

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 856 OF 2022

1. Atahar Khan Amir Khan Aged about 21 years, Occ. Labour, R/o. Tahpura, Iftekhar Plot, Akot, Dist. Akola. At present District Prison, Nasik	}	... Petitioner
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Versus

1. State of Maharashtra, Through its Secretary, Home Department, (Special), Mantralaya, Mumbai. 2. The Collector and District Magistrate, Akola, Dist. Akola.	}	...Respondents
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Mr. Mir Nagman Ali, Advocate for petitioner.

Mr. N.R. Rode, APP for respondent Nos.1 and 2.

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

RESERVED ON : 17.04.2023.

PRONOUNCED ON : 21.04.2023.

JUDGMENT : (PER: Bharat P. Deshpande, J.)

. **Rule.** Rule made returnable forthwith. Heard finally
by consent of the learned counsel for the respective parties.

(2) The petitioner/detenu is hereby challenging

impugned order dated 29.08.2022, passed by respondent No.2 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 'MPD Act'), thereby detaining a detenu as a dangerous person.

(3) In nutshell, the contentions raised in the petition is that, the detenu was detained without application of mind, without subjective satisfaction of the Detaining Authority and there being no disturbance of public peace or disturbance of public order. In-camera statements are false statements which are not properly considered by the Detaining Authority and thereby violated rights of the detenu as a free person.

(4) Mr. M.N. Ali, learned counsel appearing for the petitioner vehemently submitted that the impugned orders are clearly violative of the principles laid down in various decisions of the Apex Court and of this Court in connection with the procedure to be adopted by the Detaining Authority and recording of subjective

satisfaction. He would submit that relevant material was not considered by the Detaining Authority including bail granted to the detenu in some of the offences, similarly, the detenu was served with the notice under Section 41-A of the Code of Criminal Procedure, in some of the matters, which clearly shows that even the police authorities did not require custody of the detenu in connection with such offences. He would further submit that statements recorded in-camera of two witnesses are stereotype and not giving any specific particulars. Similarly, Detaining Authority on the day of passing of the detention order itself, put its endorsement “seen”, on the statements which show non-application of mind. He would submit that the Detaining Authority failed to verify the correctness or genuineness of the contentions found recorded in such statements of the witnesses, so as to arrive at subjective satisfaction. He would, therefore, submit that the detention order based on two in-camera statements without verification of it by the Detaining Authority vitiate such order.

(5) He would then submit that the offences alleged against the detenu are offences against individuals and there is no material to show that the detenu was creating fear in the mind of

public or such offences would constitute breach of public order. Finally, he claimed that there is no live link or nexus between the alleged offences referred in the grounds of detention with that of the order itself.

(6) Mr. Ali, learned counsel for the petitioner placed reliance in the following decisions :

(7) In cases of *Bharat Kisan Mekale Vs. Commissioner of Police and Ors.*, 2021 DGLS (Bom.) 1243, *Gokul Sahabrao Sabale Vs. The Commissioner of Police, Pune and Ors.*, 2017 ALL MR (Cri.) 2051, *Vasudev Mahadev Surve Vs. The State of Maharashtra and anr. in Criminal Writ Petition No.592/2021*, decided on 16.12.2021, *Hanif Karim Luluwale Vs. State of Maharashtra and Ors.*, in *Criminal Writ Petition No.75/2022*, decided on 28.06.2022, *Chattu s/o Ramjan Naurangabadi Vs. The State of Maharashtra in Criminal Writ Petition No.78/2022*, decided on 11.07.2022, *Sanjay s/o Ramlal Shahu Vs. State of Maharashtra and anr.*, in *Criminal Writ Petition No.768/2015* decided on 01.02.2016, *Pratap s/o Ajay Kharare Vs. The State of Maharashtra and Ors.*, in *Criminal Writ Petition No.531/2021* decided on 28.10.2021.

(8) Mr. Ali, learned counsel for the petitioner also placed reliance of the Hon'ble 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.***

(9) Mr. Rode, learned APP for respondents, while supporting the impugned orders would submit that the Detaining Authority considered six offences registered against the detenu, which are all offences against public order. The Detaining Authority also considered bail orders granted by the competent Courts in those six matters and there is clear reference in the grounds of detention. He would submit that such offences are of serious in nature and committed within short span of time, thereby disturbing a tempo of life of general public within the said area. The activities of the detenu were found to be dangerous for the smooth flow of life on the society. He would submit that statements of witnesses recorded in-camera would further show that the detenu is required to be considered as dangerous person under the MPD Act and all preventive measures were considered to be futile. A Detaining Authority observed entire material placed before it and reached at a conclusion thereby forming

opinion that there is no other alternative but to detain the detenu so as to prevent him from committing further offences. He would submit that the activities of the detenu were so dangerous, as no common person is able to approach police and give statement against the detenu. Therefore, according to him, all such activities were clearly disturbing the tempo of life in the society and accordingly, committing breach of public order.

