

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

CRIMINAL WRIT PETITION NO.1118 OF 2024

Vishal Sanjay Mane Age : 24 years, Occu. : Worker, Through Pooja Ram Kshirsagar (Sister of Petitioner) Age : 33 years, Occu.: Housewife, R/o.Malganga Society, Buchade Patil Nagar, At Marunji, Taluka - Mulshi, District - Pune 411 057.	{ }	 Petitioner
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Versus

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| <p>1) The State of Maharashtra
 (Through The Additional Chief Secretary)
 Home Department (Special),
 Mantralaya, Mumbai - 400 032;</p> | {

} | |
| <p>2) The Commissioner of Police
 Pimpri - Chinchwad,
 Office : Premlok Park, Chinchwad,
 Pune - 411 033;</p> | {

} | |
| <p>3) The Superintendent,
 Yerwada Central Prison, Pune.</p> | } | Respondents |

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Ms.Jayshree Tripathi a/w. Ms.Anjali Raut, Advocate for the
 Petitioner.

Mr.J.P. Yagnik, APP for Respondent - State.

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***CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.***

DATED : 2nd AUGUST 2024.

ORAL JUDGMENT (Per : Bharati Dangre, J.)

1 At the outset, Ms.Tripathi seek leave of this Court to implead the Jail Superintendent, Yerwada Central Prison, Pune, as a respondent. Leave granted. Amendment to be carried out forthwith. Re-verification dispensed with.

2 The petition filed assailing the detention order is admitted on 4th April, 2024, raise challenge to the Detention order dated 31st December, 2023, passed by the Commissioner of Police, Pimpri Chinchwad, Pune.

 The petitioner was permitted to amend the petition and was allowed to insert certain additional grounds in support of the challenge to the order of Detention, and accordingly, the amendment was carried out.

3 Ms.Tripathi, the counsel for the petitioner would press into service ground No.(xv), which reads to the following effect:

(xv) The detenu says and submits that the detaining authority has taken into consideration two C.R.s i.e. C.R.No.229 of 2023 dated 10.03.2023 and C.R.No.795/2023 dated 13.07.2023, along with in camera statements of witness A, B and C to arrive at his subjective satisfaction and pass the detention order. In both the said relied on C.R.s the detenu was not arrested, but was served a notice U/Sec 41(1)(a) Cr.P.C. The authorities have recorded in camera statement of witnesses A, B and C on 22.08.2023, 09.08.2023 and 02.08.2023 respectively. It is pertinent to note that, after the recording of the said camera statements the

order of detention is belatedly passed on the 31.12.2023, i.e. after a delay of about four months from the date of last offence recorded. Thus, there is a gross delay in passing the order of detention. If the alleged activities of the detenu were so prejudicial to the maintenance of public order the concerned authorities should have acted promptly without any loss of time. Hence the order of detention passed belatedly after about four months shows the causal and cavalier attitude of the authorities to take prompt and immediate action. The order of detention is illegal and bad in law, for delay in issuing the detention order, liable to be quashed and set aside. The detaining authority is called upon to explain the said delay, failing which the continued detention will be held as illegal and bad in law, liable to be quashed and set aside.”

4 Ms.Tripathi has urged before us that the delay of four months in passing the Detention order even if it is to be computed from the date of recording in-camera statements of witnesses “A”, “B” and “C”, which came to be recorded on 22nd August, 2023, 9th August, 2023 and 2nd August, 2023, respectively, there is a delay of about four months apart from the fact that the C.R.s which is relied on by the Detaining Authority in reaching the subjective satisfaction that the detenu deserves to be detained, are registered on 10th March, 2023 and 13th July, 2023, respectively.

This ground has received a perfunctory response, as the Detaining Authority has failed to offer any explanation for the delay.

5 The Detention order which is based on the grounds

of Detention, which were communicated to the petitioner, has admittedly taken into consideration the two C.R.s, and the three in-camera statements, and evidently the order of Detention based upon this material, was passed on 31st December, 2023, i.e. after a lapse of almost four months, thereby snapping the live link between the activities of the detenu which were taken note of for passing of the order of Detention, and the actual order directing him to be detained.

6 Since we are satisfied with the ground no.xv, as raised in the petition, on the reason/ground of delay and snapping of live link, the Detention order deserves to be set aside.

7 The Writ Petition is made absolute in terms of prayer Clause (b), which reads as under:

“b) The impugned detention order dated 31.12.2023 passed by the Commissioner of Police, Pimpri-Chinchwad, Pune & Order dated 21.02.2024 passed by Home Department, State of Maharashtra, confirming above detention order kindly be quashed and set aside.”

The detenu is directed to be set at liberty forthwith.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)