



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.865 OF 2025

Sattar Masoom Pinjari @ Sattar Mental

Age: 42 years, Occu.: Labour,

R/o. Ambika Nagar, Near Patrewali

Masjid, Tq. Dhule, District Dhule.

.. Petitioner

Versus

1. District Magistrate, Dhule,
District Dhule.
2. The State of Maharashtra,
Through the Additional Chief
Secretary, Govt. of Maharashtra,
Home Department, Mantralaya,
Mumbai-32.
3. The Jail Superintendent,
Central Prison, Dist. Nashik

.. Respondents

...

Mr. Chaitanya C. Deshpande, Advocate for the petitioner.

Mr. N. R. Dayama, APP for the respondents/State.

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

DATE : 07 AUGUST 2025

JUDGMENT (Per Smt. Vibha Kankanwadi, J.)

. Heard learned Advocate Mr. Chaitanya C. Deshpande for the
petitioner and learned APP Mr. N. R. Dayama for respondents – State.

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

3. The petitioner challenges the detention order dated 26.05.2025 bearing DANDAPRA / KAVI / MPDA / 02 / 2025, passed by respondent No.1 as well as the approval order dated 06.06.2025 and the confirmation order dated 11.07.2025 passed by respondent No.27 by invoking the powers of this Court under Article 226 of the Constitution of India.

4. Learned Advocate for the petitioner has taken us through the impugned orders and the material which was supplied to the petitioner by the detaining authority after passing of the order. He submits that though several offences were registered against the petitioner, yet for the purpose of passing the impugned order, all the twelve offences were considered i.e. **(i) Crime No.09 of 2020** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 307, 353, 143, 147, 149, 336, 337, 338, 332, 333, 427, 188, 114, 435, 341, 504, 506 of Indian Penal Code, under Sections 37(1)(3), 135 of Bombay Police Act, under Section 7 of Criminal Law Amendment Act and under Section 3 and 4 of Maharashtra Prevention of Defacement of Property Act, **(ii) Crime No.78 of 2020** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 384, 323, 504, 506 read with Section 34 of Indian Penal Code, **(iii)**

Crime No.125 of 2022 registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 302, 201, 114, 212, 120-B read with Section 34 of Indian Penal Code, **(iv) Crime No.313 of 2022** registered with Nandurbar Police Station, District Nandurbar for the offences punishable under Sections 395, 394, 341, 120-B of Indian Penal Code, under Section 3 punishable under Section 25 of the Indian Arms Act and under Section 142 of the Maharashtra Police Act, **(v) Crime No.269 of 2022** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 354(A), 452, 427, 143, 380 of Indian Penal Code, under Section 37(1) (3), 135 of Maharashtra Police Act, **(vi) Crime No.349 of 2022** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 141, 143, 149, 188 of Indian Penal Code, under Section 7 of Criminal Law Amendment Act and under Section 37(1)(3), 135 of the Maharashtra Police Act, **(vii) Crime No.57 of 2023** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 188, 186, 107(1) read with Section 34 of Indian Penal Code, under Sections 3 and 4 of the Maharashtra Prevention of Defacement of Property Act, **(viii) Crime No.95 of 2023** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 307, 325, 342, 143, 147, 148, 149, 323, 504, 506 of Indian PenalCode, under Section 37(1)

(3), 135 of the Maharashtra Police Act, **(ix) Crime No.222 of 2023** registered with Azadnagar Police Station, District Dhule for the offence punishable under Sections 395, 397, 342, 457 of Indian Penal Code, under Section 3 punishable under Sections 25 of the Indian Arms Act, **(x) Crime No.126 of 2024** registered with Chalisgaonroad Police Station, District Dhule for the offences punishable under Sections 397, 323, 504 of Indian Penal Code, under Section 37(1)(3), 135 of Maharashtra Police Act, **(xi) Crime No.34 of 2025** registered with Mohadinagar Police Station, District Dhule for the offence punishable under Sections 109, 189(2), 191(2), 191(3), 190, 352, 351(2), 351(3) of Bharatiya Nyaya Sanhita, under Section 37(1)(3), 135 of Maharashtra Police Act, under Sections 3(1)(ii), 3(2), 3(4) and 23(1)(a) of the Maharashtra Control of Organised Crime Act, 1999 and **(xii) Crime No.70 of 2025** registered with Azadnagar Police Station, District Dhule for the offences punishable under Sections 132, 121(1), 351(2) of the Bharatiya Nyaya Sanhita and under Section 3 punishable under Section 25 of the Indian Arms Act. Learned Advocate for the petitioner submitted that the detaining authority has considered all the twelve offences to hold the petitioner as a dangerous person, which is against the law in view of the fact that in respect of first ten offences, there was absolutely no live link till the date of the detention order. He further submits that out of first ten offences, in five offences the petitioner was released on bail,