(10) Mr. Rode, learned APP for the respondents placed reliance in the cases of *Harish Patil Vs. The State of Maharashtra and Ors., 2016 ALL MR (Cri.) 5144* and *Golam Hussain alias Gama Vs. The Commissioner of Police, Calcutta and Ors., (1974) 4 SCC 530*.

(11) We have heard learned counsel for the respective parties and also perused the original record. Accordingly, the rival contentions fall for determination as under:

(12) Before adverting to the grounds/contentions of the detenu, few facts/dates leading to the order of detention are as under:

(13) Vide letter dated **29.08.2022**, Police Inspector of Police Station, Akot, forwarded recommendation to the District Collector/Magistrate, Akola, enclosing there with all the details. The statements of two witnesses 'A' and 'B' recorded in-camera on 17.08.2022, were also forwarded along with such recommendation. Respondent No.2 – District Magistrate, Akola, vide order dated 29.08.2022, directed detention of the detenu and provided grounds of detention dated 29.08.2022, along with all other relevant documents.

(14) The grounds of detention show that the detenu has been considered as dangerous person under MPD Act, on the basis of his activities and involvement in various offences such as rioting, armed with deadly weapon, mischief, wrongful restraint, illegal possession of arms, theft, extortion, robbery, abusing and threatening, etc., in the vicinity of Akot.

(15) Paragraph 3 of grounds of the detention show the list of offences allegedly committed by the detenu and his associates as well as preventive action taken against him. The list of offences committed by the detenu in Akot City are shown from 13.11.2021 upto

09.08.2022. In all seven FIRs were registered under different Indian Penal Code Sections, Arms Act, etc. Perusal of the sections mentioned in the said list show that such offences falls within Chapter XVI and XVII of the Indian Penal Code and Chapter V of Arms Act. Similarly, the preventive action was taken against the detenu vide Chapter Case No.660/2021 on 23.12.2021, wherein he executed a bond for keeping good behaviour for a period of one year. However, the chart at para 3 of the grounds of detention show that during pendency of such bond, a detenu allegedly committed in all six offences.

(16) Though, the offences mentioned in para 3 of the grounds of detention are separate and not considered for passing the detention order, para 4 of the grounds show in all six offences allegedly committed by the detenu during the period of bond executed by him. Said chart in para 4 shows that there were six offences registered against the detenu for Indian Penal Code offences and Arms Act offences. The sections allegedly invoked in such FIR, further shows that these offences fall within Chapter XVI and XVII of Indian Penal Code and Chapter V of the Arms Act. All these offences are committed within Akot City Police Station. Similarly, these offences are committed between March, 2022 to August, 2022.

(17) Brief facts of such six offences referred by the Detaining Authority in para 4 are further disclosed in detailed. It is not necessary for this Court to refer contents of such offences, suffice it to say that the sections mentioned in the chart are sufficient enough, to consider.

(18) The grounds of detention and more specifically para 5 further shows that the Detaining Authority then considered in-camera statements of witness 'A' and 'B' recorded by the police and verified by the Assistant Superintendent of Police, Akot. The gist of such statements are incorporated. Detaining Authority observed that the detenu created terror in the mind of common people and due to fear, no one is ready to come forward to depose. Accordingly, the Detaining Authority found that the detenu is considered as dangerous person within the meaning of Section 2(b-1) of the MPD Act, 1981.

(19) The grounds of detention further show from para 8 onwards that the Detaining Authority was subjectively satisfied on the material placed before it, on the aspect, that the detenu is acting in a manner prejudicial to the maintenance of public order. Para 10 of the grounds further show that the Detaining Authority is fully aware that

the detenu was released on bail in all the above cases. However, it was further recorded that the detenu is likely to indulge or revert to similar activities which are prejudicial to the maintenance of public order in future and therefore, it was necessary to detain him.

