

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO. 74 OF 2023

PETITIONER: Suraj @ Lalla Kalicharan Thakur (in Jail)
Aged about 27 years, Occu-Labourer,
R/o Ravi Nagacor, Paratwada,
Dist. Amravati.

Through
Kalicharan s/o Panchan Singh Thakur
(Father of the Petitioner)
Aged about 60 years,
Occu - Labourer, R/o Ravi Nagar,
Paratwada, Dist. Amravati.

V E R S U S

- RESPONDENTS :**
1. The State of Maharashtra
Home Department (Special),
Through its Section Officer,
Second Floor, Main Building,
Mantralaya, Mumbai - 32.
 2. Collector & District Magistrate,
Amravati, Distt. Amravati.

Shri Anil Mardikar, Senior Counsel with Shri D. P. Singh, Advocate
for petitioner.

Shri A. M. Kadukar, Additional Public Prosecutor for respondent
Nos.1 and 2.

**CORAM: VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.**

JUDGMENT RESERVED ON : 12/04/2023

JUDGMENT PRONOUNCED ON : 28/04/2023

JUDGMENT (PER BHARAT P. DESHPANDE, J.) :

1. **Rule.** Rule made returnable forthwith. Heard the learned counsel for the parties with consent.

2. The petitioner through his father is questioning the legality or otherwise of the impugned order dated 20/10/2022 passed by respondent No.2 / District Magistrate, Amravati under Section 3(1) 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 (MPDA Act), along with order passed by respondent No.1 dated 24/11/2022 confirming the detention, for a period of 12 months from the date of order of detention.

3. Shri Anil Mardikar, learned Senior Counsel appearing for the petitioner vehemently submitted that both the impugned orders are bad in law, without application of mind and without recording subjective satisfaction about the activities allegedly carried out by the detinue. He would submit that the detention order is basically violating the principles on four grounds. Firstly, he submitted that there is no interaction with the Witnesses 'A' and 'B' either by the Sub-Divisional Police Officer (SDPO) or by the Detaining Authority to record their subjective satisfaction or correctness of the statements given by the witnesses. Secondly, he

claimed that the Detaining Authority failed to consider the bail orders passed in different matters. The copies of such bail orders were not furnished or produced before the Detaining Authority and that such fact has not been considered before passing the detention order. Thirdly, he claimed that the alleged activities of the detainee are mostly against individuals and would at the most amount to law and order problem, but not against the public order. Lastly, he claimed that there is unexplained delay in service of confirmation order on the detainee, which resulted in filing effective representation or the petition. Shri Anil Mardikar, learned Senior Counsel relied upon the following decisions :-

i] Criminal Writ Petition No.360/2022 (Sachin Gajananrao Telgote Vrs. The State of Maharashtra and others, decided on 04/01/2023. ii] Criminal Writ Petition No.73/2022 and other connected matters (Smt. Bismilah wd/o Sheikh Rahim Vrs. The State of Maharashtra and another, decided on 21/10/2022, iii] Abdul Sathar Ibrahim Manik Vrs. Union of India and others, reported in (1992) 1 SCC 1, iv] Criminal Writ Petition No.470/2006 (Manoj s/o Dilip Trivedi Vrs. The State of Maharashtra and others, decided on 02/02/2007, v] Elizabeth Ranibhai Prabhudas Gaikwad Vrs. The State of Maharashtra and

another, decided on 15/02/2021 and vi] Criminal Writ Petition No.477/2021 (Indragol Debaji Ramchawre Vrs. The State of Maharashtra and another, decided on 27/10/2021.

