



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.114/2024

Pravin @ Auto @ Sonu Gopal Ingle,
age about 32 Yrs., Occ. Auto Driving,
R/o Post Colony, Kaulkhed, Akola,
Distt. Akola.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Section Officer,
Home Department (Special),
2nd Floor, Mantralaya, Madam
Cama Road, Hutatma Rajguru
Chowk, Mumbai 400 032.

2. District Magistrate, Akola,
The Office of District Collector,
Akola, Distt. Akola.

... Respondents

Mr. O.Y. Kashid, Advocate for the Petitioner.
Mr. A.R. Chutke, A.P.P. for Respondent Nos.1 and 2.

CORAM: SMT. VIBHA KANKANWADI & MRS.VRUSHALI V. JOSHI, JJ.
DATE OF RESERVING THE JUDGMENT: 8.7.2024.
DATE OF PRONOUNCING THE JUDGMENT: 1.8.2024.

JUDGMENT (Per Mrs. Justice Vrushali V. Joshi, J.)

Heard Mr. O.Y. Kashid, learned Advocate for the petitioner
and Mr. A.R. Chutke, learned A.P.P. for respondent Nos.1 and 2.

Rule.

2. The petitioner is challenging his detention order dated 3.10.2023 passed by respondent No.2 and confirmed by respondent No.1 on 11.10.2023.

3. Learned Advocate for the petitioner challenges the impugned order, which appears to have been confirmed by the State Government by order dated 11.10.2023, on the ground that the impugned order passed by the detaining authority is based on the non-application of mind and without adhering to the statutory procedure. The grounds of detention which have been given appear to have been based on two offences namely Crime No.0403/2023 under Sections 4/25 of Arms Act and Crime No.0351/2203 under Sections 324, 504 and 506 read with Section 34 of Indian Penal Code. The detaining authority has also considered in-camera statements of two witnesses "A" and "B". It is submitted that detaining authority had not considered that in both the offences, which are still under investigation, the petitioner has been released after giving notice in first offence and

in another offence released on anticipatory bail. The contents of the case would show that at the most there was 'law and order situation' and the 'public order' was not disturbed requiring the detention of petitioner. Further there was no proper verification of in-camera statements by the detaining authority and only it is 'seen and verified' but there is no remark that the verification has been properly done.

4. According to learned Advocate for the petitioner, the order of approval to the order of detention is unsustainable in law as it remains a mere formality to approve which is not the scheme contemplated under the Act. The reasoned order or speaking order is not given while approving the detention order by the State Government. He has prayed to allow the writ petition.

5. *Per contra*, learned A.P.P. submits that well reasoned order has been passed by authorising the detention of the petitioner. Petitioner was involved in both the offences which are

under investigation. Even the preventive action was taken against him from time to time but he has not curtailed his activities. Therefore, he has prayed to dismiss the writ petition.

6. If we consider the facts of Crime No.0403/2023 under Sections 4/25 Arms Act it can be seen that the petitioner was roaming on the public road with a sword and spreading terror. This indicates that he wanted to create terror amongst people at large. Another offence i.e. Crime No.0351/2023 is registered under Sections 324, 504 and 506 read with Section 34 of I.P.C. on the oral report lodged by one Milind Ukanda Pradhan. He has stated that on 29.6.2023 in the afternoon at 2 p.m. when the informant came to have lunch with his friends at Yash Dhaba, Kaulkhed Chowk complainant and his friends were sitting on the table and on the table in front of them, the petitioner was sitting who was abusing the complainant then the petitioner came near to the informant and caught his collar and hit him with beer bottle on his head and fist blow on the left eye. When the

informant started bleeding from his head and became dizzy he called his friends who have come to his rescue and he was released from the petitioner. At that time, the petitioner has given threats saying that he will take care of the complainant. The informant has lodged the F.I.R. against the petitioner. Further in-camera statements would show that in both the incidents threats were given in public place. This is nothing but an act to establish supremacy by creating terror in the mind of people at large so that the petitioner can continue his illegal activities. Every opportunity has been given to the petitioner to submit his representation but he has not submitted it and it was informed on 11.10.2023 by the detaining authority that the right of representation of the detainee to the detaining authority stands terminated. He was given hearing before Advisory Board and the detention order has been confirmed by the Advisory Board. No illegality has been committed and, therefore, the petition deserves to be dismissed.

