



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1097 OF 2025

Umesh Shivaji Vetal,
Age: 29 years, Occu: Labour,
R/o. Limpangaon, Tq. Shrigonda,
Dist. Ahmednagar

... Petitioner

Versus

1. District Magistrate, Ahilyanagar,
District Ahilyanagar,

2. The State of Maharashtra
Through The Additional Chief Secretary,
Govt. of Maharashtra, Home Department),
Mantralaya, Mumbai - 400032

2. The Jail Superintendent,
Central Prison Nashik, Dist. Nashik

... Respondents

.....

Mr. Satej S. Jadhav, Advocate for Petitioner
Mr. G.A. Kulkarni, APP for Respondents No.1 to 3

.....

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

DATE : 24 SEPTEMBER, 2025

JUDGMENT [Per Hiten S. Venegavkar, J.] :-

1. **Rule.** Rule made returnable forthwith. With the consent of all the parties, the petition is taken up for final hearing and final disposal at the stage of admission itself.

2. The petitioner challenges under Article 226 of the Constitution of India, an order of detention dated 09.06.2025 passed by the District Magistrate, Ahilyanagar, under Section 3(1) of Maharashtra Prevention of Dangerous Activities Act 1981 (hereinafter referred to as “MPDA” Act), together with the approval order passed by the State Government and also the confirmation order of the Advisory Board's opinion. The detention order mentions the detaining authority's satisfaction that the petitioner is a ‘dangerous person’ whose detention is necessary to prevent acts prejudicial to the maintenance of public order. The order and committal directions are on record.

3. The grounds of detention that has been supplied to the petitioner proceeds substantially on the basis of one single crime registered as C.R. No. 274 of 2025 with Shrigonda Police Station, District Ahmednagar under the provisions of Bharatiya Nyaya Sanhita (for short, ‘BNS’), Arms Act and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (SCST Act). It also considers two in-camera statements of confidential witnesses. Although a tabular statement of seven crimes and certain preventive actions since 2020 are mentioned in the grounds, the grounds asserts that such antecedents are shown for highlighting the petitioner's criminal history and background, while the proposal is submitted on the basis of recent crime and confidential statements alone.

4. The FIR narrates that on 17.03.2025 at about 6.30 pm at Madhavgaon, Taluka Shrigonda, the petitioner and the companions allegedly abused the informant on caste basis. The informant was also assaulted with wooden stick and one of the associate of the petitioner ran towards the informant with a sword in his hand and issued threat to kill him. The offence came to be registered and the petitioner along with one another associate was arrested on 31.03.2025. After the initial remand, the petitioner was released on bail on 16.04.2025.

5. The advocate appearing on behalf of the petitioner argued that the material reveals at best isolated breaches of law and order and does not reveal any material that was likely to cause public order. He further argued that an unexplained interval of nearly 12 weeks between the incident and the detention order snaps the live link which is necessary for the purpose of MPAD Act. The petitioner being on bail since 16.04.2025 has not been alleged with any breaches of the terms and conditions that have been imposed upon the petitioner while bail was being granted by the competent Courts. The record also discloses no post bail act or objective input indicating a real and imminent likelihood of prejudicial activity and that the authority has impermissibly allowed extraneous antecedents to colour its satisfaction besides terming the petitioner as a

bootlegger in one place while branding him as a 'dangerous person' elsewhere.

6. The learned APP supported the order of detention and submitted that the petitioner has been found to be a dangerous person as required under the MPDA Act. The prosecutor also relied upon the grounds of detention arguing that, the consistent criminal activity of the petitioner has convinced the authorities that the petitioner is a dangerous person and is likely to commit criminal activity which is likely to cause public order in the society. The learned prosecutor also relied upon two in-camera statements stating that the fear of the petitioner in the locality is so much that there is no witnesses who are coming forward to record the statement or lodge any complaint against the petitioner. The learned prosecutor thus prayed for dismissal of the petition and confirming the detention order.

7. We have heard both the counsels at length. The first issue is whether the act relied upon by the detaining authority bears the character of a public order disturbance or is a mere breach of law and order. The Supreme Court's decision in *Kanu Biswas v. State of W.B.*, (1972) 3 SCC 831 is the judgment that analyzes the reach and effect of the criminal act upon the community. The test is whether the even tempo

of community life is disturbed amounting to public order or rather it is an offence confined to a particular individual causing law and order situation. Applying this test, the narrated episode is a targeted assault on the named informant. The record does not indicate any shop closure, traffic paralysis, riotous congregation or widespread panic in the locality. That the allegations are grave in itself does not convert the incident of a law and order situation into a public order problem. In our view, the material establishes an ordinary criminal law infraction and not a disturbance of public order contemplated by the MPDA Act.

