



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Writ Petition No. 576 / 2024

Sayyed Junaid Sayyed Abdul Qadeer

Age : 22 years, Occu. Labour,

R/o Near Badi Masjid, Azam Colony,

Tq. & Dist. Hingoli.

...Petitioner

Versus

1. State of Maharashtra
Through its Secretary,
Home Department (Special),
Mantralaya, Mumbai.
2. The District Collector,
Hingoli.
3. Sub-Divisional Police Officer,
Sub-Division Hingoli (Rural)
Dist. Hingoli.
4. Police Inspector,
Police Station Hingoli (Rural),
Tq. And Dist. Hingoli.
5. The Superintendent of Jail,
Harsul Central Prison,
Aurangabad.

..Respondents

— — —
Advocate for the Petitioner : Mr. S.E. Shekade

A.P.P. for Respondents /State : Ms. V.N. Patil-Jadhav
— — —

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

RESERVED ON : 7 MAY 2024

PRONOUNCED ON : 10 MAY 2024

JUDGMENT [Per Shailesh P. Brahme, J.] :

. Rule. Rule is made returnable forthwith. Heard both the sides finally with their consent at the admission stage.

2. We are called upon to examine order dated 20.12.2023 passed by the respondent no.2/detaining authority and order of confirmation dated 21.02.2024 passed by the respondent no.1 under the provisions of Maharashtra Prevention of Dangerous Activities of Slumlords Bootleggers, Drug-Offenders, Dangerous Persons and Video Pirates, Sand Smugglers and Persons Engaged in Black-Marketing of Essential Commodities Act Act, 1981 (hereinafter referred to as the MPDA Act for the sake of brevity and convenience). The petitioner is held to be dangerous person on the basis of two offences and two in-camera statements.

3. Learned Counsel for the petitioner would assail impugned order on the ground that the subjective satisfaction is arbitrary. He would point out FIR of both the offences to demonstrate that the allegations are not serious in nature and would not constitute any prejudice to public order. He would point out that in both the offences the petitioner was served with notice under Section 41(A)(1) of Cr.P.C. which would indicate that even he was not required to be arrested. He would further point out that

externment proposal was cancelled without assigning any reason. He would submit that in-camera statements of anonymous witnesses are liable to be discarded as they are not verified by the detaining authority and they are chance witnesses. According to learned Counsel there is no material to indicate that the activities of the petitioner are detrimental to public order.

4. Learned Counsel for the petitioner seeks reliance on the judgment rendered by the Division Bench in the matter of Ashokrao s/o Uttamrao Pawar & Another Vs. State of Maharashtra and Others, Criminal Writ Petition No.738/2022.

5. Learned APP would support the impugned orders on the basis of affidavit-in-reply of the respondent no.2. She submits that all the relevant material has been taken into account weeding out extraneous material by the detaining authority. It is further submitted that in a writ jurisdiction there is very limited scope for judicial review of the subjective satisfaction. She would submit that statements of the anonymous witnesses were verified by a higher police officer and the detaining authority has properly dealt with this aspect in the order of detention. She would submit that the purport of notice under Section 41(A)(1) has been considered by this Court in the matter of **Vinod Dhannulal Jaiswal Vs. District Magistrate, Aurangabad and Ors.**, AIR Online 2024 Bom 105. It is further submitted that due statutory compliances and time line have been followed by the respondents.

6. Having considered rival submissions and having gone through the papers, at the outset we have to clarify that the petitioner seeks to challenge impugned order on subjective satisfaction of the detaining authority. We had an occasion to deal with purport of service of notice under Section 41(A)(1) of Cr.P.C. on the detinue in the matter of Vinod Dhannulal Jaiswal (*supra*). In that judgment it has been held specially in paragraph no.35 and 36 that service of notice under Section 41(A)(1) on the detinue instead of his arrest would not be mitigating factor. We are therefore not inclined to accept the submissions of the petitioner in this regard.

7. The FIR in C.R. No.501/2023 was registered against the petitioner for offence under Section 4/25 of the Arms Act and under Section 185 of the Motor Vehicles Act on 08.10.2023. Another C.R. No.674/2023 was registered under Sections 341, 385, 323, 504, 506 of IPC on 19.12.2023. It is the submission of the petitioner that both the offences do not disclose any danger to the public order and the ordinary penal law would be sufficient to deal with them. In the first offence petitioner was found drunk while driving vehicle and he was holding a dagger. In another offence, he was found to be involved in robbery and assault. The last offence would fall under Chapter XVI and XVII of IPC. Both the offences are covered by definition of Section 2(b)(1) of 'dangerous person'. We cannot examine the veracity of the allegations.

8. We have considered both the in-camera statements recorded on

21.12.2023. In the statement of witness-A it is stated that the petitioner was in habit of extracting money from random people. The witness was accosted and demanded money, has was abused and slapped. Another witness-B would also state on the same line. He cites instance of pick pocketing of the petitioner. We find that there is no animosity of the petitioner with the witnesses but still he is found to have indulged in the overact of extracting money and abused and assaulted ordinary people. We find that both the statements have been verified by Sub-Divisional Police Officer on 22.12.2023. The detaining authority has recorded specific finding in paragraph no.12 of the grounds of detention, verifying reliability of the statements. Additionally we find that the detaining authority has explained in paragraph no.12 and 13 of reply that both the statements have been duly verified and the subjective satisfaction has been arrived at. We find that both the statements are reliable.

9. In this regard, learned Counsel for the petitioner relies on the judgment of Ashokrao s/o Uttamrao Pawar & Another (supra). We have considered paragraph no.20 of the judgment. It is distinguishable on facts. In the case in hand not only detaining authority has recorded satisfaction in the grounds of detention but also reaffirmed in affidavit-in-reply. We find no merit in the submission of the petitioner.

10. It transpires from record that the cumulative effect of offences pitted against the petitioner and in-camera statements is that the petitioner is a habitual offender and he has created terror in the vicinity.

The subjective satisfaction of the detaining authority is founded on logical appreciation of material, consideration of the relevant material and application of mind. If the subjective satisfaction is tested on the touchstone of the parameters laid down by the Supreme Court in the latest judgment in the matter of **Nenavath Bujji Etc. Vs. State of Telangana**, AIR 2024 SC 1610, we do not find any fault with it.

11. There are limitation for judicial review of the subjective satisfaction. We are not exercising appellate jurisdiction. The appreciation of material or the substitution of the view is impermissible. Learned APP has rightly submitted that no case is made out to indicate that subjective satisfaction is arbitrary, ex facie perverse or grossly unreasonable.

12. Though specific grounds have not been raised by the petitioner in the petition regarding statutory compliance, we have examined the matter from that angle also. Last offence was registered against the petitioner on 19.12.2023. In-camera statements were recorded on 21.12.2023. They were verified on next day. Impugned order was passed on 28.12.2023. We find no delay in passing impugned order.

13. After passing impugned order, it was approved under Section 3(3) of the act on 05.01.2024, which is within period of 12 days. Impugned order was confirmed on 21.02.2024. We find that there is due compliance of Section 8, 10 and 11.

14. The above analysis would indicate that no case is made out to upset

the impugned orders. We, therefore, dismiss the Criminal Writ Petition.
Rule is discharged.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

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