



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1156 OF 2025

Aniket s/o Balaji Suryawanshi
Age: 25 years, Occu.: Labour.
R/o. Datta Nagar, New Mondha,
Nanded, Tq. And Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra
Through its Section Officer,
Home Department (Special),
Mantralaya, Mumbai-32.
2. The District Magistrate,
Nanded, Tq. And Dist. Nanded.
3. The Superintendent of Jail,
Central Jail, Harsool, Aurangabad,
District Aurangabad.

.. Respondents

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*Mr. D. S. Patil, Advocate h/f Mr. Shailesh S. Gangakhedkar, Advocate for
the petitioner.*

Mrs. P. R. Bharaswadkar, APP for respondents/State.

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

DATE : 12 SEPTEMBER 2025

JUDGMENT (Per Smt. Vibha Kankanwadi, J.)

. Heard learned Advocate Mr. D. S. Patil holding for learned
Advocate Mr. Shailesh S. Gangakhedkar for the petitioner and learned
APP Mrs. P. R. Bharaswadkar 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 14.05.2025 bearing No.2025/RB-1/Desk-2/T-4/MPDA/CR-22 passed by respondent No.2 as well as the approval order dated 23.05.2025 and the confirmation order dated 07.07.2025 passed by respondent No.1, by invoking the powers of this Court under Article 226 of the Constitution of India.

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, five offences were considered i.e. **(i) Crime No.160 of 2025** dated 18.03.2025 registered with Bhagyanagar Police Station, District Nanded for the offences

punishable under Sections 118(2), 191(2), 191(3), 190, 352, 351(2) of Bharatiya Nyaya Sanhita, 2023, **(ii) Crime No.654 of 2024** dated 30.12.2024 registered with Bhagyanagar Police Station, District Nanded for the offences punishable under Sections 109, 115(2), 351(3), 189(2), 189(4), 190 of Bharatiya Nyaya Sanhita, under Section 4 punishable under Section 25 of the Arms Act, **(iii) Crime No.511 of 2024** dated 31.12.2024 registered with Shivajinagar Police Station, District Nanded for the offence under Section 3 punishable under Section 25 of the Arms Act, **(iv) Crime No.505 of 2024** dated 27.12.2024 registered with Shivajinagar Police Station, District Nanded for the offence under Section 4 punishable under Section 25 of the Arms Act and **(v) Crime No.558 of 2024** dated 05.11.2024 registered with Bhagyanagar Police Station, District Nanded for the offence under Section 3 punishable under Section 25 of the Arms Act. Learned Advocate for the petitioner submits that the detaining authority has considered aforesaid five offences and two in-camera statements for passing the detention order. He submits that the material placed before the detaining authority by the sponsoring authority was not worth taking subjective satisfaction or taking cognizance for passing a detention order. The nature of the offences can be considered as individual in nature. At the most law and order situation would have been created. Similarly the in-camera statements of witnesses 'A' and 'B' would show that at the most law and

order situation would have been created due to the activities of the petitioner and, therefore, the impugned order deserves 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 relies on the affidavit-in-reply of Mr. Rahul Kardile, the District Magistrate, Nanded, wherein the details have been given as to what material he has considered for holding the petitioner as dangerous person as defined under M.P.D.A. The subjective satisfaction was arrived at on the basis of in-camera statements and the contents of the FIR. 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 07.07.2025.

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. As aforesaid, the learned District Magistrate has considered five offences and two in-camera statements for passing the detention order. As regards Crime No.160 of 2025 is concerned, it is stated that on 17.03.2025 the informant was invited for marriage anniversary programme by his cousin Anand Prabhakar Hanamante. His friends and relatives were also invited for the said programme. At that time, the petitioner and one more person came there at about 8.00 p.m. and told his cousin's son Prakash Hanamante that why you did not invite us. We are the don's of this area. You will face the consequences for not inviting us to the programme and threatened him that they will not spare him and so also threat to kill was given. Thereafter, at the time of programme, one Rohit alias Monu and eight to nine other people were roaming around the programme venue with an intention to start quarrel. Thereafter, after the programme, the informant and relatives went to home. Thereafter, around 11.00 p.m., the

informant heard the screams of his cousin Prakash, so he came outside and saw that near Limbuni Nagar, petitioner and one more person were assaulting Prakash with kicks. At that time one Rohit @ Monu had dagger in his hand and the petitioner had an iron rod in his hand. Thereafter, one Ravi Waghole and informant intervened in the fight, accused Rohit @ Monu stabbed informant on the right side of stomach with dagger and the petitioner attacked on the head of Ravi Waghole with iron rod and abused him. All the accused persons were having weapons in their hand and all of them were threatening the informant and his relatives. Thereafter, people gathered there, some of them intervened and resolved the quarrel. Even if we take this entire story as it is, it appears that the offence is individual in nature, as it appears that the general public was not involved. At the most law and order situation would have been created and not the public order. Similarly, as regards Crime No.654 of 2024 is concerned, general public was not involved. Further, as regards Crime No.511 of 2024, Crime No.505 of 2024 and Crime No.558 of 2024 are concerned, the offences involved were under Sections 3, 4 punishable under Section 25 of the Arms Act. 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. Further, the detaining authority has not demonstrated in the detention order as to how the ordinary law would not have curtailed the activities of the petitioner. Therefore, taking into consideration the observations in **Nenavath Bujji (Supra)** and **Ameena Begum (Supra)**, we would say that all these five offences would have raised at the most law and order situation and not the public order situation, as the offences involved were against the individuals. There was no question of public order involved in the same.

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 14.05.2025 bearing No.2025/RB-1/Desk-2/T-4/MPDA/CR-22 passed by respondent No.2 as well as the approval order dated 23.05.2025 and the confirmation order dated 07.07.2025 passed by respondent No.1, are hereby quashed and set aside.
- III) Petitioner – Aniket s/o Balaji Suryawanshi 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