8. The two in-camera statements are perused with the assistance of the learned prosecutor. The original record has also been placed before us and the statements were found to be recorded and verified by a senior police officer in April 2025. Even assuming their veracity and the witnesses apprehensions, their tenor describes intimidation of specific individuals. The statements are admissible inputs for assessing potentiality. However, to justify preventive detention under the MPDA, their contents must in conjunction with other material show that the activity is likely to affect the community at large. Minutely going through the statements of both the in-camera witnesses, they at the most reinforce the law and order situation and do not elevate the petitioner's conduct to a public order menace. The reliance on such in-camera statements for the

purpose of action under MPDA Act therefore does not found to be sufficient at the hands of the respondents.

9. The second issue is in respect of proximity between the offence considered and the action under MPDA Act initiated against the petitioner. The alleged incident occurred on 17.03.2025 and the impugned detention order is issued on 09.06.2025. The grounds do not disclose any supervening prejudicial act or cogent explanation providing the link between both the events. The preventive detention must rest on a live and proximate nexus between past conduct and the need to forestall and the need to issue action under MPDA to stall its recurrence. The Supreme Court's judgment in *Pebam Ningol Mikoi Devi v. State of Manipur*, (2010) 9 SCC 618, has laid down that unexplained delay snaps the live link and vitiates the subjective satisfaction. The absence of intervening material here coupled with the bare assertion of likelihood renders the satisfaction as stale. On this ground alone, the detention order is unsustainable.

10. The third issue concerns the petitioner's bail. He was enlarged on bail by the competent court on 16.04.2025 by imposing certain terms and conditions. The law is settled that where the detainee is already on bail, the detaining authority must possess concrete and cogent material to establish a real and imminent likelihood of the detainee indulging in

prejudicial activities. Mere *ipsi dixit* or speculative possibility will not suffice. The Supreme Court's judgment in ***Rekha Vs. State of T. Nadu tr. Sec. to Govt. and Ors.***, (2011) 5 SCC 244, reiterates this requirement in clear terms. The grounds before us do not cite any post-bail act, any suspicious movement or any terms and conditions of the bail being breached. The general statement that the detenue is likely to revert to the similar activities is the very sort of vague apprehension by the detaining authority which needs to be deprecated. The real possibility test is not satisfied, consequently the detention cannot be sustained on this count as well.

11. The fourth and equally substantial infirmity is non-application of mind caused by extraneous material. While acknowledging reliance on the solitary recent crime and the two in-camera statements, the grounds set out a table of seven cases dating back to 2020 along with preventive actions and externment chapter proceedings against the petitioner. The authority says these are narrated to show history and background of the petitioner's criminal activity but there is absolutely no analysis explaining how each antecedent preserves proximity to the object of detention. In preventive detention where the liberty of a detenue is at large, the authority must carefully segregate relevant material from the irrelevant ones and demonstrate the nexus.

12. In the case of *Khudiram Das v. State of W.B.*, (1975) 2 SCC 81, the Hon'ble Supreme Court holds that subjective satisfaction founded on extraneous or irrelevant considerations is bad. Without there being a live nexus, the detaining authority seems to have been influenced by the stale matters of 2020, and therefore, the subjective satisfaction on such stale material is absolutely unsustainable and deserves to be quashed and set aside.

13. The record further discloses an additional indicator of casual approach. At one place while summarizing the grounds, the petitioner is described as a bootlegger, whereas at other place he is categorized as a 'dangerous person' within the meaning of the act. In isolation such a slip may not be fatal but when viewed with the reliance on stale incidences, absence of proximity and failure to meet the real possibility test, the inconsistency strengthens the inference that the authority employed a template rather than a bespoke, case specific appraisal. Preventive detention cannot rest on such stale material and casual approach. The constitutional discipline insist upon careful and individualized satisfaction.

14. The cumulative effect of the foregoing analysis is that firstly, the alleged act primarily implicates law and order situation and does not

elevate the situation to disturb the public order. Secondly, the live link between the incident and the detention order is snapped by unexplained delay. Thirdly, the detainee being on bail, there is no quotient material available on record to show an eminent likelihood of prejudicial conduct of the petitioner. Fourthly, the satisfaction is tainted by reliance on stale and extraneous antecedents of the petitioner. Each of these grounds individually sufficient to quash and set aside the detention order.

15. For the aforestated reasons, we proceed to pass the following order:

ORDER

- I) The Writ Petition stands allowed.
- II) The detention order dated 09.06.2025 bearing No.DC/Desk/9C1/641/2025 passed by respondent No.1 as well as the approval order dated 18.06.2025 and the confirmation order dated 25.07.2025 passed by respondent No.2, are hereby quashed and set aside.
- III) Petitioner – Umesh Shivaji Vetel shall be released forthwith, if not required in any other offence.
- IV) Rule is made absolute in the above terms.

[HITEN S. VENEGAVKAR]
JUDGE

S.P. Rane

[SMT. VIBHA KANKANWADI]
JUDGE