however, the bail orders in those offences were not considered by the detaining authority. As regards the last two offences are concerned, the petitioner came to be arrested and those crimes are under police investigation. The nature of those offences can be considered as individual in nature and, therefore, the material which was before the detaining authority was not sufficient to arrive at the subjective satisfaction. Even the in-camera statements would show that public was not involved. At the most, law and order situation would have been created due to the activities of the petitioner.

5. Per contra, the learned APP strongly supports the action taken against the petitioner. He submits that the petitioner is a dangerous person as defined under Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons and Video Pirates Act, 1981 (hereinafter referred to as the "MPDA Act"). The detaining authority has relied on the two in-camera statements and the subjective satisfaction has been arrived at. There is no illegality in the procedure adopted while recording the in-camera statements of the witnesses. Due to the terror created by the petitioner, people are not coming forward to lodge report against him and, therefore, it affects the public order. He relies on the affidavit-in-reply of Mr. Jitendra Papalkar, the District Magistrate, Dhule/detaining authority. He supports the detention order passed by him and tries to demonstrate as to how he

had arrived at the subjective satisfaction. He further states that his order has been approved by the State Government and also by the Advisory Board. Learned APP submits that in spite of involvement of the petitioner in so many cases, his criminal activities have not been curtailed. The criminal antecedents can be taken into consideration for passing the detention order. There is no illegality or error committed by the learned District Magistrate in holding the petitioner as a dangerous person. Therefore, no fault can be found in the impugned order.

6. Before considering the case, we would like to take note of the legal position as is emerging in the following decisions :-

(i) Nenavath Bujji etc. Vs. State of Telangana and others, [2024 SCC OnLine SC 367],

(ii) Kanu Biswas Vs. State of West Bengal, [1972 (3) SCC 831] wherein reference was made to the decision in *Dr. Ram Manohar Lohia vs. State of Bihar and Ors. [1966 (1) SCR 709];*

(iii) Mustakmiya Jabbarmiya Shaikh Vs. M.M. Mehta, [1995 (3) SCC 237];

(iv) Pushkar Mukherjee and Ors. Vs. The State of West Bengal, [AIR 1970 SC 852];

(v) Phulwari Jagdambaprasad Pathak Vs. R. H. Mendonca and Ors., (2000 (6) SCC 751) and;

(vi) ***Smt. Hemlata Kantilal Shah Vs. State of Maharashtra and another, [(1981) 4 SCC 647].***

7. Taking into consideration the legal position as summarized above, it is to be noted herein as to whether the detaining authority while passing the impugned order had arrived at the subjective satisfaction and whether the procedure as contemplated has been complied with or not. In ***Nenavath Bujji (Supra)*** itself it has been reiterated by the Hon'ble Supreme Court that illegal detention orders cannot be sustained and, therefore, strict compliance is required to be made, as it is a question of liberty of a citizen. We fully agree with the submissions on behalf of the petitioner that there was no live link between the first ten offences which were considered for passing the detention order. Further, out of those ten offences, the petitioner has been released on bail in five offences and still those bail orders were not considered by the detaining authority while passing the impugned order. Here, we would like to rely on the decision in ***Joyi Kitty Joseph Vs. Union of India and Ors., [Criminal Appeal No.____ of 2025 (arising out of Special Leave Petition (Crl.) No.16893 of 2024) decided by the Hon'ble Supreme Court on 06.03.2025]***, wherein reliance has been placed on the decision in ***Ameena Begum v. State of Telangana and others, [(2023) 9 SCC 587]*** and it has been observed that preventive detention is impermissible when the ordinary law of the land is sufficient to deal with the situation