4. Shri A. M. Kadukar, learned Additional Public Prosecutor appearing for respondent Nos.1 and 2-State, per contra, submitted that the grounds of detention give all the relative details, which clearly goes to show that the Detaining Authority considered entire material placed before it and arrived at subjective satisfaction which, according to him, is based on legal principles. There is no illegality committed by the Detaining Authority while taking such drastic step. He would submit that SDPO had interaction with both the witnesses, visited place mentioned by them and only thereafter, submitted his report, which has been perused by the Detaining Authority as part of material. He then would submit that the bail orders were considered by the Detaining Authority which are reflected in the grounds of detention. He further submitted that the activities in which detainee is involved affect the public order and there is fear in the mind of persons residing in the locality which is preventing them from approaching Law Enforcing Agency as well as the Court to depose freely against the detainee. He then submitted that the instances considered by the Detaining Authority is having live link

with the detention order. Learned APP placed reliance on the following decisions :-

- i] Salauddin Immuddin Ansari and another Vrs. State of Maharashtra and others, reported in 2020 ALLMR (Cri) 1641 and
- ii] Jagdish Suresh Kudekar Vrs. Commissioner of Police, Thane and others, reported in 2020 ALLMR (Cri) 3898.

5. Rival contentions fall for determination of this Court as under :-

6. The detention order was passed by respondent No.2 dated 20/10/2022, thereby exercising the powers vested in it under Section 3(1) of the MPDA Act. Apart from serving detention order and committal order, the grounds of detention along with relevant documents were also served upon the detainee on 20/10/2022 itself.

7. Perusal of the grounds of detention would show that the Detaining Authority considered the detainee as a dangerous person, who is found involved in the offences like murder, attempt to murder, robbery, dacoity, with attempt to cause death or a grievous hurt, putting persons in fear of injury in order to commit extortion, causing disappearance of evidence of offence or giving false information to screen the offenders criminal conspiracy,

voluntary causing hurt by dangerous weapons, rioting, intentional insult with intent to provoke breach of peace, criminal intimidation, illegal possession of arms within the territorial jurisdiction of Paratwada and Achalpur Police Stations. The offences registered against the detainee are basically cover under Chapter XVI and XVII of Indian Penal Code and Chapter V of the Arms Act.

8. Para No.3 of the grounds of detention show the total seven offences are registered from the year 2013 till the year 2022. Similarly, preventive action was taken against the detainee vide Chapter Case No.38/2017 and Bond was executed for good behaviour for a period of three years. Though all seven offences were not considered by the Detaining Authority for the present order of detention, only two offences registered in the year 2022 at Paratwada Police Station were taken into consideration along with in-camera statements of witnesses A and B, as found in Para No.4.

9. The first offence which was taken into consideration is vide Crime No.359/2022 registered on 18/05/2022 at Paratwada Police Station for the offences punishable under Sections 307, 397, 324, 504, read with Section 34 of the IPC. The status of this matter is shown as pending in Court.

10. In Para No.4.2 of the grounds of detention, details of Crime No.359/2022 are disclosed. The complainant by name Sunil Khobragade lodged a written complaint on 17/05/2022 claiming therein that he was working with Kisan Kamble and Pravin Dakode in Gajanan Enterprises Shop, two persons on a motorcycle came in front of shop at around 8.15 p.m. and ransacked articles kept outside the shop. On saying that a complainant Kisan Kamble questioned said two persons, one of them started beating Kisan Kamble with fist blows. The owner of the shop of Pravin Dakode tried to intervene. However, he was pushed and abused. One of the assailants hit on the head of Pravin with some weapon in his hand. The second person took a knife from his pant and caused injury to Kisan by stabbing him at his abdomen and waist. It is claimed that offence was registered against the detainee and two others. The detainee was arrested on 19/05/2022 in the said offence and after obtaining initial Magisterial Custody Remand (MCR), detainee applied for bail, which was rejected by the Sessions Court. Accordingly, detainee applied for bail before this Court. But, it was withdrawn since the charge sheet was not filed. In the meantime, charge sheet was filed and the detainee again applied for bail before the Additional Sessions Judge, Achalpur who allowed him and released the detainee on bail on 24.08.2022.

