



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

CRIMINAL WRIT PETITION NO.143 OF 2024

Faijan Ansari S/o Wakil Ansari aged 23 years,
Occu. Labour, Ansar Nagar, Mominpura,
Near Big Well, Tah. And Dist. Nagpu
r.

Petitioner

-Versus-

1. State of Maharashtra, through it's Secretary,
Department of Home, Mantralaya, Mumbai -
32.
2. State of Maharashtra, through Police
Commissioner, Nagpur City, District
Nagpur.
3. State of Maharashtra, through Police
Station Officer, Police Station, Tahsil,
Nagpur City.

Respondents

Shri P.J. Mehta, Advocate for the Petitioner.
Shri M.K. Pathan, Additional Public Prosecutor for the
Respondents.

**CORAM : SMT.VIBHA KANKANWADI &
MRS.VRUSHALI V. JOSHI, JJ.**

Reserved on: 19th June, 2024.

Pronounced on: 4th July, 2024

JUDGMENT (Per :Vrushali V.Joshi, J.)

1. Heard. **Rule.** Rule made returnable forthwith. The
Writ Petition is heard finally with the consent of the learned

counsel for the parties.

2. This is a petition which takes exception to the order bearing no. D.O.NO.DET/MPDA/PCB/Zone-III/ 51 & 51-A/2023 passed by the Respondent No.2-Commissioner of Police, Nagpur City, on 13.10.2023 ordering detention of the Detenu-Faijan Ansari S/o Wakil Ansari under the Maharashtra, Home Department, (Special) in Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous persons and Video Pirates Act 1981 (herein after referred to as the “MPDA Act”,1981) and confirmed by the Respondent No.1 i.e., Home Department vide order dated 24.11.2023.

3. Some of the grounds for challenge raised in the petition are :

- a) The first ground for setting aside the impugned order, is that the said order lacks subjective satisfaction by the Respondent No.2, while considering the material on record, being insufficient.
- b) The impugned order is said to have

been passed after a delay of about 4 and half month between the last alleged offence and the last in-camera statement along with no explanation about the time lapsed for the passing of the order. c) The offences forming the material to pass the order are alleged to have been committed by group of persons.

4. Shri P.J. Mehta, learned Counsel appearing for the petitioner argued that Crime No.0139 of 2023 is for the offences punishable under Sections 324, 323, 504, 506, 34 of I.P.C. and Crime No. 0653/2023 is for the offence punishable under Sections 399, 402 r/w 4/25 Arms Act and 135 of Maharashtra Police Act. All the offences are registered at the Police Station, Panchpaoli, Nagpur. The trial in all the offences are pending before the concerned Court. He states that, the perusal of the order refers to the word “likely”, that due to the criminal past of the detenu, he is likely to start the activities again but no specific reason is purported. In the second crime, the detenu was arrested on 17.04.2023. On 02.05.2023, he was released on bail by

executing a personal bond of Rs. 50,000/-.

5. The Learned Counsel for the petitioner further submits that, the order does not mention as to how so much time is consumed to get the formalities done and to pass the order.

6. Shri M.K. Pathan, Learned APP, contended that it is mentioned in the in-camera statements of witnesses “A” and “B” that the petitioner had after the commission of the crime brandished knife at the crowd of people, who had gathered, threatened them and created panic in their minds. He has placed reliance on a judgment of this Court in *Pravin Ganpat Kakad vs. The Commissioner of Police, Nashik City, Nashik W.P. No. 336 of 2021* in which a reference has been made of the case of this Court in *Santosh Kashinath Kamble vs. State of Maharashtra and Ors; W.P. No.4510 of 2015* it is emphasized that, no particular format is expected, no particular words and expressions are supposed to be employed while recording verification of such in-camera statements.

7. He further states that in the present matter, in the

endorsement supplied to Respondent No.1 the places mentioned in the in-camera statements were visited by the verifying officer and the truthfulness was verified from the people present during such incidents.

8. It is submitted by the Learned APP, that the date of last offence is mentioned in the impugned order along with the date of recording of the in-camera statements on 07.08.2023 supplied to the detenu. These statements were verified on 21.08.2023. Thus, the time consumed to complete the procedure can be easily discerned and there is hardly any delay in passing the impugned order.

9. The learned counsel appearing for the petitioner has relied upon the following judgments in support of his argument.

(i) Criminal Writ Petition No.738 of 2022 (Ashokrao s/o Uttamrao Pawar Vs. State of Maharashtra and ors. Decided on 8th February 2023.

(ii) Criminal Writ Petition 587 of 2023 (Jakir @ Jakira Hussain Vs.State of Maharashtra) Decided on 14th February 2024.

(iii) Criminal Writ Petition No.536 of 2023
(Yaduraj @ Bachhi s/o Ramnaresh Arak
Vs.State of Maharashtra) Decided on 5th
January 2024.