(20) In para 11 of the grounds, the Detaining Authority further observed that the normal laws are just not sufficient to curb criminal and dangerous activities of the detenu, as public/witnesses are unwilling to come forward and he has created terror in the mind of public/locality, thereby disturbing their routine life in the said locality.

(21) The grounds of detention further show in para 12 that the Detaining Authority considered in-camera statements and verification of it by the Superintendent of Police, Akot, who submitted a report to the Detaining Authority. In the said report, Assistant Superintendent of Police, Akot, mentioned that the witnesses showed their apprehension which as Assistant Superintendent of Police, Akot, found it to be true and reasonable. The Detaining Authority perused such report and satisfied himself about the facts disclosed in such statements.

(22) With these factual matrix, submissions advanced by learned counsel for petitioner Mr. Ali, needs to be examined.

(23) In the recent decisions of Apex Court in the case of *Pramod Singla (supra)*, 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 detenue, and even the slightest of errors in procedural compliances must result in favour of the detenu”.

(24) 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”.

(25) Keeping in mind above observations of the Hon’ble Apex Court and the grounds raised in the petition, we would like to examine the same on the touchstone of the settled propositions of law.

(26) In para 6 of the petition, it has been alleged that in-camera statements of witness ‘A’ and ‘B’ would make it clear that such statements are absolutely vague and lacking in material particulars. The allegations in such statements are general in nature and do not in any way indicate that the detenu is a dreaded criminal or created fear in the mind of public and therefore, reliance on it could not have been placed by the Detaining Authority. He further claimed in para 7 that there is no nexus between the contentions found in statements of witness ‘A’ and ‘B’, with the disturbance of public peace. It is also claimed in para 11 of the petition, that though statements of witness ‘A’ and ‘B’ were recorded on 17.08.2022, both of them speaks about some

incidences in the month of April and May, 2022, thereby breaking the live link. It is then claimed in para 14 of the petition that the Detaining Authority failed to record subjective satisfaction with regard to the statements of witness 'A' and 'B' and more particularly, whether there is any truth or correctness in it. It is then claimed in para 15 that in-camera statements do not found any endorsement of the Detaining Authority stating that he has personally seen those statements or verified it. Only remark "Seen" by the Detaining Authority and that too on the date of passing detention order clearly goes to show non-application of mind. It is then claimed that there is no date mentioned about verification of in-camera statements either by the higher Police Officer or the SDPO.

(27) Since, we have already discussed grounds of detention in detailed and incorporated the same in earlier part of the judgment, we refrain ourselves from repeating such facts. However, in-camera statements of witness 'A' and 'B' found appended to the petition clearly goes to show that both these witnesses stated about activities of the detenu in the month of April and May, 2022. Both these witnesses clearly stated that there is a fear in the mind of public due to the activities of detenu and no one is coming forward to disclose either to

the police or to the Court against the detenu.

(28) Both these statements were verified by a higher Officer/Assistant Superintendent of Police, Akot. The endorsement of Assistant Superintendent of Police, on the reverse of the in-camera statements show that he personally visited the spot on 21.08.2022 and verified the contents of the statements. Similarly, he interacted with witness 'A' and 'B', and observed that their statements were disclosing truth.

(29) Admittedly, there is no date below the signature of the Assistant Superintendent of Police, however, he has specifically endorsed that on 21.08.2022, he visited both the spots as disclosed by witness 'A' and 'B', and even interacted with both these witnesses on the same day. Thus, Assistant Superintendent of Police, satisfied himself about the contentions stated by witness 'A' and 'B' and by visiting such places, recorded his subjective satisfaction about the truthfulness and correctness of it.

(30) The second aspect is in connection with Detaining Authority who put his endorsements below report of the Assistant

Superintendent of Police, by recording the word “Seen” and the date below signature of the Detaining Authority is 29.08.2022. This endorsement of the Detaining Authority would show that said authority has perused statements of witness ‘A’ and ‘B’ together with the report of Assistant Superintendent of Police, Akot, before passing the orders.

(31) The grounds of detention in para 5 depict details of statements given by witness ‘A’ and ‘B’ followed by the satisfaction recorded by the Detaining Authority in para 6 onwards. Para 10 of the grounds shows that the Detaining Authority has carefully gone through the material placed before it and thereafter, recorded subjective satisfaction that the detenu is acting in a manner prejudicial to the maintenance of public order. Though, the detenu was granted bail in all above cases.

