

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

**WRIT PETITION NO. 2880 OF 2024**

Ravindra Pundalik Aadam .. Petitioner

**Versus**

1. The Commissioner of Police, Pune  
City

2. The State of Maharashtra

3. The Superintendent, Chandrapur  
Central Prison

.. Respondents

...

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

Mr. S. V. Gavand, APP, for the State.

...

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

**DATED : 3<sup>rd</sup> SEPTEMBER, 2024**

**Oral Judgment : (Per Bharati Dangre, J.):-**

1. The detention order dated 13.02.2024 detaining the detenu Amol Ravindra Aadam is challenged by his father Ravindra Pundalik Aadam on various grounds set out in the Petition. Pursuant to the order of detention, by the committal order he was directed to be detained in Chandrapur Central Prison, Chandrapur, and on the very same day, the grounds of detention are communicated to him.

2. We had issued rule on 09.07.2024, pursuant to which,

the Detaining Authority as well as the State Government have tendered its affidavit-in-reply.

3. The detention order passed by the Commissioner of Police, Pune City has directed detention of the detenu Amol Aadam, with a view to prevent him from acting in a manner prejudicial to the maintenance of public order under the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Durg Offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons engaged in Black-marketing Essential Commodities Act, 1981 (Maha. Act No LV of 1981) (Amendment -1996, 2009, 2015) (for short “the MPDA Act 1981”).

The grounds of detention has disclosed the foundation of the detention order issued by the Detaining Authority, by classifying him as a “Dangerous Person”, who has indulged himself into various criminal activities, and despite of the preventing actions initiated against him, he did not deter and rather his activities continued to show an ascending trend, and the same being found to be prejudicial to the maintenance of public order, the detention order was issued.

4. Ms Tripathi has assailed the detention order on various grounds, but in specific she has relied upon grounds (e) and (f) in the Petition to demonstrate the delay in passing the detention order, from the activity the Detaining Authority has relied upon, reflecting its casual approach. Grounds (e) and (f) has been formulated in the following manner:

*“(e) The petitioner says and submits that the detaining authority has taken into consideration solitary C.R. No. 490/2023 dated 26.07.2023 along with in camera statements of witness A and B to arrive at his subjective satisfaction and pass the detention order. In the said relied on C.R. i.e. 490/2023 dated 26.07.2023 the detenu came to be arrested on the 19.01.2024 and was granted bail by the Competent Court of law on the 01.02.2024. The detaining authority categorically states at para 6 of the grounds of detention that “After considering the seriousness of the offense (i.e. C.R. No. 490/2023 dated 26.07.2023) Police conducted a confidential inquiry”, it is not understood as to when the said inquiry as the said in camera statements of both the witnesses A and B are recorded on the 19.01.2024 and 25.01.2024 i.e. after a delay of about six months. The said in camera statements are only taken to fill up the gap and pass the order of detention on 13.02.2024. If the activities of the detenu were so dangerous and prejudicial to the maintenance of public order then the authorities ought to have taken prompt and immediate steps to initiate proceedings against him, the said delay shows that the authorities have taken a very casual approach. It is only after the detenu was released on bail by the Competent Court of law, the authorities have recorded two in camera statements and passed the detention order. The order of detention is illegal and bad in law, for delay in passing order, liable to be quashed and set aside.*

*“(f) The petitioner says and submits that the detaining authority has taken into consideration solitary C.R. 490/2023 dated 26.07.2023 to pass detention order on the 13.02.2024, a registered offence occurred about seven months prior to pass detention order. Old and stale material is considered for passing order. Live link snaps. Old and stale material, which have no nexus with the present preventive action ought not to be taken into consideration for passing detention order. The order of detention is illegal and bad in law, for consideration of old and stale case, liable to be quashed and set aside.”*

5. We have heard Mr. Gavand, learned APP for the State and perused the affidavit placed on record by the Detaining Authority.

From perusal of the affidavit, we find the response to the grounds (e) and (f) to be perfunctory as the Detaining Authority has broadly responded by stating thus:

*“It is submitted that the last offence registered against detainee i.e. C.R. No. 490/2023 on 26.07.2023, detainee was arrested on 19.01.2024 and released on bail on 01.02.2024. The offence was then under investigation.*

*During the course of investigation confidential enquiries conducted by senior Inspector of Police, Bharti Vidyapith Police Station, Pune, into the activities of the detainee, it was revealed that number of people becomes victims of the atrocities of the detainee and therefore on giving assurance of their safety, two witnesses came forward to record their statements depicting atrocities suffered by them at the hands of the detainee on 16.01.2024 and 29.01.2024 respectively.*

*Thereafter the Sponsoring Authority carefully went through all the material they had collected. They then prepared the necessary sets of documents by getting them typed, xeroxed etc. After the necessary sets of documents were ready, they submitted the same along with the proposal for the detention of the detainee on 27.01.2024.”*

We find that there is no explanation offered, as to why no action was taken against the detenu on registration of C.R. No. 490 of 2023 on 26.07.2023 with Bharti Vidyapith Police Station, Pune, which has been asserted to be the foundation of detention order alongwith the two in-camera statements of witnesses A and B.