10. Heard both the learned counsel appearing for the parties.
11. One of the ground for challenging the order is that there is delay of about four and half months between the last alleged offence and order of detention. First crime considered is committed on 15.04.2023 and second crime is committed on 16.04.2023. On the basis of these offences, the detention order is passed on 13.10.2023. Stale offences are considered while passing the order. The in-camera statements are recorded in the Month of August, 2023 for the incident of July, 2023 and there is no explanation about the time lapsed for the passing of the order. On perusal of affidavit-in-reply filed by the detaining authority, the explanation is given by the Commissioner that the last in-camera statements were recorded on 07.08.2023. The Tahsil Police Station, Nagpur initiated the proposal for detention of the detenu on 16.08.2023 under MPDA, Act,(With Amendment of 2015)

and the same was submitted to the Assistant Commissioner of Police, Kotwali Division. The Assistant Commissioner of Police, Kotwali Division verified the in-camera statements of witness “A” and “B” on 21.08.2023 and recommended the proposal to the Dy. Commissioner of Police, Zone III, Nagpur who in turn after scrutinising recommended it to the Addl. Commissioner of Police, North Region, Nagpur on 26.08.2023, who in turn recommended to the office of the Commissioner of Police, Nagpur i.e. the Detaining Authority on 29.08.2023 and on 30.08.2023 it was received at the Detention Cell, Crime Branch, Nagpur. On 08.10.2023, the Detention Cell, Crime Branch, Nagpur put up the proposal to the Detaining Authority i.e. Commissioner of Police, Nagpur. It is submitted that the Detaining Authority *prima facie* found it to be a fit case for detention under MPDA Act and directed the office of the Detention Cell, Crime Branch, Nagpur to prepare the compilation, translation, fair typing and to comply with the other requirements of law. The Detention Cell, Crime Branch, Nagpur complied with the directions and on 08.10.2023, the draft of the grounds of

detention were forwarded to the Deputy Commissioner of Police (Detention), Crime Branch, Nagpur City who went through the draft of the grounds of detention and other relevant documents and gave his endorsement on 10.10.2023. These were then forwarded to the Additional Commissioner of Police (Crime), Nagpur City. The Additional Commissioner of Police (Crime), Nagpur went through the draft of the grounds of detention and other relevant documents and gave his endorsement on 11.10.2023 and forwarded the papers to the Joint Commissioner of Police, Nagpur City. The Joint Commissioner of Police, Nagpur City went through the draft of the grounds of detention and other relevant documents and gave her endorsement on 12.10.2023. The papers were then forwarded to the Detaining Authority. The Detaining Authority carefully went through the grounds of detention and other relevant documents and after being subjectively satisfied, passed the detention order and on the same day, i.e. on 13.10.2023, the detenu was detained.

12. The aforesaid explanation in reply shows that the

detaining authority has considered the proposal at every level and thereafter the order of detention has been passed. It appears that every authority has verified the proposal and thereafter, forwarded it to the next authority, therefore, it cannot be said that there is a considerable delay in passing the order of the detention from the date of registration of crime and recording of in camera statement.

13. The petitioner has relied on the judgments of this Court in **Criminal Writ Petition Np.587 of 2023 (Jakir @ Jakira Hussain Vs. State of Maharashtra and anr)**, wherein, the Writ Petition was allowed on the ground of delay but the explanation in the said Writ Petition was not satisfactory. It is observed in the said writ petition that the explanation for delay is not satisfactory as only for typing the documents and translating English version, the time was consumed. In the case in hand, considering the process of scrutinising the proposal, no much significance can be given to the said delay. In our considered view, in totality, there is no delay in passing the order of detention therefore, there is no substance in the submissions of the learned counsel appearing for the

petitioner that there was a considerable delay in passing the order of detention.

14. The another ground is that there is no subjective satisfaction as entire material is not considered by detaining authority. Bail orders are not considered. On perusal of record, it appears that while considering the material on record, the bail orders and the entire material is considered while passing the order.

15. Another ground is that there is no subjective satisfaction as the confidential statements are not verified properly by the detaining authority. The detaining authority has mentioned only seen and verified therefore truthfulness of the statement is not verified by detaining authority. On going through the record, it appears that on 07.08.2023, the statement of secret witness was recorded. These statements were verified on 21.08.2023 by Assistant Commissioner of Police, Kotwali Division and by the Deputy Commissioner of Police Zone 3, Nagpur on 26.08.2023 before being seen and verified by the detaining authority on 13.10.2023. Such

endorsement satisfied the requirement of verification of truthfulness of in camera statement.

16. Learned APP has relied upon the judgment in the case of **Writ Petition No.336 of 2021 (Pravin Ganpat Kakad Vs. The Commissioner of Police and ors.)**. It is observed by this court in paragraph No.11 as under:-

*“In these judgments it was found on facts that the verification was not satisfactory and therefore in camera statements could not have been made the basis for issuance of the detention order. In this regard, a division bench of this Court in the case of **Santosh Kashinath Kamble** (supra) has held that there is no particular format in which verification of an in camera statement has to be recorded. It is laid down that there should be verification on such in camera statements and no particular format is expected and no particular words and expressions are supposed to be employed while recording verification of such in camera statements. The endorsement of the Deputy Commissioner of Police (Zone-1) Nashik City filed by respondent no.1 shows that the places mentioned in the in camera statements were visited by the verifying officer and truthfulness of the incidents mentioned in the statements was verified from the people present during such incidents. We are of the opinion that such an endorsement clearly satisfied the requirement about verification of truthfulness of in camera statements and therefore, we find*

that there is no substance in the aforesaid ground raised on behalf of the petitioner”.

17. In view of the above, since we have found that the grounds of challenge specifically raised on behalf of the petitioner are without any substance, the writ petition deserves to be dismissed accordingly, the writ petition is dismissed.

18. Rule stands discharged.

(MRS.VRUSHALI V. JOSHI, J.) (SMT.VIBHA KANKANWADI, J.)