



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

CRIMINAL WRIT PETITION NO. 708 OF 2024

**GANESH BHUJANG MORE
VERSUS
THE DISTRICT MAGISTRATE, HINGOLI AND OTHERS**

...
Advocate for Petitioner : Mr. Mahesh P. Kale
APP for Respondents : Mr. S.P. Joshi
...

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

**Reserved on : 30 APRIL 2024
Pronounced on : 08 MAY 2024**

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

1. Rule. Rule is made returnable forthwith. Heard both the sides finally.
2. Petitioner assails order of detention dated 04.08.2023 passed by respondent no. 1 – District Magistrate, Hingoli, 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 has been held

to be dangerous person by considering an offence, in-camera statements and an order of externment dated 15.04.2023.

3. Learned counsel Mr. M.P. Kale for the petitioner submits that subjective satisfaction suffers from non consideration of reasons assigned for enlarging petitioner on bail. He would further submit that petitioner was not given opportunity to make representation and his proposal was directly placed before advisory board. It is further submitted that the offence pitted against him was not committed during the period of externment. It is submitted that in-camera statements are not reliable. Lastly, he would submit that there is delay in processing the proposal and passing of the impugned order.

4. Learned APP Mr. S.P. Joshi supports impugned order on the basis of affidavit-in-reply filed by the Detaining Authority. He would submit that petitioner operates a gang and he is a weapon wielding desperado. He is undeterred by the previous order of externment and ordinary penal laws. Impugned order cannot be faulted by implication of Section 5 A of the Act. Lastly, he submits that subjective satisfaction is reasonable and plausible.

5. We have heard both the counsels and gone through the relevant papers. Only offence pitted against petitioner is Crime No. 638 of 2023 under Sections 399 and 402 of the Indian Penal Code, registered on 23.07.2023. It was allegedly committed by him at Hingoli, District Hingoli. He had suffered order of externment passed on 15.04.2023, externing him from Nanded district for six months. Strictly speaking, there is no breach of order of externment but fact remains that he was bold enough to commit offence on 23.07.2023, albeit outside the prohibited area.

6. In previous offences petitioner was released on bail but those offences were not considered by the Detaining Authority. The Detaining Authority need not have to consider those reasons. Only last offence is pitted against him. Hence, present scrutiny is confined to the last offence. Record reveals that his application for bail in the last offence was rejected by order dated 28.07.2023 by learned Judicial Magistrate First Class Hingoli. The Detaining Authority has referred to this fact.

7. Learned counsel for the petitioner relies on judgment of *Sayed Bilal Sayed Munwar Versus The State of Maharashtra and others*, passed by this High Court in Criminal Writ Petition No. 119

of 2024. However, in that matter detainee was enlarged on bail and reasons thereof, were not considered by the Detaining Authority. That judgment cannot enure to the benefit of the petitioner. Similarly, further judgment of *Dipak Alias Fantya Ashokrao Kawanpure Versus State of Maharashtra*, **AIR Online 2022 Bom 18**, is also not applicable.

8. Though, it is contended by the learned counsel for the petitioner that no opportunity was given to the petitioner to make representation, the submission is not substantiated. Nothing is pointed out as to how the petitioner is deprived of the right to make representation. He was served with the grounds of detention and the relevant papers. Respondent no. 1 has specifically denied grounds raised by the petitioner in this regard, in paragraph no. 11 of the reply. There is no material to infer that he was prevented from making representation.

9. Learned counsel for the petitioner has referred to in-camera statements of the witnesses to demonstrate that those are unreliable. In-camera statements have a corroborative value. Those can be looked into to show conduct of the detainee. It is useful to refer to judgment of the Supreme Court in the matter of

Smt. Phulwari Jagadambaprasad Pathak Versus R.H. Mendonca and others, **AIR 2000 Supreme Court 2527**. In paragraph no. 16, purport of in-camera statement is explained. We do not find in merit in the submission of the petitioner.

10. We have examined submission of delay caused in passing impugned order. For that purpose, we have gone through affidavit-in-reply and especially paragraph no. 13. In-camera statements were recorded on 29.07.2023. Those were verified. Proposal was submitted on 31.07.2023. Impugned order was passed on 04.08.2023. We are of the considered view that the proposal has been processed with due promptitude. The submission of the petitioner does not hold any water.

11. Learned APP has referred to FIR of the last offence in which the petitioner was found to have been preparing to commit robbery. Material was seized from him. Both in-camera witnesses averred that petitioner operates gang or commits offences by forming gang. This indicates activities are detrimental to the public order. Solitary instance can be basis of detention. In our considered view, Detaining Authority has rightly appreciated material placed before him.

12. Learned counsel for the petitioner relies on the judgment of Supreme Court in the matter of *Rekha Versus State of Tamil Nadu and another*, **2011 AIR SCW 2262**, He relies on paragraph nos. 12, 13, 34, 37, 40 and 43. The judgment is distinguishable and is not made applicable to the present case.

13. For the reasons stated above, we do not find any substance in the submissions of the petitioner. Criminal Writ Petition is dismissed. Rule is discharged.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]