



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.434 OF 2024

Sheikh Nisar Sheikh Kadir,
Aged about 34 years, Occ-Labour
R/o Auliya Nagar, Bada Tajbagh, Nagpur ... Petitioner

-vs-

1. State of Maharashtra,
Thr. its Secretary, Home Dept. (Special),
Mantralaya, Mumbai
2. Commissioner of Police, Nagpur ... Respondents

Shri Mir Nagman Ali, Advocate for petitioner.
Shri A. B. Badar, Additional Public Prosecutor for respondents.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : November 25, 2024

Oral Judgment : (Per : Nitin W. Sambre, J.)

1. **Rule.** Rule made returnable forthwith.

Shri A. B. Badar, learned Additional Public Prosecutor waives
notice of hearing for the respondents.

Heard finally with consent of counsel for the parties.

2. The impugned order dated 14/03/2024 delivered under the provisions of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous persons, Video Pirates, Sand Smugglers and Persons engaged in Black-marketing of Essential Commodities Act, 1981 (Amendment of 2015) (Mah. LV of

of 1981) (hereinafter referred as 'Act of 1981') is questioned by the petitioner on the following grounds :

(a) that the material placed on record does not establish that the conduct of the petitioner is actually prejudicial to the maintenance of public order and as such the very essence of Section 3 of the Act of 1981 is not satisfied; and

(b) The offences which are relied upon cannot be said to be amounting to breach of public order but at the most same can be termed as the offences which are punishable under the provisions of the existing Penal laws.

3. It is also urged before us that the detention order is passed at belated stage as the last offence which is relied on was registered on 15/12/2023 whereas the impugned order was passed on 14/03/2024.

4. So as to substantiate the aforesaid ground, it is claimed that for passing the detention order, the detaining authority has relied on criminal antecedents of the petitioner which speak of nine offences being registered against him. It is claimed that even otherwise it is not open for the respondents to consider such criminal history. That being so, the order impugned stands vitiated.

5. Shri Mir Nagman Ali, learned counsel for the petitioner to substantiate the claim of the petitioner has invited out attention to the three offences which are formed to be the basis of ordering detention.

Sr. No.	P.Stn.& Cr.No.	Under Section	Date of Offence	Date of Arrest	C.C.No.& Date	Remarks
1	Gittikhadan 766/2023	379, 34 I.P.C.	01/10/2023	03/10/2023	4338/2023 08/12/2023	Court Pending
2	Hudkeshwar 948/2023	4/25 Arms Act r/w 135 Maharashtra Police Act	08/12/2023	08/12/2023	254/2024 16/01/2024	Court Pending
3	Hudkeshwar 962/2023	394, 294, 506(B) I.P.C.	15/12/2023	15/12/2023	513/2024 02/02/2024	Hudkeshwar 948/2023

6. According to the learned counsel, the first offence is punishable under Section 379 of IPC that is 'Theft'. As far as second office is concerned, it is claimed that it is reflected in the record that the petitioner has allegedly committed the offence punishable under the Arms Act. He would claim that the petitioner never brandished iron knife, rather it is mentioned in the record of the police authority that such weapon is allegedly found in the custody of the petitioner which was concealed. According to Shri Ali, in the third offence which is punishable under Section 394 (voluntarily causing hurt in committing robbery), 294 (obscene acts and songs), and 506 (criminal intimidation) of IPC vide Crime No.962/2023 registered at Hudkeshwar Police Station, the allegations are that of stealing of truck batteries in the early morning hours which incident was not

witnessed by anyone. According to him, the aforesaid three offences if taken into consideration, same cannot lead to the satisfaction of ingredients of Section 3 of the Act of 1981 so as to infer that the petitioner's conduct was in any manner prejudicial to the maintenance of the public order.

