



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1131 OF 2025

Bharat s/o Rukmaji Sampate
Age 24 yrs, Occ. At present Nil
R/o Pangaon, Tq. Renapur,
Dist. Latur.

.... PETITIONER

V/s.

1. The State of Maharashtra
Through its Secretary,
Home Department, Second Floor,
Mantralaya, Madam Cama Road,
Hutatma Rajguru Chowk, Mumbai – 32.
2. The District Magistrate,
Latur District.
3. The District Superintendent of Police,
District Latur.
4. The Asst. Police Inspector,
Police Station MIDC,
Latur, Tq. & Dist. Latur.

.... RESPONDENTS

.....
Advocate for the Petitioner : Mr. Suraj V. Gundre
APP for Respondent / State : Mr. P.S. Patil
.....

CORAM : SANDIPKUMAR C. MORE &
Y.G. KHOBRAGADE, JJ.

RESERVED ON : 19.11.2025

PRONOUNCED ON : 01.12.2025

JUDGMENT:- (Per: Y.G. Khobragade, J.)

1. Rule. Rule made returnable forthwith. Heard at length Mr. Gundre, the learned counsel appearing for the Petitioner and Mr. Patil, the learned APP for the Respondents Authorities.

2. By the present petition under Article 226 of the Constitution of India, the Petitioner challenges the detention order bearing no.2025/MAG/MPDA/Desk-2/WS-158 dated 09.05.2025 passed by the Respondent No.2 as well as the approval order dated 16.05.2025 passed by the Respondent No.1/Competent Authority under 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 (in short the “MPDA Act”).

3. The Petitioner raised substantial question regarding the manner in which his fundamental right guaranteed under Article 21 of the Constitution of India is being violated. Therefore, his personal liberty was curtailed and the procedure prescribed under the law was not followed. The Petitioner further contended that the order of preventive detention for

a period of 12 months passed by the Respondent No.2 and confirmation granted by the Respondent No.1 was in a mechanical manner.

4. Advocate Mr. Gundre the learned counsel appearing for the Petitioner canvassed that, the detaining authority relied upon ten FIRs, however, investigation are pending in two crimes i.e. crimes bearing nos.306/2024 for the offence punishable under Section 308(2), 115, 352, 351(2), 3(5) of the BNS Act registered with Shivajinagar Police Station on 24.07.2024 and crime no.458/2024 registered on 15.11.2024 with Shivajinagar Police Station for the offence punishable under Section 303(2), 3(5) of BNS Act. However, trial in respect of other offences are pending on the file of the competent Court. Further, the detaining authority relied on in camera statements of witnesses "A" and "B" which does not reveal about breach of public peace but those are against both the witnesses in person. The Petitioner did not act in any manner prejudicial to the maintenance of the public order and even there is total non-compliance of Section 3 of the MPDA Act. It is further canvassed that after recording of statements of both the witnesses, the Respondent No.2 Authority passed the impugned order on 09.05.2025 after a lapse of more than one month. Therefore, there is no live link with the alleged incident. The Petitioner is already enlarged on bail in the crimes registered against

him, however, post conduct of the Petitioner is not being taken into consideration by the detaining authority. Therefore, there is no merit available before the detaining authority to reach at the subjective satisfaction, hence, the impugned order is vitiated. It is further canvassed on behalf of the Petitioner that the detaining authority failed to record any findings that the Petitioner was held guilty by any Court of law for disturbing the public peace and without there being any evidence on record, the Petitioner has been detained without giving specific reasons and his personal liberty envisaged under Article 21 of the Constitution of India has been curtailed. Therefore, the impugned order is illegal, bad in law and hence prayed for quashing and setting aside the same.