11. Second offence which is relied upon by the Detaining Authority is registered under Crime No.360/2022 dated 18/05/2022 for the offence punishable under Section 324 r/w Section 34 of the IPC. Para No.4.1 of the grounds of detention shows the details of the said offence. One Sagar Tandilkar lodged his written complaint on 18/05/2022 at Paratwada Police Station stating that when there was person in his house on 17/05/2022 at about 9.45 p.m., the detainee along with his two friends came at his house and questioned him as to why he is providing information to Muslims. The complainant told the detainee and his associates not to fight in front of his house. Accordingly, the detainee called the complainant behind one hospital and in the lane, where the detainee took out a sharp aged knife hidden under his waist and told his associates to catch hold of the complainant. The complainant on saying they never tried to escape but detainee managed to assault at his back with the sharp aged knife causing bleeding injury. During investigation, detainee was arrested on 19/05/2022 and after obtaining MCR, he was released on bail on 20/06/2022.

12. Apart from these two offences, the Detaining Authority considered the statements recorded in-camera of witnesses A and B which are discussed in Para No.5 of the grounds of detention.

The witness A claimed that he knows the detainee since many years who is indulging himself in serious offence of murder, attempt to murder, rioting, etc. and being a habitual offender. He further stated that the detainee has created a gang by name Lalla and there is apprehension of this gang in the mind of people residing in Achalpur and Paratwada city, due to their criminal activities. He then stated that somewhere in the first week of September, 2022 when he was returning him at around 9.30 p.m., the detainee suddenly stopped him near Paratwada ST Stand and at that time, the detainee has sharp aged weapon like sword in his hand. The detainee threatened the witnesses by saying that he has been released from jail recently and he wants Rs.5,000/- as installment for running the business, from the said witness. When the witness disclosed that he is not having money, the detainee knocked him down and then pointed sword at his abdomen and then forcibly removed from his pocket. This incident was witnessed by the passers-by and mob gathered nearby. However, the detainee by showing them sword, threatened them to leave the place.

13. Witness B stated that he is also aware about the criminal activities of the detainee from last 10 years and about his gang by name Lalla. He stated that somewhere in the third week

of September, 2022 when there was a person in his shop, the detainee along with his 2 - 3 associates came to the shop and threatened the witnesses by saying that he has to pay Rs.20,000/- per month to him in order to conduct business in that area. When the Witnesses showed his inability, the detainee placed the knife on his neck and grabbed Rs.8,000/- from him. The witness tried to call for the help, but no one came forward due to fear of the detainee. He did not even register the complaint since he was threatened by the detainee not to go to the Police.

14. The Detaining Authority therefore observed that the activities of the detainee are against the public order and disturbing the tempo of life. People residing in the locality are having fear of their life and property who are not coming forward either to lodge complaint or to depose in the Court of Law against the detainee. Thus, the detainee is considered as a dangerous person as defined in Section 2 of the MPDA Act.

15. The Detaining Authority further observed that in spite of preventive action and registration of FIR, the detainee is continuing his activities to the detriment of the society and all the normal law remedies were found ineffective. The Detaining Authority therefore, considered and recorded subjective satisfaction that if the detainee is not detained, he would continue

his criminal activities which are prejudicial in any manner to the maintenance of public order.

16. Para No.10 of the grounds of detention further show that the documents placed before the Detaining Authority were perused and only thereafter subjective satisfaction was recorded that there is need to detain the detenue in order to prevent him from disturbing the public life. It was specifically observed that the Detaining Authority is aware that the detenue was released on bail in all pending cases. However, he is in habit of continuing such activities and there is likelihood that the detenue would involve himself in further criminal activities.

17. With these specific grounds supplied to the detenue along with all necessary documents, the submission advanced on behalf of the detenue would have to be taken into account.

18. In the recent decisions of Apex Court in the case of **Pramod Singla Vs. Union of India and Ors. Special Leave Petition (Cri.) No.10798/2022 decided on 10.04.2023**, it is observed in para 21 as under:

“21. Before we deal with the issues framed, we find it important to note that preventive detention laws in India are a colonial legacy, and have a great potential to be abused and misused. Laws that have the ability

to confer arbitrary powers to the State, must in all circumstances, be very critically examined, and must be used only in the rarest of rare cases. In cases of preventive detention, where the detenu is held in arrest not for a crime he has committed, but for a potential crime he may commit, the Court must always give every benefit of doubt in favour of the detenu, and even the slightest of errors in procedural compliances must result in favour of the detenu”.

