



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.887 OF 2025

Ajay Bhagwan Jogdand
Age: 40 years, Occu.: Agri.,
R/o. Ghodka Rajuri, presently at
Near Bankatswami College,
Jalna Road, Nanded.

.. Petitioner

Versus

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

.. Respondents

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Mr. Abhaysinh K. Bhosle, Advocate for the petitioner.
Mrs. P. R. Bharaswadkar, APP for the respondents/State.

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

DATE : 29 JULY 2025

JUDGMENT (Per Smt. Vibha Kankanwadi, J.)

. Heard learned Advocate Mr. Abhaysinh K. Bhosle for the petitioner
and learned APP Mrs. P. R. Bharaswadkar for the 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 07.11.2024 bearing No.2024/RB-1/Desk-2/T-4/MPDA/CR-64 passed by respondent No.1 as well as the approval order dated 14.11.2024 and the confirmation order dated 07.01.2025 passed by respondent No.3, 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, only one offence was considered i.e. Crime No.615 of 2024 dated 16.07.2024 registered with Nanded Rural Police Station, District Nanded for the offence punishable under Section 4 punishable under Section 25 of the Arms Act. Learned Advocate for the petitioner submitted that the proposal was submitted by the sponsoring authority on 06.08.2024. Thereafter, the said proposal was forwarded by Sub Divisional Police Officer to Superintendent of Police and Superintendent of Police had then forwarded the proposal to the detaining authority on 19.08.2024. Thereafter, the detention order

has been passed on 07.11.2024 Therefore, there is inordinate delay of three months. The detaining authority has committed error in categorizing the petitioner as dangerous person only on the basis of one offence. In that offence also the petitioner was not arrested but notice under Section 41(A)(1) of the Code of Criminal Procedure was issued against him. The only offence that was considered for passing the detention order and the two in-camera statements would at the most create law and order situation and not the public order and, therefore, the impugned orders deserve to be quashed and set aside.

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. Learned APP relied on the affidavit-in-reply of Mr. Abhijit Raut, the District Magistrate, Nanded/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) ***Ameena Begum Vs. The State of Tamilnadu and Ors.,***
[2023 LiveLaw (SC) 743];

(iii) ***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];

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

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

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

(vii) ***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. At the outset, it is to be noted that the statements of in-camera witnesses 'A' and 'B' are taken on 05.08.2024. The proposal was then submitted by the sponsoring authority on 06.08.2024. It appears that the confidential statements came to be verified on 09.08.2024. The Sub Divisional Police Officer has forwarded the said proposal to the Superintendent of Police on 08.08.2024. Thereafter, the Superintendent of Police had forwarded the said proposal to the detaining authority on 19.08.2024 and the detention order has been passed on 07.11.2024. That means, there is delay of three months in passing the detention order. The affidavit-in-reply by Mr. Abhijit Raut, the District Magistrate, Nanded/detaining authority, is totally silent on the

point of delay. This ground alone is sufficient to set aside the detention order.

8. The offence, which was considered for passing the detention order is Crime No.615 of 2024 dated 16.07.2024 for the offence under Section 4 punishable under Section 25 of the Arms Act. The contents of the FIR would show that on 16.07.2024, when police officers were on patrolling duty at Dhavale Corner CIDCO, Nanded at about 14.20 hours, a secret information was received that a 20 to 22 years old suspicious person is standing near the statue of Annabhau Sathe. Thereafter, the police officers along with two panchas went to the spot where they found the petitioner and upon his search, it is stated that a dagger (*Khanjar*) having iron blade of 16 inch and handle of 5 inch was found in his possession. Interestingly, it is stated that the said dagger was found on his waist. It is not clear as to whether it was concealed inside the clothes or it was visible to the public. The matter is still under investigation. Important point to be noted is that Section 4 of the Arms Act requires that the Central Government should issue Notification regarding prohibition of a weapon in a particular area. That Notification was not placed before the detaining authority by the sponsoring authority. The detention order does not specifically state that he had gone through such Notification. We are aware that in the present proceedings, we cannot sit as an

appellate Court, but we are considering these facts to arrive at a conclusion as to whether there was material before the detaining authority to arrive at a subjective satisfaction. When these documents were not perused by the detaining authority, we hold that there was no subjective satisfaction arrived at by the detaining authority in the present case before passing the impugned order.

9. Further, as regards the statements of in-camera witnesses 'A' and 'B' are concerned, the incident in both the cases would show that general public was not involved. At the most law and order situation would have been created and not the public order.

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 07.11.2024 bearing No.2024/RB-1/Desk-2/T-4/MPDA/CR-64 passed by respondent No.1 as well as the approval order dated 14.11.2024 and the confirmation order dated 07.01.2025 passed by respondent No.3, are hereby quashed and set aside.
- III) Petitioner – Ajay Bhagwan Jogdand 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