5. To buttress these submissions the learned counsel appearing for the Petitioner placed reliance on the judgment dated 11.11.2025 passed by the Coordinate Bench of this Court at Kolhapur Circuit Bench, in W.P. (Cri.) 3071 of 2025, in case of ***Haridas Shankar Gaikwad V/s. Commissioner of Police, Solapur & Ors.***, wherein it has been observed that the detaining authority has not considered the efficacy of the conditions imposed by the jurisdictional Court while enlarging the Petitioner on bail and enter any satisfaction, however subjective it is, as to the conditions not being sufficient to restrain the detenu from indulging in such activities,

therefore, it is to be borne in mind that when a person is enlarged on bail by Competent Criminal Court, great caution should be exercised in scrutinizing the validity of an order of preventive detention which is based on the very same charge, which is to be tried by the criminal court in view of law laid down in the case of ***Shaikh Nazneen V/s. State of Telangana and Ors.; (2023) 9 SCC 633.***

6. Per contra, the learned APP strongly supported the action taken against the Petitioner. He submits that the Petitioner is a dangerous person as defined under Section 2(b-i) of the MPDA Act. The detaining authority has relied on the two in camera statements of the witnesses and subjective satisfaction has been arrived. Therefore, there is no illegality in the procedure adopted while recording the in camera statements of the witnesses. It is further canvassed that, on 03.03.2025, the learned Additional Sessions Judge-3, Latur passed an order below Exh.5 in Sessions Case No.44/2025 and enlarged the Petitioner on bail on furnishing PR of Rs. One Lakh with solvent surety in the like amount with a condition that the Petitioner (Accused) shall not enter in the Latur city till the conclusion of the trial except to attend the dates of said matter. However, on 25.04.2025, the witness-A gave his statement that, on 07.03.2025 at around 3.00 pm., when he was proceeding on his motorcycle from Shivaji

Chowk to New Renapur Naka and upon reaching at New Renapur Naka, the present Petitioner and 2-3 other people stopped his motorcycle and asked for money for food, threatened him and snatched Rs.2,000/- from his shirt pocket. So also, witness-B stated in his in camera statement that he knows the Petitioner very well and since few years the Petitioner started hooliganism and people fear him. Due to the terror of the Petitioner nobody came forward to lodge a report against him. On 07.03.2025, at around 5.00 pm when the witness-B was present in his shop at that time the Petitioner along with 3-4 unknown persons visited on two motorcycles in front of his shop under the state of intoxication and on the point of koyta (deadly weapon) snatched approximately Rs.1200/-. Though, by order dated 03.03.2025 the entry of the Petitioner in Latur city was prohibited except on the dates of the matter but the Petitioner entered into Latur City and committed serious nature of offences. Therefore, all the material available on record proves about proximity of time and live link. Therefore, all the statutory requirements are complied while passing the impugned detention order. In support of these submissions the learned APP placed reliance on the case of ***Phulwari Jagdamba Prasad Pathak (smt) V/s R. H. Mendonca and Others; (2000) 6 SCC 751***. Therefore, the Petitioner has not made out a *prima facie* case to interfere with the impugned detention order, hence, prayed for dismissal of the petition.

7. During the course of hearing, we have gone through the record with the assistance of both the sides. So also, we have gone through the following case laws:

1. *Nevnath Buji etc. vs. State of Telangana & Ors.*; 2024 SCC OnLine SC 367
2. *Kanu Biswas vs. State of West Bengal*; (1972) 3 SCC 831
3. *Dr. Ram Manohar Lohia vs. State of Bihar*; 1966 (1) SCR 709
4. *Mustakmiya Jabbarmiya Shaikh vs. M.M. Mehta* (1995) 3 SCC 237
5. *Pushkar Mukherjee vs. State of West Bengal*; AIR 1970 SC 852
6. *Phulwari Jagdamba Prasad Pathak (smt) V/s R. H. Mendonca and Others*; (2000) 6 SCC 751
7. *Ameena Begum vs. State of Telangana & Ors.*; (2023) 9 SCC 587

8. On considering the above referred decisions, the legal position emerges is that, whether the detaining authority while passing the impugned order arrived at the subjective satisfaction and whether the procedure as contemplated under the MPDA Act has been complied or not. In **Nevnath Buji** cited (supra), the Hon'ble Supreme Court has reiterated 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. In **Ameena Begum** cited (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. In ***Phulwari Jagdamba Prasad Pathak (smt)*** cited *supra*, the Hon’ble Supreme Court has sustained detention order, which was passed by relying on in camera statements of the witnesses to arrive at a subjective satisfaction of the detaining authority. The relevant observations of the Supreme Court are as under:

“16. Then comes the crucial question whether 'in-camera' statements of persons/witnesses can be utilised for the purpose of arriving at subjective satisfaction of the detaining authority for passing the order of detention. Our attention has not been drawn to any provision of the Act which expressly or impliedly lays down the type of material which can form the basis of a detention order under Section 3 of the Act. Preventive detention measure is harsh, but it becomes necessary in larger interest of society. It is in the nature of a precautionary measure taken for preservation of public order. The power is to be used with caution and circumspection. For the purpose of exercise of the power it is not necessary to prove to the hilt that the person concerned had committed any of the offences as stated in the Act. It is sufficient if from the material available on record the detaining authority could reasonably feel satisfied about the necessity for detention of the person concerned in order to prevent him from indulging in activities prejudicial to the maintenance of public order. In the absence of any provision specifying the type of material which may or may not be taken into

consideration by the detaining authority and keeping in view the purpose the statute is intended to achieve the power vested in the detaining authority should not be unduly restricted. It is neither possible nor advisable to catalogue the types of materials which can form the basis of a detention order under the Act. That will depend on the facts and situation of a case. Presumably, that is why the Parliament did not make any provision in the Act in that regard and left the matter to the discretion of the detaining authority. However, the facts stated in the materials relied upon should be true and should have a reasonable nexus with the purpose for which the order is passed.

17. From the grounds of detention and the papers enclosed with it copies of which were served on the detainee it is clear that the detaining authority based his subjective satisfaction on a series of contemporaneous incidents in which the detainee was involved. The satisfaction was not based on a single or stray incident. In the in-camera statements separate incidents of criminal activities of the detainee were stated. The assertions are not assailed as untrue nor can they be said to be irrelevant for the purpose of the order. On such materials on record it cannot be said that there was no basis for the detaining authority to feel satisfied that the detainee was either himself or as a member or leader of a gang habitually committed or attempted to commit or abetted the commission of any of the offences stated in Section 2(b-1). Therefore, the contention raised by learned Counsel for the petitioner that the conclusion arrived at by the detaining authority that the detainee was a dangerous person within the meaning of Section 2(b-1) was vitiated can not be accepted. In our view the detention order under challenge does not suffer from any infirmity.”

9. In the case in hand, the Petitioner/detenu has not denied about registration of following crimes against him with various police stations which are as under:

Sr. No.	Police Station	Crime No. and Sections	Date	Status
1	Renapur	443/2019 u/s. 379 of IPC	-	Closed
2	Shivajinagar	265/2020 u/s. 379 of IPC	25.08.2020	Subjudice before ld. Court
3	MIDC Latur	334/2020 u/s. 379 of IPC	30.07.2020	Subjudice before ld. Court
4	Renapur	645/2020 u/s. 324, 506, 34 of IPC	13.11.2020	Subjudice before ld. Court
5	Shivajinagar	260/2021 u/s. 122(C) of MCOCA	07.07.2021	Subjudice before ld. Court
6	Renapur	72/2022 u/s. 143, 147, 148, 149, 307, 323, 504, 506, 507 of IPC	24.02.2022	Subjudice before ld. Court
7	Shivajinagar	169/2023 u/s. 307, 143, 147, 148, 149, 504, 506 of IPC	09.04.2023	Subjudice before ld. Court
8	Shivajinagar	306/2024 u/s. 308(2), 115, 352, 351(2), 3(5) of BNS Act	24.07.2024	Investigation is pending
9	MIDC	715/2024 u/s. 109(1), 118(2), 189(1), 189(2) of BNS Act	25.10.2024	Subjudice before ld. Court
10	Shivajinagar	458/2024 u/s. 303(2), 3(5) of BNS Act	15.11.2024	Investigation is pending

10. It is a matter of record that investigation in respect of Crime Nos.306/2024 and 558/2024 is pending and charge-sheet is yet to be filed. On 03.03.2025, the learned Additional Sessions Judge-3, Latur passed an order below Exh. 5 in Sessions Case No.44/2025 arising out of Crime No.715/2024 registered with MIDC Police Station (Sr.No.9) as stated above for the offence punishable under Section 109(1), 118 (2), 189(1), 189(2) of the BNS Act and enlarged the petitioner on bail on furnishing

surety and P.R. bond of Rs. 1 Lac (Rs. 1,00,000/-) with a condition that the Petitioner (Accused) shall not enter in the Latur city till conclusion of the trial except to attend the dates of said matter and other matters arising out of earlier crimes registered against him. The record shows that the detaining authority recorded in camera statements of witness on 25.04.2025, wherein he stated about knowing the Petitioner since past eight years. On 07.03.2025, at about 3.00 pm., when he was proceeding on his motorcycle from Shivaji Chowk to New Renapur Naka and upon reaching at New Renapur Naka, the present Petitioner and his 2-3 associates stopped his motorcycle and asked him for money and on failure he issued life threats. So also, the Petitioner/Accused uttered the word that "don't you know don?" and snatched Rs.200/- from his shirt pocket. Further in camera statement of the witness-B reveals that, he knows the Petitioner since last few years and the Petitioner is a hooligan. The people are frightened from the Petitioner and due to his terror nobody came forward to lodge a complaint against the petitioner. On 07.03.2025, at about 5.00 pm when the witness-B was present in his shop at that time the Petitioner along with 3-4 unknown persons arrived there on two motorcycles in front of his shop under the state of intoxication and on the point of koyta (weapon) abused him and snatched approximately Rs.1200/- which were collected by the said witness after selling vegetables.

The statements of both the witnesses *prima facie* show that the Petitioner is acting or pretending as a don in the society and extracting money by creating terror and fear in the minds of the people.

11. Needless to say that lastly on 03.03.2025, the Petitioner was enlarged on bail in Sessions Case No.44/2025 arising out of Crime No.715/2024 registered with MIDC Police Station with condition that the Petitioner shall not enter the Latur city till the conclusion of the trial except to attend the dates of said matter and the matters arising out of earlier crimes registered against him. It is not in dispute that, the Petitioner furnished the surety and executed the P.R. bond, however, the Petitioner entered in Latur city on 07.03.2025 during subsistence of the order / surety bond dated 03.03.2025 passed by the learned Additional Sessions Judge-3, Latur and created chaos by issuing life threats thereby terrorizing as well as by putting fear in the minds of people. Therefore, all these facts are sufficient to categorize that, the Petitioner is a “dangerous person” within the meaning of Section 2 (b-i) of the MPDA Act. Further, the Petitioner has breached public peace in the society in view of the in camera statements of the witnesses A and B. Therefore, the judgment in the case of ***Haridas Shankar Gaikwad*** cited (supra) relied on behalf of the Petitioner is not helpful to his case.

12. Since the Petitioner has indulged in various criminal activities affecting public order, immediately after his release on bail in Crime No.715/2024 (Sessions Case No.44/2025) during the bond period and tried to disturb peace in the society by issuing life threats to the people by snatching the money. Therefore, the material available before the detaining authority was sufficient enough and they have rightly applied their mind to the facts and circumstances of the present case. Needless to say that, the Respondent No.2/detaining authority while considering the material on record, passed a reasoned order, detaining the Petitioner for a period of 12 months. Therefore, it does not appear that, the Respondent No.2/detaining authority has curtailed the personal liberty and fundamental right of the Petitioner guaranteed under Article 21 of the Constitution of India.

13. In view of above discussion, we do not find merit and substance in the submissions canvassed on behalf of the Petitioner to interfere with the impugned detention order, hence, present petition is liable to be dismissed. Accordingly, the petition is dismissed. Rule is discharged.

[Y.G. KHOBRADE, J.]

[SANDIPKUMAR C. MORE, J.]