19. In para 32, the Apex Court observed as under :

“32. As can be seen from the provisions of the above mentioned Acts, the detention order under both laws can be passed either by the Government, or by the specially empowered officer. However, under Section 3 of Preventive Detention Act, the specially empowered Officer, within 12 days of the detention, has to seek for an approval from the Government for continued detention, and only if the Government approves the same can the detention be continued. This process of seeking an approval from the Government is essentially a transfer of power from the empowered officer to the Government, making the Government the Detaining Authority after the initial lapse of 12 days”.

20. In the case of **Abdul Sathar Ibrahim Manik** (supra), the Hon'ble Supreme Court while dealing with the detention order passed under COFEPOSA Act observed that even if bail application and order are not placed before the Detaining Authority or even if

placed, if the Detaining Authority does not refer to or rely upon or has failed to take into consideration, that by itself does not lead to an inference that there was suppression of relevant material or in the alternative that there was non-application of mind or that subjective satisfaction was impaired. When these documents are neither referred to nor relied upon, there is no need to supply the same to the detainee. In that case, a specific ground was raised that the detainee was in custody and his bail application was rejected. The application for bail and the order of rejection were not placed before the Detaining Authority and therefore, it was claimed that there was suppression of material fact.

21. Applying the same principles, perusal of the grounds of detention specifically shows that though Para No.3 refer to seven offences, only two offences registered in the year 2022 were taken into account for passing the detention order. However, while giving gist of both these offences, in Para Nos.4.1 and 4.2, the Detaining Authority specifically referred the fact that the bail orders were passed by the Courts which were perused by the Detaining Authority. Similarly in Para No.10 of the grounds of detention, the Detaining Authority has referred specifically about the knowledge possessed by the Detaining Authority that the detainee was released on bail in all the offences mentioned in Para

No.3. The copies of bail orders which were passed by the learned Magistrate and the Additional Sessions Judge and the offences registered against the detenue in the year 2022 are already placed and the copies were supplied to the detenue. Remaining bail applications or orders of the offence from Sr.Nos.1 to 5 found in Para No.3 are neither relied upon nor considered except the fact that the detenue was granted bail in such offence by the Court. Thus, submissions regarding suppression of material documents and more particularly of the bail orders, has no substance.

22. The Detaining Authority was well aware about the orders passed while releasing the detenue on bail in all the said offences. The Detaining Authority also recorded that in spite of grant of bail in all the said offences, the detenue is likely to commit similar offence, thereby creating disturbance and the tempo of life in the society thereby disturbing public order.

23. In the case of Arun Ghosh Vrs. State of West Bengal, reported in (1970)1 SCC 98, the Hon'ble Apex Court considered the provisions of Section 3(2) of MPDA Act and itself between public order and law and order. It was held that disturbance of public order is to be distinguished from the acts directed against individual which do not disturb the society to the extent of causing general disturbance of public tranquility. The degree of

disturbance and its effect upon the life of community in a locality determines whether disturbance amounts to only breach of law and order. The question whether man has committed breach of law and order or has acted in a manner likely to create disturbance of public order is a question of degree and the extent of reach of the act upon the society.

24. Keeping in mind the distinguishing features and the settled principles of law laid down by the Hon'ble Apex Court which segregates law and order from public order, it becomes necessary to find out whether the acts alleged against the detainee in the detention order fall within public order or law and order, as the case may be.

25. The genesis of the detention order lies only in registration of two offences in the year 2022 together with the statements recorded in-camera has discussed earlier. It is also necessary to note that in all the matters pending against the detainee, he has been released on bail by different Courts, including this Court in Criminal Application (BA) No.1245/2021 which relates to Crime No.401/2018 registered at Paratwada Police Station for the offences punishable under Sections 302, 201 and 120-B r/w Section 34 of the Indian Penal Code, Section 135 of the Maharashtra Police Act and Sections 4/25 of the Arms Act.