In support of the aforesaid contention, the counsel for the petitioner has drawn support from the judgment of this Court in the matter of *Bharat Kisan Mekale vs. Commissioner of Police and ors.* reported in **2021 DGLS (Bom.) 1243**; particularly paragraph 25 so as to claim that the offence of 'Theft' in any manner cannot be stretched with the conduct of the petitioner to infer that the petitioner has acted so as to disturb public order. Paragraph 25 of the said judgment reads thus :

25. We thus find considerable substance in the submission of Ms. Tripathi that none of the two crimes, relied upon by the detaining authority, justify an inference that the activities attributed to the petitioner therein have had propensity to disturb the public order. The reliance placed by Ms. Tripathi on the Judgment of the Supreme Court in the case of [Mustakmiya Jabbarmiya Shaikh Vs. M. M. Mehta, Commissioner of Police & Ors.](#), (1995) 3 SCC 237, appears well founded. In the said case, in the context of provisions contained in Section 3 of the MPDA Act, the Supreme Court illuminatingly postulated the conditions which are required to be satisfied to pass a valid detention order under Section 3 of the MPDA Act and the distinction between "law and order" and "public order" in the following words:

"9. It, therefore, becomes necessary to determine whether besides the person being a "dangerous person" his alleged

activities fall within the ambit of the expression "public order". A distinction has to be drawn between law and order and maintenance of public order because most often the two expressions are confused and detention orders are passed by the authorities concerned in respect of the activities of a person which exclusively fall within the domain of law and order and which have nothing to do with the maintenance of public order. In this connection it may be stated that in order to bring the activities of a person within the expression of "acting in any manner prejudicial to the maintenance of public order", the fall out and the extent and reach of the alleged activities must be of such a nature that they travel beyond the capacity of the ordinary law to deal with him or to prevent his subversive activities affecting the community at large or a large section of society. It is the degree of disturbance and its impact upon the even tempo of life of the society or the people of a locality which determines whether the disturbance caused by such activity amounts only to a breach of "law and order" or it amounts to "public order". If the activity falls within the category of disturbance of "public order" then it becomes essential to treat such a criminal and deal with him differently than an ordinary criminal under the law as his activities would fall beyond the frontiers of law and order, disturbing the even tempo of life of the community of the specified locality. In the case of [Arun Ghosh V. State of W.B. \(1970\)](#) 1 SCC 98 this Court had an occasion to deal with the distinction between law and order and public order. Hidayatullah, C.J. (as he then was), speaking for the Court observed that public order would embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquility. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether

the disturbance amount only to a breach of law and order. It has been further observed that the implications of public order are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Again in the case of [Piyush Kantilal Mehta v. Commissioner of Police](#), 1989 Supp (1) SCC 322 this Court took the view that in order that an activity may be said to affect adversely the maintenance of public order, there must be material to show that there has been a feeling of insecurity among the general public. If any act of a person creates panic or fear in the minds of the members of the public upsetting the even tempo of life of the community, such act must be said to have a direct bearing on the question of maintenance of public order. The commission of an offence will not necessarily come within the purview of public order which can be dealt with under ordinary general law of the land".

Further contention of the counsel for the petitioner is, one of the grounds which is formed to be the basis for ordering preventive detention of the petitioner so as to form an opinion for disturbance of public order is the petitioner dishonestly receiving stolen property. According to the counsel for the petitioner, the petitioner was never charge-sheeted or booked in such an offence. He would invite our attention to the detention order so as to claim that while ordering detention, the said incorrect event is sought to be considered against the petitioner for passing the order of detention

and that being so, the order of detention suffers from non-application of mind.

7. In addition to above, to substantiate the aforesaid claim, support is drawn from the Division Bench Judgment of this Court in the matter of *Deepak Dattu Suryawanshi vs. Commissioner of Police and ors.* reported in **2016 DGLS (Bom.) 1001** particularly paragraph 13 which reads thus :

“ 13. Therefore, it is abundantly clear that the detaining authority not only considered the relevant material but apart from said material/ documents, the extraneous material is also considered by the detaining authority. The Supreme Court in the case of **Mohd. Dhana Ali Khan v. State of W.B.**, *supra*, while considering the detention of detenu therein under Section 3 of the Maintenance of Internal Security Act (26 of 1971), in the facts of that case, held that:

"In the circumstances, therefore, we are satisfied that the District Magistrate before passing the order of detention had other materials also before him. It cannot be said to what extent the District Magistrate was influenced by the other materials and not by the material which is mentioned in the ground of detention. Thus the order of detention suffers from a very serious infirmity which goes to the root of the matter. The liberty of the subject being an extremely precious right, where any infraction of such a right is involved the court must act as a watchdog and a sentinel on the qui vive to see that every benefit of the lacunae goes to the detenu."