The statement of in-camera witness A is recorded on 19.01.2024, whereas the statement of in-camera witness is recorded on 25.01.2024, who have referred to the incident which took place in first week of January, 2024, and these statements have been relied upon by the Detaining Authority

to establish his criminal inclination which justified, he being classified as a “Dangerous Person”. When we have perused the grounds of detention, we have noticed that in clause No. 3 of the grounds of detention, the Detaining Authority has given the list of past offences and preventive actions taken against him, and in clause No. 3.1, there is a reference to six CRs, four registered with Bharati Vidyapeeth, one registered with Kondhwa Police Station and one being registered with Yerwada Police Station. The details of the preventive actions are found to be highlighted in clause No.3.2, which has made reference to three proceedings initiated against the detenu under Section 56 of the Maharashtra Police Act as well as Section 110(e)(g) of the Code of Criminal Procedure, all by Bharati Vidyapeeth.

6. In order to pass the detention order, by recording that the preventive action had no deterrent effect upon the detenu, as he continued to commit the serious offences, adversely affecting the maintenance of public order in the jurisdiction of Bharati Vidyapeeth Police Station, Pune City, reliance is placed upon C.R. No. 490 of 2023, which invoke Sections 363, 323, 504, 506 r/w 34 of the IPC and Sections 4(25) of the Arms Act and Sections 37(1)(3)/135 of the Maharashtra Police Act and Section 7 of the Criminal Law Amendment Act. The particulars of the offence are to be found in para 5.1, as the Detaining Authority in para 5 had specifically classified the C.R. by stating as below:

“Particulars of offences considered for passing detention order are given below:- offences considered for passing detention order”

Ms Tripathi has urged before us that in the said CR, he was arrested on 19.01.2024 and in the interregnum that is after registration of the CR and before his arrest, he was also arraigned as an accused in two other CRs, one in Bharti Vidyapeeth Police Station i.e. C.R. No. 657 of 2023 invoking Sections 392, 120B r/w 34 of the IPC, which was registered on 12.10.2023. In addition, an offence was also registered in Yerwada Police Station, vide C.R. No.696 of 2023 invoking the very same offences registered on the very same day, and the offence with Yerwada Police Station is shown to be under investigation.

7. The Detaining Authority in referring to his past conduct and to establish his habituality has relied upon six offences, which include the above two offences which are registered on 12.10.2023, but while referring to the activities of the detenu, in engaging himself in commission of crime continuously, despite preventive action being taken against him in the year 2019, 2021 and 2023, according to the Detaining Authority, he has indulged himself in an offence on 26.07.2023, which resulted in registration of C.R. No. 490 of 2023. While referring to his recent criminal activities, the Detaining Authority has completely lost sight of registration of two CRs i.e. C.R. No. 657 of 2023 registered with Bharti Vidyapeeth Police Station and C.R. No. 696 of 2023 registered with Yerwada Police Station. The Detaining Authority has even supplied the details of these two CRs to the detenu.

8. While appreciating the grounds raised on behalf of the detenu, that is the ground of delay and snapping of live link, we have noticed that after 26.07.2023, when C.R. No. 490 of 2023 is registered, the in-camera statements are recorded in the month of January, 2024 to be followed by the issuance of detention order on 13.02.2024. There is no explanation offered as to what steps were taken to deal with the criminal activities of the detenu after the C.R. No.490 of 2023 was registered against him on 26.07.2023, as in the said C.R., he is arrested on 19.01.2024. If according to the Detaining Authority, his activities had the potential of causing disturbance of public order and the activities were found to be prejudicial to the maintenance of public order, then the Detaining Authority could not have remained silent for a period of approximately five months.

In addition, the Detaining Authority has lost sight of the fact that, two offences were registered against him and they were referred by the Detaining Authority in para 3.1 for the purpose of establishing his criminal history, whereas these offences which have been considered alongwith the offence i.e. C.R.No. 490 of 2023, as the activities of the detenu in continuation to his previous activities from the year 2018 to 2020. The subjective satisfaction reached by the Detaining Authority therefore suffers from total non-application of mind, as the two CRs registered on 12.10.2023 referring to the past criminal history are in fact the continuation of the activities of the detenu on registration of the last C.R. on 11.01.2023 and the preventing action initiated against him.

Since the non-application of mind on part of the Detaining Authority is evident, apart from the fact that the live link between the last activity of the detenu which has been relied by the Detaining Authority having taken place on 26.07.2023 and the detention order being passed on 13.02.2024, without any explanation being offered, falls foul of the exercise of power by the Detaining Authority in passing the detention order.

Hence, Rule is made absolute. The detention order dated 13.02.2024 is set aside. The detenu Amol Ravindra Aadam is directed to be set at liberty forthwith.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)