26. The grounds of detention and the gist of two offences registered against the detainee show that the offences under Crime No.359/2022 for the offences punishable under Sections 307, 397, 324, 504, 34 of the IPC is concerned, the allegations in the complaint are against two unknown persons. Final Report filed before the learned Magistrate at Achalpur shows that the complainant by name Sunil Khobragade alleged that two persons on a motorcycle came in front of the shop and then ransacked the table, chair, cooler and other articles kept in front of shop and when they questioned, one of the assailants assaulted Kisan with fists and kicks. Whereas other person assaulted a shop owner by name Pravin, with some weapon on his head. Similarly, second assailant took out knife from his pant pocket and assaulted Kisan Kamble on his stomach. The said complainant by name Sunil claimed that both the assailants were unknown to him. However, they were caught by some local persons with the help of police and only thereafter, he mentioned their names, as Aditya Mangrulkar and Suraj Ahir. A oral report of Sunil is at Page No.149 and 150 of the grounds of detention wherein there is no reference of name of detainee. Surprisingly, the charge sheet is filed against three persons including the detainee wherein he has been released on bail.

27. Be that as it may, the fact remains that the detainee has been named as one of the accused in Crime No.359/2022, arrested by the Investigating Agency and later on, released on bail by the Court. The bail order dated 24/08/2022 passed by the Additional Sessions Judge was placed before the Detaining Authority and copy of it has been supplied to the detainee along with ground of detention. Even copy of bail application filed by the detainee vide Criminal Bail Application No.448/2022 before the Additional Sessions Judge at Achalpur and reply of the Investigating Agency are also on record. Thus, for considering the detainee has involved in such offence on prima facie ground, relevant material has been placed and considered by the Detaining Authority.

28. The second offence which has been considered by the Detaining Authority in Crime No.360/2022, gist of which is found in Para No.4.1 of the grounds of detention. A complaint was lodged by one Sagar on 18/05/2022 at Paratwada Police Station claiming that when he was in his residence on 17/05/2022 at about 9.45 p.m., the detainee along with his two friends came at his residence and questioned him as to why he is supplying information. At that time, the complainant told the detainee not to fight in front of his house. Accordingly, the detainee called the complainant behind Bhansali Hospital and in a lane going from

the front of Gou Mata Milk Dairy. The detainee took out sharp aged knife and instructed his friends to catch hold of the complainant. When the complainant tried to escape, the detainee assaulted him on his back near the waist with the sharp edged weapon causing heading injury.

29. The grounds of detention further show that the Detaining Authority has informed that the detainee was arrested on 19/05/2022, produced before the Magistrate, granted MCR and then released on bail vide order dated 20/06/2022. There is clear observation that the bail order dated 20/06/2022 was perused by the Detaining Authority. This order is also part and parcel of the documents placed before the Detaining Authority and copies supplied to the detainee.

30. Both these offences are covered under Chapters XVI and XVII of the Indian Penal Code and clearly goes to show that the actions on the part of detainee created apprehension and terror in the mind of general public.

31. Returning back to the statements of two Witnesses A and B and the submissions of learned Senior Counsel regarding non-verification of such statements, first of all, both these statements produced along with grounds of detention show that

the Sub-Divisional Police Officer, Achalpur interacted with both these witnesses personally and visited the spot on 10/10/2022 and then recorded his opinion that the witnesses disclosed true facts. Below such report of the Sub-Divisional Police Officer, there is endorsement of the Detaining Authority stating "verified". Similarly, in Para No.12 of the grounds of detention, the Detaining Authority has specifically observed as under :-

"The Sub-Divisional Police Officer, Achalpur Division, Amravati Rural has testified the witnesses "A" & "B" and submitted report to me. In the said report Sub-Divisional Police Officer, Achalpur Division, Amravati Rural has mentioned that, the facts of the incident and the apprehension expressed by the witnesses "A" & "B" in their statement are true and reasonable. After perusing the said report I am satisfied that the facts of incident and the apprehension expressed by the witnesses "A" & "B" in their statement are true and reasonable."