was *per incuriam* to the Constitution Bench decision in ***Haradhan Saha vs. State of W.B. [(1975) 3 SCC 198]***, in the limited judicial review available to constitutional courts in preventive detention matters. However, in ***Ameena Begum (Supra)***, the Hon'ble Supreme Court explained the true distinction between a threat to "law and order" and acts "prejudicial to public order" and it is stated that it cannot be determined merely by the nature or quality of the act complained of, but in the proper degree and extent of its impact on the society. Further, it is observed that "When bail was granted by the jurisdictional Court, that too on conditions, the detaining authority ought to have examined whether they were sufficient to curb the evil of further indulgence in identical activities; which is the very basis of the preventive detention ordered. The detention order being silent on that aspect, we interfere with the detention order only on the ground of the detaining authority having not looked into the conditions imposed by the Magistrate while granting bail for the very same offence; the allegations in which also have led to the preventive detention, assailed herein, to enter a satisfaction as to whether those conditions are sufficient or not to restrain the detenu from indulging in further like activities."

8. Further, reliance can be placed on the decision in ***Dhanyam Vs. State of Kerala and Ors., [Criminal Appeal No.2897 of 2025 (Arising out of SLP (Crl.) No.14740 of 2024) decided on 06.06.2025]***, wherein

it has been observed that :-

“17. From perusal of Section 2(j), it is evident that a person who indulges in activities “harmful to maintenance of public order” is sought to be covered by the Act. This Court in **Sk. Nazneen Vs. State of Telangana, [(2023) 9 SCC 633]** had emphasized on the distinction between public order as also law and order situations :

“18. In two recent decisions [*Banka Sneha Sheela v. State of Telangana, (2021) 9 SCC 415 : (2021) 3 SCC (Cri.) 446; Mallada K. Sri Ram v. State of Telangana, (2023) 13 SCC 537: 2022 SCC OnLine SC 424*], this Court had set aside the detention orders which were passed, under the same Act i.e. the present Telangana Act, primarily relying upon the decision in *Ram Manohar Lohia [Ram Manohar Lohia v. State of Bihar, 1965 SCC OnLine SC9]* and holding that the detention orders were not justified as it was dealing with a law and order situation and not a public order situation.”

19.The observations made in the detention order do not ascribe any reason as to how the actions of the detenu are against the public order of the State. As discussed above, given the extraordinary nature of the power of preventive detention, no reasons are assigned by the detaining authority, as to why and how the actions of the detenu warrant the exercise of such an exceptional power.

20. Moreover, it has been stated therein by the authority that the detenu is violating the conditions of bail imposed upon him in the cases that have been considered for

passing the order of detention. However, pertinently, no application has been filed by the respondent-State in any of the four cases, alleging violation of such conditions, if any, and moreover, have not even been spelt out here.”

9. As regards i.e. Crime No.34 of 2025 dated 05.02.2025 and Crime No.70 of 2025 dated 29.03.2025 are concerned, these offences are still under police investigation. Perusal of the contents of the FIRs in both these offences would show that they would have raised at the most law and order situation and not the public order. The detaining authority expresses that possibility of petitioner coming out of the jail on bail in these matters cannot be ruled out and possibility of he committing offences in future also cannot be ruled out. We are of the opinion that detention order cannot be so based on predictions which are not based on any concrete evidence. Here, the previous history could not have been considered by the detaining authority. Similarly, as regards in-camera statements of witnesses ‘A’ and ‘B’ are concerned, they are copy paste to some extent and do not show that general public was involved in the incident.

10. Thus, taking into consideration the above observations and the decisions of the Hon’ble Apex Court, at the most, the statements as well as the offences allegedly committed would reveal that the petitioner had created law and order situation and not disturbance to the public order.

Though the Advisory Board had approved the detention of the petitioner, yet we are of the opinion that there was no material before the detaining authority to categorize the petitioner as a dangerous person or bootlegger.

11. For the aforesaid reasons, the petition deserves to be allowed. Hence, following order is passed :-

ORDER

- I) The Writ Petition stands allowed.
- II) The detention order dated 26.05.2025 bearing DANDAPRA / KAVI / MPDA / 02 / 2025, passed by respondent No.1 as well as the approval order dated 06.06.2025 and the confirmation order dated 11.07.2025 passed by respondent No.2, are hereby quashed and set aside.
- III) Petitioner – Sattar Masoom Pinjari @ Sattar Mental shall be released forthwith, if not required in any other offence.
- IV) Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm