

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 67 OF 2024

Chandrakant Ramdas Mane .. Petitioner
Versus
The Commissioner of Police and anr .. Respondents
...

Mr.Satyam Harshad Nimbalkar with Hrishikesh Kamble, Yash Saxena
and Abhishek U Arote for the petitioner.
Mr.J.P. Yagnik, APP for the State.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE,JJ.
DATED : 24th JUNE, 2024

P.C:-

1 The present petition is filed being aggrieved by the order passed by Commissioner of Police, Pune City, on 20/7/2023 in exercise of powers conferred under sub-section (1) of Section 3 of the Preventive Detention Act, 1950, on being satisfied that with a view to prevent the detainee from acting in any manner prejudicial to the maintenance of public order, his detention is necessary from the date of service of the said order.

On the very same day, a Committal Order was passed, directing him to be detained in Amravati Central Prison subject to the conditions stipulated therein.

The grounds of detention were furnished to the detainee on the very same day in furtherance of Section 8 of the Act.

2 For referring to the criminal history of the detainee, two offences registered in the year 2022 were mentioned, with a clear indication that it is not relied upon while passing the detention order, but is only referred to indicate that the detainee is habitual in committing serious offences. There is also a reference to the preventive actions initiated against him, with an observation that the preventive actions had no deterrent effect upon him, and he continue to indulge himself into serious offences affecting the maintenance of public order.

3 The offence on which the detention order is premised, is CR No.171/2023 registered on 12/3/2023 invoking Sections 323, 326, 504 r/w Section 34 IPC and Section 37(1)/135 of the Maharashtra Police Act as well as Section 4(25) of the Arms Act.

It is also referred that the applicant came to be arrested in the said offence on 13/3/2023. The grounds of detention also reveal that, while under investigation, the statements of witnesses came to be recorded and he was remanded to police custody on 16/3/2023 and subsequent to magisterial custody, but he was released on bail and the case was under investigation.

4 In order to classify the detainee as 'dangerous person' and in order to establish the continuity of the activities of the detainee being detrimental to public interest, the grounds of detention also specifically rely upon the two in-camera statement of witnesses recorded on 15th June and 20th June, respectively, and

these statements have been verified by the Assistant Commissioner of Police and on an assurance being given to the two witnesses, to maintain confidentiality, as the entire locality was living under the shadow of constant fear and this was affecting their day-to-day business activities and no person was ready to report about these incidents openly.

Mentioning that the detainee has no respect for the law of land and for the citizens of the Society and he is an impulsively violent man, who has spread terror in the Society by his violent criminal activities in connivance with his criminal associates, and by specifically recording that since he is now released on bail, there is every likelihood of he indulging into such activities in future, the subjective satisfaction was recorded by the detaining authority and the impugned order came to be passed.

The order was subsequently confirmed by the State Government under sub-section (1) of Section 12 on 14/9/2023, when it is directed that the detention of the detainee be continued for a period of 12 months from the date of detention.

5 We have heard the learned counsel Mr.Nimbalkar for the petitioner and also perused the grounds on which the detention order is challenged.

As far as ground (f) is concerned, to which we have made a reference on the earlier date as the argument advanced was that there is no period of detention prescribed in the order of

detention or any subsequent order, since Mr.Yagnik has placed before us the order passed by the Government of Maharashtra on 14/9/2023, the said ground do not survive.

As regards the other grounds, and in particular, ground no. (p) and the arguments advanced that it is not a case of disturbance of public order, but it is the case of law and order, the law as regards the point being well settled by the Constitution Bench in *Ram Manohar Lohia Vs. State of Bihar*, AIR 1966 SC 740, where a succinct distinction has been drawn by a public order and law and order, by clearly stipulating that every breach of peace do not lead to public disorder and an example being cited that when two drunkards quarrel and fight, there is disorder but not public disorder, and in order to attract the provisions of the Detention Act, the contravention of law that affects public order, must be taken into account as the act of the detainee affecting the community at large is not a mere disturbance of law and order leading to disorder, which is not necessarily sufficient for an order to be passed preventing detaining a person.

Applying the aforesaid position of law to the present facts, when we have perused the in-camera statements, it is evident that the act, involving violence committed by the detainee along with his associates had created a feeling of insecurity in the public at large and people were living in constant fear and the two in-camera statements have reflected the approach of the detainee towards the members of the Society, when he indulged himself

into activities like extortion and threatened people in public gaze, so much so that no witness was ready to come forward and make statement against him and it is only upon being assured that the names of the persons who recorded their statements would not be made public, the two witnesses came forward and had given in-camera statements.

We have therefore, hesitancy in concluding that the present case is clearly a case of breach of public order and not mere law and order.

6 Another ground on which the learned counsel would press into service is, as regards the snapping of the live link, since the detention order is passed on 20/7/2023 in the backdrop of the offence that was committed on 12/3/2023, in which he was subjected to arrest on 13/3/2023 and released on bail on 16/3/2023.

The learned counsel would also argue that in-camera statements being recorded in the month of June, that the detention order was passed only on 20th July, but unfortunately since this ground do not specifically feature in the grounds assailing the detention order and its confirmation, we will not be in a position to pronounce upon the same as the detaining authority as well as the State Government did not get an opportunity to deal with the said ground and has not therefore, specifically offered explanation for the same though the various other grounds stated in the petition are traversed.

7 On hearing the learned APP Mr.Yagnik and on perusal of the grounds of detention and the affidavit supporting the grounds of detention, we are satisfied that the criminal activities of the detainee were prejudicial to the maintenance of public order and he had projected himself as a dangerous person, making the people in the locality live under threat, and which created an obstacle in carrying their daily activities in the Sinhagad Board and Bhartiya Vidyapeeth Police Station, Pune City.

 Considering the nature of his criminal activities, which were prejudicial to the maintenance of public order, the offence registered with Bhartiya Vidyapeeth on 12/3/2023 was considered to be a prima facie offence along with two in-camera statements, based on which the detaining authority has subjectively satisfied about he being a dangerous person and the order of detention is passed.

 Since we do not find any ground to interfere with the same, the petition is dismissed.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)