



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 893 OF 2024

Shaikh Tanvir @ Tannu Shaikh Kaleem

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....  
Mr. R.V. Gore, Advocate for petitioner  
Mr. A.R. Kale, A.P.P. for respondents  
....

CORAM : R.G. AVACHAT AND  
NEERAJ P. DHOTE, JJ.  
DATE : 18<sup>th</sup> JULY, 2024

PER COURT :

1. The petitioner has been detained, being a dangerous person, for a period of twelve months vide order dated 27<sup>th</sup> December, 2023. The State Government has approved the order of detention within a prescribed period of twelve days, however there is delay of two weeks in confirming the order of detention by the Advisory Board.

2. Learned A.P.P. would submit that it was the Advisory Board which took the period of nine weeks when it was supposed to submit its report to the State Government, within seven weeks from the date of detention.

3. Since the Advisory Board took two more weeks and committed breach of statutory provisions of Section 11(1) of the MPDA Act, the

petitioner is entitled to be released forthwith. In case of ***Ameena Begum Vs. State of Telangana & Ors. 2023 LiveLaw (SC) 743***, the Apex Court in its judgment has observed as below :-

*“19. We may also refer to the decision of a Constitution Bench of this Court in Sunil Fulchand Shah Vs. Union of India, (2000) 3 SCC 409 wherein the need to strictly adhere to the timelines, provided as procedural safeguards, was stress upon. It was held thus :-*

*“11. \*\*\* The safeguards available to a person against whom an order of detention has been passed are limited and, therefore, the courts have always held that all the procedural safeguards provided by the law should be strictly complied with. Any default in maintaining the time-limit has been regarded as having the effect of rendering the detention order or the continued detention, as the case may be, illegal. The justification for preventive detention being necessity a person can be detained only so long as it is found necessary to detain him. If his detention is found unnecessary, even during the maximum period permissible under the law then he has to be released from detention forthwith. It is really in this context that Section 10 and particularly the words 'may be detained' shall have to be interpreted.”*

4. Hence, we allow the petition with the following order :-

Impugned order dated 27<sup>th</sup> December, 2023 passed by District Magistrate, Jalna is hereby set aside. The petitioner be released forthwith, if not required in any other case.

( NEERAJ P. DHOTE, J. )

( R.G. AVACHAT, J. )

SSD