(32) The contention of learned counsel Shri Ali, that the endorsement of Detaining Authority on in-camera statements is dated 29.08.2022 and merely “Seen” would show that there is non-application of mind. He submitted that a detention order was passed on the same day i.e. 29.08.2022, which further shows that the

Detaining Authority was casual in just putting endorsement as “Seen” on the said statements. In this respect, this Court in the case of ***Harish Patil (supra)*** and while observing the decision of Hon’ble Apex Court in the case of ***Smt. Phuwari Jagdambaprasad Pathak Vs. R.H. Mendonca, 2000 All.M.R. (Cri) 1503 (S.C.)***, observed in para 15 as under : -

“15. There remains no doubt in the light of the law laid down by the Apex Court in Phulwari Pathak (supra) that the in-camera statement of witness can be utilized by the Detaining Authority for the purpose of arriving at subjective satisfaction for passing the order of detention. However, Apex Court made it clear that the facts stated in the material relied upon should be true and have a reasonable nexus with the purpose for which the order is passed. Necessary corollary, therefore is that the Detaining Authority must be satisfied about the truthfulness of the statements made in the in-camera statements. However, it is nowhere stated in Phulwari Pathak (supra) that the Detaining Authority in the grounds of detention has to mention that he is satisfied that the in-camera statements are true. What has been laid down in Phulwari Pathak (supra) is that the material relied upon by the Detaining Authority should be true and have a reasonable nexus with the purpose for which the order is passed.”

(33) Similarly, this Court in the case of *Harish Patil (supra)* then observed in para 18 as under:

“18. In relation to the absence of subjective satisfaction being recorded in the grounds of detention about the truthfulness and genuineness of the statements of in-camera witness, we may state that it is settled law that the Detaining Authority in the grounds of detention need not record his reaction to each and every document or material”.

(34) The Supreme Court has so observed in the case of *State of Gujarat Vs. Sunil Fulchand Shah*, reported in *AIR 1988 SC 723*.

(35) The affidavit filed by respondent No.2 further shows that witnesses are genuine and their statements were recorded by the Police Officer and later on, same were verified by a higher Officer i.e. Assistant Superintendent of Police, Akot, by personally interacting with the witnesses and also visiting the spot. The said Assistant Superintendent of Police, recorded his subjective satisfaction in writing which has been perused by the Detaining Authority while considering

a detenu as a dangerous person. It is specifically stated in para 12 of the reply that the Assistant Superintendent of Police, verified the witnesses and submitted a report to the Detaining Authority. In the said report, the Assistant Superintendent of Police mentioned that the facts given in the statement and apprehension entertained by the witnesses are true and reasonable. The Detaining Authority after perusing such report and on satisfaction of it, came to the conclusion that the detenu is a dangerous person.

(36) Applying the above observations of this Court in the case of *Harish Patil (supra)* and the law laid down by the Hon'ble Apex Court in the case of *Phulwari Pathak (supra)* and *Sunil Fulchand Shah (supra)*, the Detaining Authority rightly considered endorsement and verification carried out by the Assistant Superintendent of Police, Akot, before passing the detention order. Only because a Detaining Authority has put his endorsement on both the statements on the day of passing detention order, cannot be contended that there is no application of mind. The question of subjective satisfaction is a mental stage on the basis of perusal of relevant material placed before the concerned authority and it can be recorded on the day of passing of detention order. It is sufficient if from the material available on

record the Detaining Authority could reasonably feel satisfied about the necessity for detention of the person concerned in order to prevent him from indulging in activities prejudicial to the maintenance of public order. Therefore, such submission with regard to a statement of witnesses 'A' and 'B', are concerned, are devoid of merits.

(37) Next ground which is raised is that the Detaining Authority failed to consider the orders of bail granted to the detenu in all six matters. In this regard, we again like to refer to para 10 of the grounds of detention wherein a Detaining Authority clearly observed that he is aware that now the detenu is on bail in all above cases. This itself is sufficient to indicate that the Detaining Authority was aware of bail orders passed by the competent Court, releasing the detenu in all six matters referred in para 4 of the grounds of detention. There is no need for placing copies of bail orders before the Detaining Authority. In this respect, the observations of the Apex Court in the case of ***Golam Hussain (supra)*** are relevant wherein it is observed in para 4 that though the detenu was discharged by the Court, such matters could be considered by the Detaining Authority for passing orders under Section 3 of the said Act. The relevant observations of the Apex Court are as below :

