



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

CRIMINAL WRIT PETITION NO. 699 OF 2024

Baljitsingh @ Sallu Gurudattasingh BhatiyaPetitioner

Versus

1. The District Magistrate, Nanded.
2. The State of Maharashtra.
3. The Superintendent
Aurangabad Central Prison, Aurangabad.Respondents

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Advocate for Petitioner : Mr. Ajinkya Reddy
APP for Respondents : Mr. N.R. Dayama

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

**Reserved on : 06 MAY 2024
Pronounced on : 09 MAY 2024**

JUDGMENT (Per : Shailesh P. Brahme, J.):

1. Rule. Rule is made returnable forthwith. Heard both sides finally.
2. Petitioner is seeking quashment of order of detention dated 25.01.2024, passed by respondent no. 1 – District Magistrate, Nanded, under Section 3 (1) of the 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, 1981 (hereinafter referred to as 'the MPDA Act' for the sake of brevity and convenience). Petitioner is held to be dangerous person on the basis of two offences namely C.R. No. 823 of 2023 and C.R. No. 862 of 2023, three preventive actions and two in-camera statements.

3. Learned counsel for the petitioner submits that subjective satisfaction is arbitrary and suffers from non application of mind. Material pitted against petitioner does not disclose any danger to the public order. No serious offences are pitted against him. He was not supplied with verification of the in-camera statements. There is breach of Section 10 of the MPDA Act. There is no live link between material used against petitioner and impugned action. Impugned order does not mention specific period of detention.

4. Learned counsel for the petitioner places on record compilation of documents which was served upon the petitioner.

5. Learned APP supports impugned order on the basis of affidavit-in-reply. He would vehemently submit that due procedure

of law was followed and timeline was specifically adhered to. He would submit that in-camera statements were duly verified and furnished to the petitioner. There is due compliance to Section 3 (3) as well as Section 10 of the MPDA Act. He would further submit that preventive actions taken against the petitioner did not deter him and he continued with criminal activities detrimental to the public order. Lastly, it is submitted that subjective satisfaction is an intelligible decision and cannot be faulted.

6. Learned APP seeks to rely on judgment of Supreme Court in the matter of *Mrs. T. Devaki Versus Government of Tamil Nadu*, (1990) 2 SCC 456. Affidavit-in-reply also in its paragraph no. 12 refers to specific paragraph no. 8 of the judgment. We need not, therefore, entertain submission of the petitioner for having not quoted the duration of detention in the impugned order. Learned APP has also placed on record judgment in the matter of *Sachin @ Bedkya Shyam Kale Versus The State of Maharashtra and others*, passed by this High Court in Criminal Writ Petition No. 422 of 2024, with which we would deal at an appropriate stage.

7. We have considered rival submissions of the parties and gone through the relevant papers. We have gone through First

Information Report of both the offences. Both offences fall under Chapter XVI and XVII of the Indian Penal Code. One of them has additional provision of Arms Act. In the detention proceedings, we cannot appreciate that as to whether petitioner is falsely implicated in the offence or no incriminating role is attributed to him. First offence discloses that informant in that offence was abused and threatened with weapon and money was extracted. It is a case of road robbery. Another offence discloses that victim was being molested and abused by the petitioner. We are of the considered view that both the offences are serious in nature.

8. We have also considered in-camera statements which would disclose the antecedents and criminal tendency of the petitioner. Both were duly verified by the competent authority. The Detaining Authority has also properly dealt with the statements and the verification in paragraph no. 12 of the grounds of detention. We do not find any merit in the submission of the petitioner that the statements are not reliable.

9. It reveals from record that petitioner suffered preventive action lastly on 13.10.2023. Immediately, on 17.11.2023, he committed C.R. No. 823 of 2023 under Sections

384, 386, 341, 504 read with Sections 4/25 of the Arms Act. Again within short interval another offence was registered against him under Sections 354 (A), 354 (D) of the Indian Penal Code, read with Section 12 of the Protection of Children from Sexual Offences Act (POCSO), 2012, on 08.12.2023. This would indicate that he was undeterred by the preventive action and continued his notoriety. We have gone through the subjective satisfaction of Detaining Authority. We are of the considered view that Detaining Authority has taken into account relevant material and rightly arrived at subjective satisfaction. We do not find any fault in the subjective satisfaction when tested to the touch stone of parameters laid down by Supreme Court in the latest judgment of *Nenavath Bujji Etc Versus State of Telangana*, **AIR 2024 SC 1610**, in paragraph no. 43.

10. We have considered paragraph no. 7 of the reply to ascertain as to whether there is any delay. Last offence was registered on 08.12.2023. In-camera statements were recorded on 12.12.2023 and verified. Proposal reached respondent no. 1 – Detaining Authority on 15.12.2023. Thereafter, impugned order was passed on 25.01.2024 which in our considered view is within reasonable time.

11. We have also considered paragraph no. 8 of the affidavit-in-reply so as to examine compliance of Section 3 (3) of the MPDA Act. Impugned order was passed on 25.01.2024 and it was approved on 02.02.2024, the timeline specified under Section 3 (3) of the MPDA Act, appears to have been followed with reasonable promptitude.

12. We have also considered paragraph nos. 8 and 14 of the reply. It reveals that proposal was placed before Advisory Board on 12.02.2024, well within three weeks from date of detention dated 26.01.2024. That is proper compliance of Section 10 of the MPDA Act. Thereafter, Advisory Board recommended for the detention. The State Government accepted the recommendation and confirmed detention order on 19.03.2024. We find that due procedure of law has been followed by the respondents.

13. It reveals that petitioner made representation on 28.02.2024 which was rejected on 07.03.2024.

14. Learned APP would point out judgment rendered in *Sachin @ Bedkya Shyam Kale* (supra). We have considered paragraph no. 13. In that matter detenue had indulged in criminal

activity by committing breach of order of externment. In the case in hand though there was no order of externment passed against petitioner, we have recorded that immediately after last preventive action, he indulged in commission of crimes. The conduct of the petitioner is of aggravated form. We are also shown paragraph no. 16 of the judgment. However, in the present case the Detaining Authority has verified in-camera statements and recorded it in paragraph no. 12 of the grounds of detention. The ratio to that extent cannot be made applicable.

15. We find that no case is made out to cause our interference in the impugned order. We pass following order :

ORDER

- i. Criminal Writ Petition is dismissed.
- ii. Rule is discharged.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]