7. In the detention order the offences which are considered are Crime No.0403/2023 under Sections 4/25 of Arms Act in which he was not arrested and notice was issued. The facts would show that the police received the information that the petitioner was standing with a sharp iron weapon in hand and entered the ring road and was walking on the public road in front of banyan tree at Kaulkhed, Akola. Police staff went there and petitioner was seen walking on public road with sword and spreading terror, he was caught with the help of police staff and taken into custody and seized the weapon which was in his hand, at that time, he has stated his name as Pravin @ Auto @ Sonu Gopal Ingle. At that time the petitioner was taken into custody and the weapon was seized and offence was registered. After registration of crime by giving letter of understanding the Court has released him after giving direction to appear in the Court while filing the chargesheet for this specified offence. If a person is roaming with a sharp iron weapon then *prima facie* we can consider that it would raise the problem of public order and not

only law and order. In second offence i.e. Crime No.0351/2023 it appears that the incident had taken place on 30.6.2023. The petitioner has used beer bottle and injured the complainant. In said crime, the petitioner was released on anticipatory bail.

8. The statement of witnesses “A” and “B” would show that the incidents had taken place in public place and said witnesses were threatened by the petitioner by assaulting them in public. Therefore, these incidents and facts would certainly show that it is the public order that was disturbed.

9. The State Government has approved the detention order which was passed by the District Magistrate. The grounds of detention are given in detail. It is a well reasoned order. The detailed order is already passed and the State has approved it. Therefore, there is no specific provision in M.P.D.A. Act to give the reasoned order of approval. Under the scheme contemplated by the Act, the approval by the State Government to the reasoned

order passed by the District Magistrate is sufficient. Hence there is no substance in the contention of the petitioner about not giving the reasoned or speaking order.

10. The petitioner has not come with a case that the copies of in-camera statements have not been provided to him. If we consider that statement of those witnesses were verified and the verification has been categorically stated by the detaining authority that is sufficient compliance. In Writ Petition No.546/2023 (Hanif @ Illu Hafiz Ansari V/s. The State of Maharashtra and others) this Court has distinguished between the concept of public order as opposed to law and order by relying upon the case of Kanu Biswas V/s. State of West Bengal reported in (1972) 3 SCC 831. It was also considered that in fact, crimes were not even felt to be of serious nature and felt to warrant issuance of the notice under Clause (a) of Sub-section (1) of Section 41 of the Cr.P.C. to the petitioner. Here it is to be noted that the offences on which those observations have been made

were under Section 506 read with 34 of I.P.C. here it is Section 4 punishable under Section 25 of Arms Act. At the costs of repetition, we would like to note the fact that the petitioner was roaming in public place by holding sword i.e. sharp iron weapon in hand. Based on said facts, Sheikh Hussain @ Shahrukh Shaikh Fatru V/s. State of Maharashtra reported in 2023 DGLS (Bombay) 3318, it has been observed that the detaining authority himself recorded its subjective satisfaction that the statement of witnesses were verified and it has interacted with A.C.P. who verified such statements. Here said subjective satisfaction has been arrived at. Learned Advocate for the petitioner further relies on the judgment in Criminal Writ Petition No.347/2023 (Mohammad Arbaz @ Sanu S/o Mohammad Israil @ Manja Ansari V/s. State of Maharashtra and others) decided on 17.1.2023 which is on similar lines as to what ought to have been considered and what has not been considered especially in respect of subjective satisfaction.

11. As afore-stated subjective satisfaction has been arrived at on the basis of two witnesses as well as two in-camera statements, we do not find that this is a fit case where we should exercise our constitutional power to set aside the detention order. We may also refer to the opinion that has been given by the Advisory Board and the said opinion is made available to us which shows that the petitioner was heard through video conferencing and Advocate representing the petitioner was also heard. The detention order has been confirmed taking into consideration the opinion of Advisory Board as contemplated under law and, therefore, we pass the following order:-

Criminal writ petition is dismissed. Rule discharged.

(MRS.VRUSHALI V. JOSHI, J.)

(SMT. VIBHA KANKANWADI,J.)