



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1058 OF 2025

Dnyaneshwar alias Mauli Namdev Dhande
Age: Adult,
R/o. Daithna Bk., Taluka Ghansawangi,
District Jalna

.. Petitioner

Versus

1. District Magistrate, Jalna.
2. The State of Maharashtra
Through the Secretary Home
Department (Spl.), Mantralaya,
Mumbai.
3. The Superintendent Central Prison
Harsul, Chh. Sambhajinagar

.. Respondents

...
Mr. Rupesh A. Jaiswal, Advocate for the petitioner.
Mr. V. K. Kotecha, APP for the respondents/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 03 SEPTEMBER 2025

JUDGMENT (Per Smt. Vibha Kankanwadi, J.)

. Heard learned Advocate Mr. Rupesh A. Jaiswal for the petitioner
and learned APP Mr. V. K. Kotecha 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 19.05.2025 bearing No.2025/RB-Desk-1/Pol-1/MPDA/WS-109 passed by respondent No.1 as well as the approval order dated 29.05.2025 and the confirmation order dated 24.07.2025 passed by respondent No.2, 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 order and the material which was supplied to the petitioner by the detaining authority after passing of the order. He submits that for the purpose of passing the impugned order, the detaining authority has considered all the offences i.e. **(i) Crime No.67 of 2025 dated 07.02.2025** registered with Ambad Police Station, District Jalna for the offences punishable under Sections 109, 132, 121(2), 189, 190, 191, 352, 351(2) of Bharatiya Nyaya Sanhita, 2023 and under Sections 3 and 4 of Mines and Minerals (Regulation and Development) Act, 1957, **(ii) Crime No.83 of 2025 dated 14.02.2025** registered with Ambad Police Station, District Jalna for the offence punishable under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023, **(iii) Crime No.401 of 2018 dated 11.12.2018** registered with Ambad Police Station, District Jalna for the offences punishable under Sections 354(A), 354(A)(3), 294, 323, 504 read with Section 34 of Indian Penal Code, **(iv) Crime No.848 of 2022 dated 16.12.2022** registered with Ambad Police Station, District Jalna for

the offences punishable under Sections 307, 323, 324, 326, 452, 354, 354(a), 143, 147(2), 148, 149, 504 of Indian Penal Code, under Section 3(1)(r)(s)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") and **(v) Crime No.178 of 2021 dated 25.04.2021** registered with Taluka Jalna Police Station, District Jalna for the offences punishable under Sections 353, 379, 188 read with Section 34 of Indian Penal Code, under Sections 3 and 4 of Mines and Minerals Act and under Section 51 of Disaster Management Act. Learned Advocate for the petitioner submits that the detaining authority has considered offences since 2018 for passing the detention order on 19.05.2025, which is illegal. The detention order suffers from live link. The material placed before the detaining authority has not been considered by him properly and, there was no subjective satisfaction arrived at before passing of the order. He further submits that though the petitioner has been released on bail in Crime No.401 of 2018 and Crime No.178 of 2021, which were considered, yet the bail orders have not been considered at all by the detaining authority. He further submits that as regards statements of in-camera witnesses 'A' and 'B' are concerned, the incident in both the cases are personal in nature. At the most law and order situation would have been created. Therefore, the impugned order is illegal and cannot be allowed to sustain.

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 relies on the affidavit of Dr. Shrikrishna Panchal, the District Magistrate, Jalna. He supports the detention order passed by him and tries to demonstrate as to how he had arrived at the conclusion that the petitioner is a dangerous person. The subjective satisfaction was arrived at on the basis of the in-camera statements and the contents of the FIRs. After the subjective satisfaction, the detaining authority has passed a reasoned order, which is then confirmed with the opinion of the Advisory Board and, thereafter, confirmed by the State Government on 24.07.2025. Learned APP submits that in spite of involvement of the petitioner in so many cases his criminal activities have not been curtailed. Therefore, no fault can be found in the impugned order.

6. At the outset, we would like to rely on the decisions of the Hon'ble Supreme Court in ***Nenavath Bujji etc. Vs. State of Telangana and others, [2024 SCC OnLine SC 367]*** and ***Ameena Begum Vs. The State of Tamilnadu and Ors., [2023 LiveLaw (SC) 743]***; wherein the detention law has been summarized and has been said to be draconian measure. Further, it has been observed that illegal detention orders cannot be allowed to sustain 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 as regards last three offences are concerned i.e. Crime No.401 of 2018, Crime No.848 of 2022 and Crime No.178 of 2021, there was no live link and therefore, these offences cannot be considered for passing the detention order on 19.05.2025. Now, as regards Crime No.67 of 2025 and Crime No.83 of 2025 are concerned, the investigation is pending. Perusal of the contents of both the FIRs would show that at the most law and order situation would have been created and not the public order. It is further to be noted that though in respect of Crime No.401 of 2018 and Crime No.178 of 2021 the petitioner has been released on bail by the competent Court, however, the detaining authority has not considered the bail orders for passing the detention 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 it has been held 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.”

7. Perusal of the statements of in-camera witnesses ‘A’ and ‘B’ would show that the incidents in both the cases are personal in nature and general public is not involved. Those statements would have created at the most law and order situation and not the public order.

8. 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.

9. 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 19.05.2025 bearing No.2025/RB-Desk-1/Pol-1/MPDA/WS-109 passed by respondent No.1 as well as the approval order dated 29.05.2025 and the confirmation order dated 24.07.2025 passed by respondent No.2, are hereby quashed and set aside.
- III) Petitioner – Dnyaneshwar alias Mauli Namdev Dhande shall be released forthwith, if not required in any other offence.
- IV) Rule is made absolute in the above terms.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm