



THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 311 OF 2025

Maharudra @ Aba Narayan Mule
Age 40 years, Occupation: Agril,
R/o. Ghodka Rajuri, presently at
Near Bankatswami College,
Jalna Road, BEED.

... **Petitioner**

Versus

1. The District Magistrate,
BEED.
2. Superintendent of Police
BEED.
3. The State of Maharashtra
(Through the Secretary
Home Department (Spl)
Mantralaya, Mumbai.
4. The Superintendent Aurangabad
Central Prison, Aurangabad.

... **Respondents**

...

Mr. Abhaysinh K. Bhosle, Advocate for Petitioner.

Mr. S. A. Gaikwad, APP for Respondents.

...

CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 06th May, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

. Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned Advocates for the parties.

2 By invoking the powers of this Court under Article 226 of the Constitution of India, the petitioner has challenged the order of detention order dated 14th November, 2024 bearing No.2024/RB-Desk-1/Pol-1/MPDA-19 passed by respondent No.1 under Sections 3(2) 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 (hereinafter referred to as the “MPDA Act”).

3 The learned counsel for the petitioner has pointed out the impugned order and the material, which was relied upon and supplied to the petitioner by the detaining authority at the time of passing of the impugned order. The learned counsel for the petitioner pointed out the grounds of detention in the impugned order, as per the following charts:-

Offences

Sr. No.	Police Station	Cri. No.	Section	Date of registration	Charge-Sheet No.	Court case No.	Status
1	Peth Beed	15/2021	353, 332, 328, 201, 188, 272, 273, 34 IPC	25/01/2021	48/2022 18/06/2022	RCC No. 378/2022 Dt. 21/06/2022	Pending in Court.
2	Pimpalner	197/2021	272, 273, 328, IPC r.w. sec. 130(3)/177 of Motor Vehicles Act	15/09/2021	23/2022 11/02/2022	S.C. No. 125/2022 Dt. 19/07/2022	Pending in Court.
3	Neknoor	241/2021	328, 272, 273, 34 IPC	14/10/2021	10/2022 07/02/2022	SC No. 34/2024 Dt. 07/03/2024	Pending in Court.
4	Pimpalner	46/2023	328, 272, 273 IPC	21/03/2023	67/2023 26/07/2023	RCC No. 459/2023 Dt. 02/08/2023	Pending in Court.
5	Neknoor	280/2023	328, 272, 273, 34 IPC	18/09/2023	71/2024 19/07/2024	RCC No. 382/2024 Dt. 24/07/2024	Pending in Court.
6	Dindrud	145/2024	123, 223, 274, 275, 3(5) BNS	14/07/2024	---	---	On investigation
7	Beed Rural	291/2024	123, 223, 274, 275, 3(5) BNS	10/09/2024	---	---	On investigation

Preventive Action

Sr. No.	Police Station	Chapter Case No.	Section	Date	Remarks
01	Pimpalner	04/2022	110 Cr.P.C.	17/06/2022	Final bond
02	Sirsala	02/2024	110 Cr.P.C.	13/01/2024	Final bond

Offences considered for passing Detention Order

Sr. No.	Police Station	Cri. No.	Section	Date of registration	Charge-Sheet No.	Court case No.	Status
01	Dindrud	145/2024	123, 223, 274, 275, 3(5) BNS	14/07/2024	---	---	On investigation
02	Beed Rural	291/2024	123, 223, 274, 275, 3(5) BNS	10/09/2024	---	---	On investigation

4 The learned counsel for the petitioner pointed out the grounds of objections raised in the petition and submitted that the detaining authority has not arrived at the subjective satisfaction as the two in-camera statements are certainly not establishing the issue of threat to public order on the part of the petitioner. The detaining authority has passed the detention order mechanically and in a casual manner and has not applied the mind properly while passing the detention order and did not arrive at the subjective satisfaction as to the statements of in-camera witnesses. The authority also did not consider the reasons stated in the order passed by the Courts while granting bail to the petitioner. The crimes registered against the petitioner are not showing that he is an habitual offender. The action of the detaining authority is drastic, illegal and not sustainable in the eyes of law, as it causes injustice to the petitioner. There is inordinate delay caused for taking action against the petitioner, which shows that there is no such issue of public order. The essential ingredients of Section 3(2) of the MPDA Act are not establishing against the petitioner. He is not a dangerous person as defined under the MPDA Act. The issue of public order is not establishing from the crimes upon which the action is taken against the petitioner. No action for cancellation of bail is taken against the petitioner. The action taken against the petitioner is against the provisions of the MPDA Act as

well as Article 22(5) of the Constitution of India. The circumstances and reasons given by the concerned authority are not acceptable and sustainable in the eyes of law. The authority concerned failed to consider the material aspects in its proper perspectives while passing the impugned order. It is lastly prayed to allow the writ petition by quashing and setting aside the impugned order.

5 The learned APP for the respondents submitted that the petitioner is a 'dangerous person' as defined under the MPDA Act. There are two in-camera statements of the witnesses about which the subjective satisfaction has been arrived at by the detaining authority. There is neither legal nor factual error on the part of the detaining authority while recording the in-camera statements of the witnesses. The petitioner has created grave terror in the surrounding area. Therefore, general people are not ready to proceed against him by lodging the report for taking criminal action which can be seen from the in-camera statement A & B witnesses. This is sufficient to hold that because of the petitioner, there is an issue of public order in the area in which criminal activities of the petitioner are going on. No delay is caused in taking the action and passing the impugned order. The petitioner is involved in number of crimes, which are serious. Therefore, he comes under the category of dangerous person as per

the MPDA Act. The activities of the petitioner could not have been stopped, except upon his detention under the MPDA Act. No legal or factual error is committed by the detaining authority while passing the impugned order. He, therefore, lastly prayed to dismiss the writ petition.

6 We have perused the impugned order of detention and the grounds upon which it is based as well as the objections raised by the petitioner in the petition.

7 From the impugned order, it reveals that the action is taken against the petitioner on the basis of two crimes, which are registered as C.R. No.145 of 2024, for the offences punishable under Sections 123, 223, 274, 275 and 3(5) of the BNS and C.R. No.291 of 2024, for the offences punishable under Sections 123, 223, 274, 275 and 3(5) of the BNS. It is an admitted fact that the petitioner is released on bail in these two crimes. The concerned investigating officer or the detaining authority did not try to cancel the bail granted to the petitioner. The bail orders are not considered by the respondents / authority while deciding the issue of public order.

8 On perusal of the statements of the in-camera witnesses,

it reveals that Witness-A was threatened by the petitioner with the help of pistol, which he had concealed inside his shirt and fastened to his waist. The petitioner placed the pistol against the temple of Witness-A and accused him of providing information to the police about his Gutkha business, due to which the police had been chasing him. The petitioner alleged that Witness-A was a police informant and because of him, Gutkha worth lakhs of rupees had been seized by the authorities, and he had previously been arrested. The petitioner threatened that he would not let Witness-A live that day. The petitioner assaulted Witness-A by kicks and fist blows. Witness-A made hue and cry, however, no one came to his aid.

9 The statement of Witness-B discloses that the petitioner said to him *"Why don't you come to work on my Gutkha delivery vehicle for Rs.300/- per day? Don't you understand Marathi? From tomorrow onwards, come and work on the Gutkha delivery vehicle."* Witness-B refused by saying that currently he is working under a mason at a construction site for Rs.600/- per day and that it was not feasible for him to work for Rs.300/- per day. Upon this, the petitioner got angry, took out a small pistol, which he had concealed at his waist, and showed it to Witness-B. The petitioner said, *"If you do not come to work from tomorrow, I will shoot and kill you."* Seeing the pistol,

Witness-B got frightened, started sweating, and told him that I would come to work. At that moment, the petitioner also kicked him once. That time, Witness-B fell down and that got up and ran away.

10 From these two in-camera statements, it is not revealed that the petitioner created an issue of public order. The allegations in the said crimes and the in-camera statements are of personal nature, which do not establish the essential ingredients of Section 3(2) of the MPDA Act. Further, though it is alleged and held that there was an issue of public order due to fear of the petitioner, it is not established either from the said two cases / crimes or from the in-camera statements that the criminal activities of the petitioner were creating an issue of public order. Thus, from all the documents relied upon by the detaining authority, we are of the view that the material upon which the authority relied and arrived at a conclusion, is not sufficient to arrive at the subjective satisfaction that the petitioner is a dangerous person for the public at large and because of him, there is constant fear and issue of public order arose.