The Supreme Court in the said Judgment, has placed reliance on the reasons of the decision of the Supreme Court in **Khudiram Das v. State of West Bengal**, **A.I.R. 1975 S.C. 550**, wherein the Supreme Court has observed thus: "It is therefore, not only the

right of the court, but also its duty as well, to examine what are the basic facts and materials which actually and in fact weighed with the detaining authority in reaching the requisite satisfaction. The judicial scrutiny cannot be foreclosed by a mere statement of the detaining authority that it has taken into account only certain basic facts and materials and though other basic facts and materials were before it, it has not allowed them to influence its satisfaction. The Court is entitled to examine the correctness of this statement and determine for itself whether there were any other basic facts of materials, apart from those admitted by it, which could have reasonably influenced the decision of the detaining authority and for that purpose, the Court can certainly require the detaining authority to produce and make available to the Court the entire record of the case which was before it. That is the least the Court can do to ensure observance of the requirements of law by the detaining authority."

8. According to the learned counsel for the petitioner Shri. Ali, the order of detention is passed on the consideration of criminal history against the petitioner which is reflected in the detention order but only three offences registered against the petitioner are formed to be the basis for detention order, and as such it suffers from infirmity.

Apart from above, it is claimed that two in-camera statements which are sought to be relied upon, cannot be considered in isolation for the purpose of passing the order of detention so as to infer the conduct of the petitioner being prejudicial to the maintenance of public order.

9. As against above, Shri A. B. Badar, learned Additional Public Prosecutor would try to justify the order of detention. According to him, the following events led to passing of detention order are worth referring to :

Date	Events
08/02/2024	Proposal sent by PI to Detaining Authority
14/03/2024	Detention order passed by Detaining Authority
15/03/2024	Grounds of detention supplied to Detenue
20/03/2024	Approval order passed by State Government
26/03/2024	Approval order served to Detenue
19/04/2024	Opinion of Advisory Board
08/05/2024	Confirmation order passed by State Government

10. The learned Additional Public Prosecutor would try to lay emphasis on the very conduct of the petitioner as reflected in all the three First Information Reports in Crime No.766/2023 registered at Gittikhadan Police Station and Crime Nos. 948/2023, 962/2023 registered at Hudkeshwar Police Station. He would claim that the overall conduct of the petitioner of committing theft by issuing threat and also offence under Section 394 of the IPC consistently speak of the intention of the petitioner to conduct himself in prejudicial manner so as to maintain the public order.

Shri Badar would submit that there was no delay in passing

the order of detention as according to him processing of the proposal began from the level of Police Inspector. The events narrated above sufficiently establish that timely steps were taken by the detaining authority in the matter of passing the impugned order. He would further submit that if the in-camera statements are considered along with the three offences which are formed to be basis for passing the order of detention, it can be easily inferred that the conduct of the petitioner was prejudicial to the maintenance of public order and as such satisfies the very requirement of Section 3 of the Act of 1981. In this backdrop, he claims that the petition lacks merits and the same is liable to be dismissed.

It is the contention of the learned Additional Public Prosecutor that if the cumulative conduct of the petitioner is concerned, it has to be inferred that the same has given rise to public order and not law and order as this Court is required to be sensitive to the severity of the offence committed by the petitioner and its effect on the society as a whole.

Shri Badar has placed reliance on the judgment of this Court in the matter of *Vinod Dhannulal Jaiswal vs. District Magistrate, Aurangabad* **2024 ALLMR (Cri) 680**.

11. We have considered the rival submissions.

The petitioner is detained on the ground of his activity being

found to be that of a dangerous person. Section 2(a)(iv) of the Act of 1981 contemplates that a dangerous person being engaged or making preparations for engaging in any of his activities as a dangerous person, which affect adversely or likely to affect adversely, the maintenance of public order can be proceeded against under Section 3 of the Act of 1981 wherein powers to make an order of detention are conferred on the detaining authority. Section 2(b-1) of the Act of 1981 defines the dangerous person. A dangerous person is a person, who himself or as a member or leader of a gang habitually commits or abets the commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code or any of the offence punishable under Chapter V of the Arms Act, 1959.

