

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1053 OF 2024

Sandesh Krushna Patil

.. Petitioner

Versus

The State of Maharashtra and anr

.. Respondents

...

Mr. B.J. Shaikh i/b Omprakash Parihar for the petitioner.
Mr. S.V.Gavand, APP for the State.

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

P.C:-

1 The Petition raises a challenge to the detention order dated 5/3/2024 passed by the respondent no.1, pursuant to which, by passing a committal order on the same day, he was committed to Thane Central Prison. The grounds of detention were also communicated to him on 5/3/2024 and it is alleged that this order is based on no material, and on the ground that the competent authority had no power to pass the detention order, it is prayed to be quashed and set aside.

We have heard learned counsel for the petitioner and appreciated the grounds contained in this petition in form of ground nos.(i) to (xxi).

2 Unfortunately, the ground of delay and snapping of live link between the last activity of the detenu and passing of the detention order on 5/3/2024, is not spelt out in the grounds of detention and therefore, has not been dealt by the respondent authorities.

We intended to afford an opportunity to the counsel to add the grounds by amendment, but he would insist upon arguing on the grounds which are already set out by him in the petition and therefore, we have dealt with these grounds, in seriatim.

3 The foremost ground in assailing the order of detention as the same and the committal order is ex-facie illegal, bad-in-law and liable to be quashed and set aside, will have to be appreciated in the background facts and as to what would constitute that illegality, rendering the detention order, bad-in-law.

From the grounds set out in the petition and from the arguments from the learned counsel, what we have gathered is that on the very same day of passing of the detention order, he has been committed to prison and the grounds are also communicated to him on the same day.

We find no abnormality in this procedure adopted as Section 8 of the Maharashtra Prevention of Dangerous Activities Act, 1981, clearly contemplate that the grounds of detention shall be furnished to the detenu at the earliest possible opportunity, so that he could avail the opportunity of preferring a representation to the Detaining Authority, initially and subsequent to its approval, to the State Government. In this case, we find that the detaining authority has acted with utmost promptitude in passing the order of detention, which is coupled with committal order and on the same day, the grounds of detention have been furnished.

We have also perused the original file produced before us by Mr.Gavand and we have noticed that on each of these orders, the detenu has put his signature with an endorsement that he was made to understand the contents thereof.

4 One more ground raised in the petition, it being made in bad faith without any material to connect the activities of the detenu with the maintenance of public order and since the trial court has released the petitioner on bail on 20/12/2023 in C.R.No. 1460/23, there was no propriety in detaining him.

This ground is appreciated by us, in light of the grounds of detention which are furnished to the detenu. The communication of the grounds of detention would reveal that

the detaining authority has referred to his criminal activities of the past, affecting the daily life of community and thereby, disturbing public order and classifying his activities as prejudicial to the maintenance of public order, and it is so inferred on the basis of nine C.Rs registered in last five years, which resulted into his arrest, and the Detaining Authority has enlisted the C.Rs registered in distinct police stations from the year 2019.

He also make a reference to the preventive actions which were initiated by the police in the past to curb his criminal activities in the year 2011 and 2021, at the instance of Charkop police station when action under Section 107 of Code of Criminal Procedure, was instituted against him, where he had entered a personal bond of Rs.25,000/- with one solvent surety for keeping peace for one year.

5 The Detaining Authority specifically recorded that on the basis of the past record, the detenu is 'dangerous desperado of violent character' having taken to the life of a criminal for the sake of easy money. Reference was also made to his indulgence in violent crimes in the localities along with his associates, as they were moving in the areas with weapons, the description of which is specifically given, resulting into commission of offence like attempt to commit murder, robbery, extortion, grievous hurt, intention of incite, restraint, issuance of threats, criminal intimidation, mischief causing damage, possession of fire arm and weapons etc.

Since even the preventive actions did not had the desired effect and brought no improvement in his behaviour as he continued to indulge into criminal activities, reference is made to a case registered on 9/11/2023 with Malvani police station being C.R.No. 1460/2023, invoking sections 385, 392, 323, 504, 506 II of IPC r/w Section 37(1)(a) and Section 135 of the Maharashtra Police Act.

6 The Detaining Authority has enlisted the details of the subject C.R. and the relevant material of the same is also furnished to the detenu. It is also recorded that on 20/12/2023, the detenu availed the bail facility after forwarding cash bail of Rs.30,000/-. Thereafter, when confidential inquiry was conducted about his criminal activities in the localities of Chikuwadi, Shankarwadi, Patelwadi, Malwani, Malad (West), it was found that the members of the public were victimized by him, but considering that he was a dreaded criminal, no witness was ready to lodge a complaint but only on being assured that his name shall be kept secret and they shall not be called to adduce any evidence in the Court of law, two of the witnesses came forward to record their statements.

Witness A's statement is recorded on 22/1/2024, whereas the statement of witness B came to be recorded on 24/1/2024, who have specifically referred to the activities of the detenu, reflecting upon a situation created by him, which amounted to violation of public order.

The statement of these witnesses were verified by Assistant Commissioner of Police on 30/1/2024.

7 Based on the aforesaid material recording that the detenu is a dangerous person, as per Section 2(b)(1) of the Act of 1981, as he has unleashed a reign of terror, and had become perpetual danger to the Society at large in distinct localities and since the detaining authority was subjectively satisfied that the detenue was acting in a manner prejudicial to the maintenance of public order and since he was already released on bail on 20/12/2023 in connection with C.R. registered with Malvani police station, expressing a likelihood that he may indulge in activities prejudicial to maintenance of public order in future, and hence, the order of detention has been passed.

8 On perusal of the grounds of detention, we are satisfied that the material placed before the Detaining Authority assisted him to derive an inference about his past criminal activities, which resulted in registration of several C.Rs and that he was habitual offender, in the wake of 9 C.Rs registered against him coupled with various preventive actions, which did not deter him from indulging into a crime in form of C.R.No. 1460/2023, with Malvani police station.

9 The material placed before the Detaining Authority therefore, resulted into he forming a subjective satisfaction about

exercising the power of preventively detaining the detenu being a 'Dangerous Person'.

We do not find any legal infirmity in the impugned order of detention which is based on this material and we have noted that the material which was relied upon by the Detaining Authority to reach the subjective satisfaction, is furnished to the detenu.

The order of detention passed by the Detaining Authority has received approval of the State Government and also confirmation on 8/5/2024.

In the wake of the aforesaid reasons, as we do not find any lacunae in the impugned order of detention which is followed by committal order, and since we are not satisfied with the grounds raised in the petition, by confirming the order of detention, the Writ Petition is dismissed.

No order as to costs.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)