cases registered against Petitioner and the incidents narrated by witness 'A' & 'B' are sufficient to draw conclusion that, the said activities are affecting maintenance of public Order. There is sufficient material before the Detaining Authority on the basis of which the subjective satisfaction was recorded that, the detenu is a dangerous person and therefore the grounds urged by Petitioner that, there was no material to determine that, the Petitioner has dangerous person is devoid of merits. On the basis of material before the Detaining Authority, it cannot be said that, the normal law was sufficient to prevent the detenu from acting in any manner prejudicial to the maintenance of public order. The grounds urged by Petitioner are devoid of substance and deserves to be rejected. The

decision relied upon by the learned Advocate for Petitioner was delivered in the facts of the case and not applicable to the factual matrix of this case.

6. We are of the considered opinion that, there is no substance in the grounds urged by Petitioner and hence, the Petition deserves to be dismissed.

**ORDER**

- i) Criminal Writ Petition No.3064 of 2022 is dismissed.
- ii) Rule is discharged.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)