12. If we consider the definition of 'dangerous person' as prescribed under Section 2(a)(iv) of the Act of 1981, it is necessary for the detaining authority while exercising powers under Section 3 of the Act of 1981 to satisfy in respect of the person like the petitioner that there has to be an order of detention preventing him from acting in any manner prejudicial to the maintenance of public order. The foremost requirement for exercising powers under Section 3 of the Act of 1981 is the satisfaction about the act of the person to be detained are prejudicial to the maintenance of public

order.

The impugned detention order dated 14/03/2024 demonstrates that the detaining authority while passing the detention order have considered three offences viz. Crime No. 766/2023, Crime No. 948/2023 and Crime No. 962/2023 as well as two in-camera statements recorded on 24/01/2024 and 02/02/2024.

13. The main ground raised in challenge to detention order is that the activities of the petitioner were not detrimental to the maintenance of public order but at the most are in contravention of law and order and the same appropriately can be punished under the extant law. The distinction between the terms 'public order' and 'law and order' has been discussed in detail by the Hon'ble Apex Court in the case of ***Kanu Biswas v/s. State of West Bengal, reported in (1972) 3 SCC 831*** in paragraph nos. 6 and 7, which reads as under:

"6. The distinction between the concept of public order and that of law and order has been adverted to by this Court in a number of cases. In the case of Dr Ram Manohar Lohia v. State of Bihar [AIR 1966 SC 740 : (1966) 1 SCR 709 : (1966) 2 SCJ 5] , Hidayatullah, J., (as he then was) said that any contravention of law always affected order, but before it could be said to affect public order, it must affect the community at large. He considered three concepts, law and order, public order and the security of the State, and observed that to appreciate the scope and extent of each one of

them, one should imagine three concentric circles. The largest of them represented law and order, next represented public order and the smallest represented the security of the State. An act might affect law and order but not public order, just as an act might affect public order but not the security of the State. In the subsequent case of Arun Ghosh v. State of West Bengal [(1970) 1 SCC 98 : (1970) 3 SCR 288] the Court dealt with the matter in the following words:

“Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take for instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different.”

7. The question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order, according to the dictum laid down in the above case, is a question of degree and the extent of the reach of the act upon the society. Public order is what the French

call “order publique” and is something more than ordinary maintenance of law and order. The test to be adopted in determining whether an act affects law and order or public order, as laid down in the above case, is: Does it lead to disturbance of the current of life of the community so as to amount to a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed ?”

14. The first offence was registered on 02/10/2023 at Gittikhadan Police Station vide Crime No. 766/2023 under section 379 read with section 34 of IPC. There was a complaint as to the stealing of two car batteries worth Rs. 10,000 each which lead to the registration of the offence. On 03/10/2023, the police inspector received the information that two people one of whom was the petitioner were carrying white bag. They subsequently rushed to the spot, when enquired by the police and upon searching of the bag, two batteries were found in it. Pursuant to the same, the petitioner and his associate were arrested. The petitioner was subsequently released on bail.

15. The second offence was registered at Hudkeshwar Police Station on 08/12/2023 vide Crime No. 948/2023 under sections 4 and 25 of the Arms Act, 1959 read with section 135 of the Maharashtra Police Act. On the date of incident at around 01:45 a.m. a complaint was received that a person is roaming with a sharp

weapon in his hand and pursuant to the same, the police inspector rushed to the spot and an iron knife was seized from the petitioner. As possession of deadly weapon was in violation of the terms and conditions of the prohibitory order of Joint Commissioner, Nagpur, the petitioner was arrested immediately. On 12/12/2023, the petitioner was released on bail.