32. It is thus, clear that the Detaining Authority verified the report of Sub-Divisional Police Officer, Achalpur and on perusal of the statements of both the witnesses, recorded his subjective satisfaction.

33. Apart from this, the Detaining Authority also relied upon two complaints received by unknown person dated

14/09/2022 and 09/09/2022, the copies of which are attached to the grounds of detention. In both these complaints, the name of the complainant is not mentioned only because such complainant is apprehending fear of the activities of the detainee and a backlash on him if he discloses his name. Both these complaints show the criminal activities of the detainee and fear in the mind of general public.

34. There is no requirements on the part of the Detaining Authority to personally interact with the Witnesses A and B. However, if the subjective satisfaction is recorded on the basis of verification carried out by the Sub-Divisional Police Officer and perused by the Detaining Authority, would suffice the purpose.

35. The material placed before the Detaining Authority along with verification of Sub-Divisional Police Officer after personally interacting with the witnesses and perusal of it by the Detaining Authority would show that subjective satisfaction has been arrived at on the basis of contemporaneous documents and material which cannot be lightly brushed aside.

36. Another submission of learned Senior Counsel is regarding live link activities referred by the Detaining Authority or the witnesses. In this respect, it would be suffice to refer to the

offences which have been considered by the Detaining Authority for the purpose of passing detention order and as found in Para Nos.4.1 and 4.2 respectively. Both these offences were registered on 18/05/2022. The offence vide Crime No.360/2022 took place on 17/05/2022 at around 9.45 p.m. Similarly, Crime No.359/2022 is at around 8.15 p.m. on 17/05/2022 itself. Both these offences are within the jurisdiction of Paratwada Police Station. It shows that within a span of one and half hour, these offences were allegedly committed by the detainee along with his associates. The Witnesses A and B referred to the incidences which took place in the first and third week of September, 2022. Admittedly, the detainee had released on bail in Crime No.360/2022 on 20/06/2022 and in Crime No.359/2022 on 24/08/2022. Therefore, in the month of September, 2022, the detainee was free person though was on bail. The order of detention was passed on 20/10/2022 on the basis of proposal. Therefore, the contention raised on behalf of the detainee that there is no live link, has no substance at all. Two offences were committed within a span of one and half hour and immediately after released on bail, the detainee was found indulging in similar activities. Thus, such submission has no force.

37. It is further contended that the alleged offences against the detainee are only against individuals and at the most, affect the law and order, but not the public order. We are unable to accept such contention for the simple reason that the Detaining Authority discussed in a great detail about the activities of the detainee and fear in the mind of public and how such activities are affecting public order. It is also recorded by the Detaining Authority that the people in the said locality are having serious apprehension and no one is coming forward to give complaint or say a word against the detainee. There is terror created by the gang formed by the detainee who carried out their illegal activities of extortion, bodily offences, threats, etc. We have discussed in **Pramod Singla (supra)** the distinction between the law and order and public order.

38. The next ground which is found in the petition and more specifically in Para No.18 is in connection with powers of Detaining Authority / Government to pass order under Section 3 of the MPDA Act. It is the contention of the detainee that at the first instance, the order has to be passed only for six months and the order of detention nowhere discloses the period of detention and therefore, it is clear contravention of the settled proposition.

39. Above submission / ground is of no substance at all. First of all, provisions under Section 3 of MPDA Act along with

Section 12 of the said Act nowhere discloses that about period of detention. Only in Section 13 of the said Act, maximum period for which any person may be detained is mentioned as 12 months and that too when it is confirmed by the Government. In fact, the order which the Detaining Authority on the basis of delegation of powers, is entitled to pass is referred in Section 3(3) wherein it is provided that such order made by the Authority under the powers of delegation, shall remain in force not more than 12 days after making it unless in the meantime, it has been approved by the State Government. Thus, the Legislature clearly mentioned that the order passed by the District Magistrate / Police Commissioner as the case may be, on being delegated with such powers under Section 3(2), shall remain in force only for a period of 12 days from the date of making such order unless such order is approved by the Government.