11 In the case of ***Mustakmiya Jabbarmiya Shaikh Vs. M.M. Mehta, [1995 (3) SCC 237]***, the statements of in-camera witnesses were not accepted as those anti-social activities amounting to public

order issue was not proved against the petitioner. As per the law laid down in the case of ***Ameena Begum Vs. The State of Tamilnadu and Ors., [2023 LiveLaw (SC) 743]***, the fairness and reasonableness on the part of the detaining authority is lacking. The detaining authority has failed to apply the criteria that the acts of the petitioner are dangerous and it affects the public order, which is different from the law and order. The acts of the petitioner did not cause disturbance to the current life of the public at large, so as to cause disturbance of public order. On the contrary, the record shows that it merely affects on the individual living and the tranquility of the society at large remained undisturbed as held in the case of ***Kanu Biswas Vs. State of West Bengal, [1972 (3) SCC 831]***, wherein a reference was made to the decision in the case of ***Dr. Ram Manohar Lohia vs. State of Bihar and Ors. [1966 (1) SCR 709]***.

12 Therefore, we are of the view that the detaining authority has failed to exercise its discretion in accordance with the Section 3 of the MPDA Act. The authority has not acted as per the provisions of the MPDA Act.

13 Though the impugned order has been approved by the Advisory Board, we are of the view that it has not considered the

above foundational factual aspects as held in the case of ***Smt. Hemlata Kantilal Shah Vs. State of Maharashtra and another, [(1981) 4 SCC 647]***.

14 Further, the statements of in-camera witnesses are recorded on 29th October, 2024 and 31st October, 2024. The proposal was sent by the concerned authority on 5th November, 2024. The SDPO forwarded the same on 8th November, 2024. The statements of in-camera statements were verified on 8th November, 2024. The SP forwarded the same on 10th November, 2024. The detention order was passed on 14th November, 2024. It was served on 5th December, 2024. This shows that there is delay of approximately three weeks. The grounds of detention were served on the same day and the report was sent to the Statement Government on 18th December, 2024. It was sent within 12 days from the date of issuance of the detention order. The approval order was passed by the Statement Government on 25th December, 2024. Prior to that, the matter was referred to the Advisory Board and the Advisory Board passed the order on 12th December, 2024. The matter was kept before the Advisory Board on 16th December, 2024. The petitioner was heard by the Advisory Board on 6th January, 2025. The date of confirmation of the detention order was 17th January, 2025. The representation of the petitioner was

forwarded on 31st January, 2025. Remarks were called from the detaining authority on 3rd February, 2025. Remarks of the detaining authority were submitted on 24th February, 2025. The Additional Chief Secretary (Home) considered the remarks and rejected the representation on 3rd March, 2025. If the period required for processing of the action and passing of the impugned order and granting of the approval etc. is considered, then there is unreasonable delay which creates reasonable doubt about existence of public order on the part of the petitioner. From the dates discussed above, there appears no need of taking urgent action to secure object of maintaining public order against the petitioner to control his activities, which affects the public at large and create an issue of public order as contemplated by MPDA Act.

15 Considering all these aspects and the reasons discussed above as well as the law laid down in the above authorities and from the criminal cases registered against the petitioner relied upon by the respondent authority and statements of witnesses A and B, we are of the view that the petitioner had not created an issue affecting public order. He had not caused disturbance to the public order. He is not a dangerous person as per Section 3 of the MPDA Act.

16 The Advisory Board though approved the detention of the petitioner, we are of the view that there is no reliable relevant material to proceed against the petitioner to categorize him as a dangerous person. By passing the impugned order, the fundamental rights, particularly, the liberty of the petitioner as per Article 21 of the Constitution of India is affected and there is no legal as well as factual ground for passing of the impugned order. Therefore, we are constrained to hold that the impugned order is illegal and not sustainable. The same deserves to be quashed and set aside. The petition deserves to be allowed. Hence, the following order:-

ORDER

- I. The writ petition stands allowed.
- II. The detention order dated 14.11.2024 bearing No.2024/RB-Desk-1/Pol-1/MPDA-19 passed by respondent No.1 as well as the approval order dated 25.11.2024 and the confirmation order dated 17.01.2025, are hereby quashed and set aside.
- III. Petitioner – Maharudra @ Aba Narayan Mule shall be released forthwith, if not required in any other offence.
- IV. Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]