16. The last offence on which reliance is placed in the detention order was registered at Hudkeshwar police station on 15/12/2023 vide Crime No. 962/2023 under sections 394,294 and 506 of IPC. At 3:00 a.m. the complainant's truck was stopped by a white colored car No. MH-49-AS-1253 accommodating two people, one of them stood near the left side and the other came from the driver's side with a knife and a screwdriver. They threatened the complainant and took two batteries out of the truck by breaking the wire. When the complainant and his brother was sought to be restrained from committing the offence, they have threatened the complainant in an abusive language. After registration of the offence, the police received the information that the offence was committed by the petitioner with his associate. Police intercepted the petitioner and his associate. Upon search of the car involved in the crime, a knife as well as two stolen batteries were recovered from them which led to their arrest. On 18/12/2023 the petitioner was released on bail.

17. So as to invoke the provisions of the Act of 1981, it is necessary for the Detaining Authority to record subjective satisfaction that the act of the detainee was prejudicial to the maintenance of the public order. It has to be satisfied that the activities are of such a nature which travel beyond the capacity of ordinary law so as to prevent such activities which are affecting the community at large, having an impact upon the tempo of life of the society or the people of the locality. It needs to be appreciated that the disturbance caused by the activities of the detainee like that of the petitioner whether amounts to breach of law and order or public order. It is necessary to apply the aforesaid test and to record a subjective satisfaction of there being material to infer breach of the public order.

The public order is the routine activity of the life of the community taking even in a specified locality. The disturbance of the public order is to be distinguished from the acts directed against individuals which do not disturb the routine life or tempo of the society to the extent of causing a general disturbance of public tranquility. In case if the act of a person creates panic or fear in the minds of the public upsetting the even tempo of the life of the community, having direct bearing on the maintenance of public order can be termed as disruption of public order. It is not necessary that the commission of an offence would come within the purview

of public order even if the same can be dealt with under ordinary general law of the land. What is required to be protected is the liberty of the individual which is a precious right guaranteed by our Constitution. Merely taking into account certain basic facts and material is not sufficient enough but the application of mind resulting into recording of subjective satisfaction is the mandate of law on the issue of disturbance of public order in the matter of invoking the provisions of ordering preventive detention.

18. Upon perusal of the contents of the two confidential in-camera statements 'A' and 'B', the former statement shows that in the third week of January, 2024 at about 21:45 p.m the petitioner took grocery from the witness who is a shopkeeper without paying for the same. When asked to pay Rs. 1748 for the goods, the petitioner whipped out a knife and threatened the witness as well as slapped him. The people who had gathered outside the shop were also threatened by the petitioner. The latter statement viz. 'B' depicts that in the last week of January, 2024 at around 22:30 p.m when the witness was busy running his paan kiosk, the petitioner along with his associate came and demanded ransom of Rs.1000 as ransom. As the business of the witness did not go well that day, he replied that he will pay next month. Upon hearing the same, the petitioner threatened the witness in an abusive language and put a knife on

the witness's neck so also forcibly took out Rs. 700 from his pocket. When the people gathered on the spot of the incident, the petitioner also threatened them. Both the aforesaid incidents occurred in the night hours.

19. It is also pertinent to mention that the detaining authority in the impugned order only specifies that it has gone through the confidential statements 'A' and 'B' and the verification report, but do not make any mention as to whether the detaining authority interacted with the officers who have recorded the in-camera statements or has verified and recorded satisfaction after the interaction so as to satisfy itself that the statements of these witnesses are genuine. The detaining authority has not interacted with the Assistant Commissioner or Deputy Commissioner of Police, Sakardara Division, Nagpur who had verified the truthfulness of the in-camera statements. The judgment passed by the division bench of this Court in *Shaikh Hussain @ Shahrukh Shaikh Fatru v/s. State of Maharashtra, Criminal Writ Petition No. 873/2022*, paragraph nos. 18 and 19 is relevant in this behalf which states as under :

“18. First of all, it is observed that the grounds of detention nowhere discloses that the detaining authority interacted with the witnesses A and B so as to satisfy itself that the statements of these witnesses are genuine to be true and or instances which they disclosed were correct. There is no interaction by the detaining

authority with the Assistant Superintendent of Police, who verified such statements. The copies of statements of witnesses A and B attached to the petition and provided to the detenue, nowhere show any endorsement of the detaining authority so as to confirm that such statements were perused by the detaining authority and said authority considered that the witnesses were depicting true events. There is absolutely no whisper in the grounds of detention as to on what count the detaining authority found itself satisfied about the truthfulness or genuineness of such statements made by the witnesses.