“4. Shri Mukherjee urged that although two criminal cases were started in connection with the two incidents constituting the grounds for the detention, the petitioner's name was not even mentioned in the first information reports, and he was produced before the Magistrate only on July 5, 1973, and so the order based on those accusations was too irrational to be bona fide. The Commissioner of Police who passed the detention order has stated in his affidavit that there were cases connected with the incidents of October 8th and November 9th, but the detenu could not be arrested until July 4, 1973. It is not denied that the petitioner's name was not in the first information report, but he was apprehended later on the basis of evidence gathered during the investigation of the criminal case. The commissioner admits that the detenu was discharged by the Court "as no witness dared to depose against the detenu in open court." According to him the said order of discharge was made on the prayer of the police on July 19, 1973, and thereafter the petitioner was preventively detained. Could such an order be castigated as malafide and oblique resort to the inscrutable order of detention when the prospects in the criminal case became bleak ? This charge has been repudiated by the Commissioner on oath and we are not able to hold with the petitioner that merely because the

Detaining Authority has chosen to pass the order on the discharge of the petitioner by the court for want of evidence, the order is bad in law. The branch of jurisprudence bearing on prohibitory detention has been crystallised by now and it is no longer a valid contention, that because the accused has been discharged in a criminal case the ground of charge cannot be relied upon by the appropriate authority for passing an order of detention. The former relates to the punitive branch of the criminal law and relates to the past commission, the latter to the preventive branch of social defence and protects the community from future injury. Whether we like it or not, this branch of jurisprudence, as interpreted by this Court has made it futile for a detenu to urge that because the grounds of detention have been the subject matter of criminal cases which have ended in discharge, therefore, the order of detention is malafide. The basic imperative of proof beyond reasonable doubt does not apply to the 'subjective satisfaction' component, of imprisonment for reasons of internal security. To quarrel with such a proposition is to challenge the wisdom of Parliament. Of course, we can visualise extreme cases where a court has held a criminal case to be false and a Detaining Authority with that judicial pronouncement before him may not reasonably claim to be satisfied about prospective

prejudicial activities based on what a court has found to be baseless. But the present case where the order of discharge is made purely for want of evidence on the score that witnesses were too afraid to depose against a desperate character cannot come under this exceptional category.”

(38) The Apex Court, therefore, observed that basic imperative of truth beyond reasonable doubt does not apply to subjective satisfaction component of imprisonment for reasons of internal security.

(39) Thus, either discharge for want of any evidence or the witnesses not coming forward or grant of bail are clearly on a separate parameters, would not impact the decision of subjective satisfaction of the Detaining Authority for the purpose of issuing orders under Section 3 of the said Act.

(40) Mr. Ali, learned counsel for the petitioner has placed reliance in the case of *Sanjay Ramlal Shahu (supra)* and more particularly, para 8 wherein this Court observed that subjective satisfaction has to be about unwillingness of such persons to come forward and to give statement against the petitioner. In that case, the

grounds of detention nowhere show that the Detaining Authority had a dialog in this respect with the Assistant Commissioner of Police and that there was no subjective satisfaction recorded by the Detaining Authority that the witnesses are unwilling to come forward. In the present matter, the Detaining Authority in the grounds of detention recorded the gist of the statements of witness 'A' and 'B'. In para 12, the Detaining Authority after considering entire material along with the statements of the witness 'A' and 'B' observed thus :-

“The Assistant Superintendent of Police, Akot Sub-Division, Akot, has verified the witnesses 'A' and 'B' and submitted a report to me. In the said report, the Assistant Superintendent of Police, Akot Sub-Division, Akot, has mentioned that the facts given in the statement and apprehension entertained by the witnesses 'A' and 'B' are true and reasonable. After perusing the said report, I am satisfied that the facts given in the statement and apprehension entertained by the witnesses 'A' and 'B' is true and reasonable”.

(41) Thus, the case of ***Sanjay Ramlal Shahu (supra)*** will not help the petitioner as the Detaining Authority has considered the report of the Assistant Commissioner of Police, and after perusing all the records, arrived at subjective satisfaction to hold that the detenu is required to be detained in order to prevent him from continuing with

dangerous activities.

(42) In the case of *Vinod Vithal Rane Vs. R.H. Mendonca and Ors. 2001 (2) Mh.L.J. 437*, the Division Bench of this Court observed that the Detaining Authority should satisfy itself from the material placed before it and it is enough even the Detaining Authority to record the reasons for coming to such subjective satisfaction. Such reasons would indicate that the Detaining Authority was cautious and aware about said position while recording subjective satisfaction. Once such subjective satisfaction is recorded by the Detaining Authority, it cannot be lightly interfered with by the Court.

