

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 79 OF 2024

Gaurav Umesh Patil	]	
Age 23 years, Occ. Labour,	]	
Residing at Room No. 18, Maniknagar,	]	
Upendra Nagar, CIDCO, Nashik.	]	
(Presently in Nashik Central Jail)		... Petitioner

V/s.

1.	The Commissioner of Police, Nashik	]	
	Opposite K.T.H.M. College,	]	
	Gangapur Road, Nashik.	]	
2.	The State of Maharashtra,	]	
	Through Addl. Chief Secretary (Home),	]	
	Home Department (Special),	]	
	Government of Maharashtra,	]	
	Mumbai – 400 032.	]	
3.	Chairman, Advisory Board,	]	
	C/o. Desk Officer, Desk-10,	]	
	Home Department (Special),	]	
	Mantralaya, Mumbai – 400 032.	]	
4.	The Jailor, Nashik Road Central Prison,	]	
	Jail Road, Nashik Road, Nashik.	]	... Respondent

Mr. Akshay Bankapur a/w. Mr. Himanshu Gavit i/b. Mr. Yogesh Ugale for
Petitioner.

Mr. S.V. Gavand, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 3rd APRIL 2024

ORAL JUDGMENT (Per : A.S. Gadkari, J.) :-

1) Petitioner has invoked jurisdiction of this Court under Article 226 of the Constitution of India, impugning the Detention Order bearing No. C.O. 2023/MPDA/DET-09/CB-154, dated 24th August, 2023, passed by Respondent No.1, under Section 3(2) of 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 “MPID Act”), directing the detention of Petitioner. By an Order of even date, Respondent No.1 has passed Committal Order and directed that, the Petitioner be detained in Central Prison, Nashik Road, Nashik.

2) Heard Mr. Bankapur, learned counsel for Petitioner and Mr. Gavand, learned A.P.P. for Respondent-State. Perused entire record produced before us.

3) At the outset, it is to be noted here that, though the Petitioner has raised various grounds in the Petition impugning the Detention Order dated 24th August, 2023, learned counsel for Petitioner restricted his arguments and pressed into service, Ground No.7(d) of Petition.

Ground No.7(d) reads as under :-

“The Petitioner states and submits that, the last offence came to be registered against the Petitioner on 27/05/2023

whereas the Order of detention came to be passed on 24/08/2023 i.e. after a period of almost 3 months and there is absolutely no explanation given by the Respondent explaining the reason for passing such delayed order.”

4) Perusal of record indicates that, present Detention Order is issued by Respondent No.1 on the basis of one crime and two in camera statements of witnesses. The grounds of detention served upon the Petitioner though mentions about his elaborate history in the field of criminality, the Detaining Authority has taken into consideration one crime, i.e. C.R. No.326 of 2023 dated 27th May, 2023, registered with Ambad Police Station, Nashik City, under Section 141, 143, 147, 148, 149, 427, 504, 506 of Indian Penal Code, Section 4/25 of Arms Act and Section 7 of Criminal Amendment Act and two in camera statements of witnesses recorded on 2nd August, 2023 and 7th August, 2023 respectively, for arriving at its subjective satisfaction that, the Petitioner is a dangerous person, as contemplated under Section 2(b-1) of the MPID Act.

5) It is the contention of learned counsel for Petitioner that, Crime No. 326 of 2023 was registered on 27th May 2023, whereas the Petitioner was arrested on 8th August 2023 and thereafter impugned detention Order was passed on 24th August, 2023, i.e. after the gap of about three months. He submitted that, though in camera statements were recorded on 2nd August 2023 and 7th August, 2023, a proposal for detaining the Petitioner was

moved by Sponsoring Authority expeditiously and the Detaining Authority did not accord sanction immediately. Therefore, there is substantial gap between date of commission of offence and date of passing the Detention Order due to which the live link between the two has been snapped. He therefore submitted that, the Detention Order may be quashed and set aside by allowing the Petition.

6) Perusal of record indicates that, the mentioned crime was registered on 27th May, 2023, the Sponsoring Authority thereafter decided to move a proposal for detaining Petitioner on 3rd June 2023. On 2nd August 2023 and 7th August, 2023, in camera statements of Witness 'A' and Witness 'B' respectively, were recorded. It appears from the record that, the Petitioner was absconding at that relevant time and was arrested in the said crime on 8th August 2023. The Sponsoring Authority thereafter submitted its proposal to Respondent No.1, i.e. Detaining Authority on 10th August 2023. The Detaining Authority called for the record of the Assistant Commissioner of Police, Ambad Division, Nashik on 12th August 2023. The said report was received on 14th August, 2023. The Petitioner was granted bail on 19th August 2003. After receipt of the report from A.C.P Ambad, immediately thereafter the Detaining Authority has passed the impugned Detention Order on 24th August, 2023.

6.1) Perusal of an Affidavit filed by the Respondent No.1 i.e. Commissioner of Nashik dated 31st January 2024, clearly reveals the

movement of file of the Petitioner and the steps taken by the Detaining Authority in issuing the impugned Detention Order.

7) According to us, there is no delay at all at the behest of Respondent No.1 in passing of the impugned Detention Order, from the date of recording of last in camera statement on 7th August 2023 and passing of the impugned Order dated 24th August 2023. We are satisfied with the explanation offered by Respondent No.1 regarding alleged delay by the Petitioner, while passing the impugned Order.

8) As noted earlier, according to us, there is no delay in passing of the impugned Order and even if delay if at all caused, is negligible and has been properly explained by the Detaining Authority in its Affidavit dated 31st January 2024.

9) In view of the above, we find that there are no merits in the Petition and is accordingly dismissed. Rule is discharged.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

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