40. The provisions of Section 3(2) read with proviso appended to it only deals with the time limit by which State Government is empowered to delegate its powers of detention to specific officers i.e. the District Magistrate or Police Commissioner. Such order of delegation is only for a period of six months, which the State Government may extend from time to time, but not exceeding further six months at a time. Above aspect was

considered by us in Criminal Writ Petition No.22/2023 in the case of Himanshu s/o Dinesh Roy Vrs. Commissioner of Police and another, decided on 03/04/2023. While doing so, we have referred the decision of the Hon'ble Apex Court in the matter of **Mrs. T. Devaki Vrs. Government of Tamil Nadu and others**, reported in **AIR 1990 SC 1086**. The Hon'ble Apex Court in the case of **Mrs. T. Devaki** (supra) discussed the scope of Section 3 of MPDA Act, which is *pari materia* to Tamil Nadu Preventive Detention Act and observed that the period of six months mentioned in the proviso to Section 3(2) cannot be confused with the period of detention as it only refers to period of delegation of powers and not period of detention of the detainee.

41. Since all the necessary documents including bail applications and orders were placed before the Detaining Authority and considered as found in the grounds of detention, observations in the case of **Manoj s/o Dilip Trivedi** (supra), **Elizabeth Ranibhai Prabhudas Gaikwad** (supra) and **Indragol Debaji Ramchawre** (supra) are of no help to the petitioner. Similarly, in the case of **Smt. Bismilah wd/o Sheikh Rahim**, the matter was decided on its own facts which are not helpful to the petitioner and therefore, such decision will not be helpful. In the case of **Sachin Gajananrao Telgote**, the Coordinate Bench of this

Court considered the decisions of Hon'ble Apex Court which distinguish concept of public order and law and order. We have already referred one decision of the Hon'ble Apex Court in detail.

42. Having said so, the grounds of detention and the documents relied upon by the Detaining Authority would clearly go to show that subjective satisfaction of the Detaining Authority has been arrived at by perusing entire material including verification of the statements of witnesses recorded in-camera, two complaints of the locality without disclosing their names, two criminal cases in which the detainee is allegedly found involved and therefore, we are unable to accept the submissions advanced on behalf of the detainee so as to disturb such reasoned findings.

43. It has been submitted that there is unexplained delay in serving confirmation order on the detainee. In this respect, Section 10 of the MPDA Act needs to be looked into, wherein it is provided that in every case where the detention order has been made under the said Act, the State Government shall within three weeks from the date of detention of a person, placed before the Advisory Board constituted under Section 9, ground on which the order has been made and the representation of the detainee, if any, along with the order made by the officer empowered under Sub-Section (3) of Section 3.

44. Section 11 further provides that the Advisory Board of considering the material placed before it and on calling for such further information that it may deem necessary from the Government or from the person and after hearing the person against whom the order is passed, if so considering necessary, submit its report to the State Government within seven weeks from the date of detention of the person. Section 12 then empowers the Government to confirm the detention order as per the advice of the Board and continue detention of such person for such period not exceeding maximum period prescribed under Section 13. In case, the Advisory Board has reported that there is no sufficient cause for detention, the State Government shall revoke the detention order and release the person forthwith.

45. In the present case, the matter was placed before the Advisory Board who opined that there is sufficient cause to continue detention and only thereafter, the State Government vide its order dated 24/11/2022 confirmed the said detention for a period of 12 months from the date of order. The detention order was passed on 20/10/2022 whereas the confirmation order was passed by the Government on 24/11/2022. It shows that such order was confirmed within a period of five weeks from the date of

order of detention. Thus, there is no delay on confirming the order of detention by the Government.

46. We, therefore, find no substance in the challenge raised by the petitioner in the present writ petition.

47. For the reasons recorded above, the petition is, therefore, devoid of merit and liable to be dismissed.

48. The petition is therefore, dismissed. Rule stands discharged.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

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VITHAL MAROTRAO
CHOULWAR
Date: 2023.04.28
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