19. This Court in the case of Shahjahan w/o Kalimkhan Samshadkhan Pathan Vs. State of Maharashtra & Anr. 2016 ALL MR (cri)4233 (supra), observed in para 5 that, in the absence of any record of the statements being seen by the Commissioner of the Police thereby affecting his subjective satisfaction, the petitioner is entitled to succeed in the petition. These observations are clearly attracted to the matter in hand. There is no contemporaneous material placed before us to show that the detaining authority had in fact verified the statements and had any interaction with the Assistant Superintendent of Police, who recorded his report. Similarly, by reproducing the contents of statements of witness A and B in the grounds of detention without the material to show that the detaining authority had in fact interacted either with the witnesses or discussed it with the authority, who verified such statements, the order of detention stands vitiated.”

From the above discussion, it can be gathered that two confidential in-camera statements could not have formed the basis for recording the subjective satisfaction of the detaining authority.

20. Further, the fact remains that even though the detention order mentions that the criminal antecedents which are not considered while issuing the impugned order however, the same refers to nine criminal cases to show the criminal antecedent of the petitioner. If these pending cases were not considered by the detaining authority, then there was no reason to mention the same in the first place in the detention order. In this regard the petitioner has rightly placed reliance upon the observations made in paragraph 15 of the judgment of Hon'ble Apex Court in case of *Khaja Bilal Ahmed vs. State of Telangana and ors. reported in 2019 DGLS (SC) 1677* which read thus :

“ 15. In the present case, the order of detention states that the fourteen cases were referred to demonstrate the “antecedent criminal history and conduct of the appellant”. The order of detention records that a “rowdy sheet” is being maintained at PS Rain Bazar of Hyderabad City and the appellant “could not mend his criminal way of life” and continued to indulge in similar offences after being released on bail. In the counter affidavit filed before the High Court, the detaining authority recorded that these cases were “referred by way of his criminal background... (and) are not relied upon”. The detaining authority stated that the cases which were registered against the appellant between 2009 and 2016 “are not at all considered for passing the detention order” and were “referred by way of his criminal background only”. This averment is plainly contradictory. The order of detention does, as a matter of fact, refer to the criminal cases which were instituted between 2007 and 2016. In order to overcome the objection that these cases are stale and do not provide a live link with the order of detention, it was contended that they were not relied on but

were referred to only to indicate the antecedent background of the detenu. If the pending cases were not considered for passing the order of detention, it defies logic as to why they were referred to in the first place in the order of detention. The purpose of the Telangana Offenders Act 1986 is to prevent any person from acting in a manner prejudicial to the maintenance of public order. For this purpose, [Section 3](#) prescribes that the detaining authority must be satisfied that the person to be detained is likely to indulge in illegal activities in the future and act in a manner prejudicial to the maintenance of public order. The satisfaction to be arrived at by the detaining authority must not be based on irrelevant or invalid grounds. It must be arrived at on the basis of relevant material; material which is not stale and has a live link with the satisfaction of the detaining authority. The order of detention may refer to the previous criminal antecedents only if they have a direct nexus or link with the immediate need to detain an individual. If the previous criminal activities of the appellant could indicate his tendency or inclination to act in a manner prejudicial to the maintenance of public order, then it may have a bearing on the subjective satisfaction of the detaining authority. However, in the absence of a clear indication of a causal connection, a mere reference to the pending criminal cases cannot account for the requirements of [Section 3](#). It is not open to the detaining authority to simply refer to stale incidents and hold them as the basis of an order of detention. Such stale material will have no bearing on the probability of the detenu engaging in prejudicial activities in the future.”

21. Therefore, having concluded that the three offences and two confidential in-camera statements which formed basis for arriving at a subjective satisfaction by the detaining authority do not disclose any acts which could be termed as acts prejudicial to the

maintenance of public order, we are of the considered opinion that the impugned order cannot be sustained. Consequently, we quash and set aside the impugned order dated 14/03/2024 passed by the respondent No. 2 which was confirmed by the respondent No. 1.

The petitioner be released forthwith, if not required in any other crime.

Rule is made absolute in above terms.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)