(43) There is no requirement that the Detaining Authority should have personal interaction either with the witnesses or with the higher Police Officer who interacted with the witnesses and submitted his report about the genuineness and truthfulness of the statements made before the concerned Police Officer. It is sufficient for the Detaining Authority to consider such report of the Assistant Commissioner of Police or S.D.P.O. as the case may be, for arriving to the subjective satisfaction. The only criteria is that the authority must consider all contemporaneous material placed before it while arriving

at such satisfaction. This Court while exercising the powers under Article 226 of the Constitution of India is required to ascertain whether exercise of such powers by the Detaining Authority is within the parameters of the law laid down and by considering entire material placed before it to arrive at subjective satisfaction.

(44) In the case of *Shakir Khan Zakir Khan (supra)*, this Court observed in paragraphs 4, 5 and 6 that the detenu was not arrested and only intimation was given to him under Section 41(1)(a) of the Code of Criminal Procedure. This is not the case in the present matter. The Detaining Authority has specifically observed in the grounds of detention that the accused was enlarged on bail in all cases, as found mentioned in paragraph 4. Therefore, the observations in the case of *Shakir Khan* are distinguishable. Similar is the case with the observations in the case of *Hanif Karim Luluwale (supra)* wherein the detenu was served with notice under Section 41-A, which is not at all the case in the present matter.

(45) In the case of *Chattu Ramjan Naurangabadi (supra)* again the detenu was served with notices under Section 41-A of the Code of Criminal Procedure which led the Court in considering the fact even the Police Officer was not interested in arresting the detenu. Said

observations will not be applicable to the matter in hand, as out of six matters, detenu was arrested in four matters and was granted bail. Thus, material has been considered by the Detaining Authority who was aware of the fact that the detenu was released on bail. There was no need for placing orders granting bail before the Detaining Authority.

(46) In the case of *Gokul Sahabrao Sabale (supra)*, the Division Bench of this Court observed that the Detaining Authority failed to personally verify the statements of the witnesses and there was no endorsement on it of the Detaining Authority. This is not the case in the present matter, as Detaining Authority has put his endorsement on both the statements and that too below the report of the Assistant Commissioner of Police. Similarly, there is mention in the grounds of detention that the Detaining Authority considered both the statements along with the report of Assistant Commissioner of Police and came to subjective satisfaction that the statements, contents are true facts, which was verified by the Assistant Commissioner of Police, by personally having interaction and also by visiting the spot.

(47) It is vehemently contended that the offences alleged against the detenu are in noway connected with breach of public order

nor disturbing the tempo of life of the people in the locality. It was further argued that the cases in connection with Arms Act show that only statements of police are recorded, which is apparent from the charge-sheet. There is no independent witness recorded by the Investigating Agencies. As far as theft cases are concerned, the same are individual matters not connecting with disturbance of public order.

(48) On perusal of the para 4 of the grounds of detention wherein six offences registered against the detenu from March, 2022 to August, 2022, were considered along with two in-camera statements. In all four cases registered against the detenu are with regard to Indian Penal Code offences, which include Section 392 (Robbery), Section 384 (Extortion), Section 379 (Theft) and Section 341 (Wrongful restraint). The remaining two offences are under Sections 4 and 25 of the Arms Act. The offences of robbery, extortion cannot be considered as offences against individuals, as such offences normally affect the society and the public at large. The details of complaints lodged against the detenu in Akot City Police Station, in all six matters, are also discussed in detailed in para 4 of the grounds of detention.

(49) We, therefore, are unable to accept the contention of learned counsel for the petitioner that these offences are not affecting a public order or the tempo of life in the society. In fact, material placed on record and considered by the Detaining Authority shows otherwise. In three offences registered vide Crime No.411/2022, 400/2022 and 184/2022, the detenu with his associates was allegedly involved. In these circumstances and when the normal remedy or the measures to prevent the detenu from committing such offences is of no use, the Detaining Authority resorted to preventive detention under Section 3 of the MPD Act. Considering the material placed on record and subjective satisfaction recorded by the Detaining Authority which has been confirmed by the Government vide Order dated 31.10.2022, under Section 12(1) of the MPD Act, thereby detaining detenu for a period of 12 months, we do not find any illegality and impropriety.

(50) In the result, we are not inclined to accept the contentions and grounds raised in the present petition, which consequently fails and thus, the petition stands dismissed.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]