



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1161 OF 2025

Sumit Santosh Sarode
Age: 19 years, Occ: Labour,
R/o. ND-14, K-2, CIDCO, Nanded,
Tal & Dist. Nanded

...PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary Home
Department, Mantralaya, Mumbai.
2. The District Magistrate,
Nanded, Tq. & Dist. Nanded.
3. The Superintendent
Central Prison, Chhatrapati Sambhaji
Nagar.

...RESPONDENTS

Mr. Santosh C. Bhosle, Advocate for the petitioner
Mr. S.A. Gaikwad, APP for State

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**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, JJ.**

DATE : 15th OCTOBER, 2025

JUDGMENT : [Per Nitin B. Suryawanshi, J.]

1. Rule. Rule made returnable forthwith. With the consent of parties, heard finally at the admission stage.
2. This petition takes exception to the order dated 19.03.2025 passed by respondent No. 2, under Section 3(2) of the Maharashtra

Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders and Dangerous Persons Act, 1981 (for short "MPDA Act").

3. The petitioner has assailed the impugned order on the ground of delay in passing the order, absence of live link, stereotype in-camera statements of witnesses and non application of mind on the part of detaining authority. He submits that the detention order is mechanically passed without there being sufficient material to support the same. He submits that the bail orders of the petitioner were not considered while passing the impugned order. In support of the submissions reliance is placed on the orders passed by this Court in Writ Petition No. 1014 of 2025, 943 of 2025 and 894 of 2025.

4. Per contra learned APP has supported the impugned order. By placing reliance on the record made available by him, he submits that, the petitioner is rightly held to be a dangerous person and taking into consideration the 7 offences registered against the petitioner, the detention order is justified. By relying on *Phulwari Jagdamaprasad Pathak (Smt) vs. R.H. Mendonca and Others*¹ he submits that the detention order can be passed on the basis of in-camera statements of the witnesses. He submits that the last offence committed by the petitioner was on 28.12.2024. The petitioner has not placed on record

¹ (2000) 6 SCC 751

any bail order in support of his contention that the bail orders are not considered by the detaining authority. He submits that taking into consideration the 7 offences registered against the petitioner, two in-camera statements and opinion of the advisory board, there is sufficient material on record to justify the impugned order.

5. Heard the learned advocate for the petitioner and learned APP for State. Perused the record.

6. The record indicates that the Sponsoring Authority submitted the proposal for detention of the petitioner on 10.08.2024. Superintendent of Police verified it and forwarded the same on 19.09.2024. Pursuant to the registration of Crime No. 163 of 2025 under Sections 323, 324, 504 of IPC, supplementary proposal was submitted on 05.03.2025 and the impugned order was passed on 19.03.2025. It is therefore clear that there is delay of almost 7 months in passing the impugned order from the date of submission of proposal of the petitioner on 10.08.2024. If the petitioner was really a dangerous person and was to be prevented from his dangerous activities prejudicial to the public order, the respondents ought to have promptly taken action against the petitioner. The delay of 7 months is not explained by the respondents. Hence, the impugned order is vitiated on the ground of delay.

7. The allegations made by witnesses 'A' and 'B' in their in-camera statements are in verbatim same. Both did not remember the date on which the incidents had taken place. Perusal of in-camera statements show that the incident in both the cases are personal in nature and there is no involvement of general public. From these statements it is clear that at the most law and order situation was created and public order is not affected.

Statements of these witnesses are recorded on 09.08.2024 and thereafter impugned order is passed on 19.03.2025. Thus, there is delay of 7 months in passing the impugned order and the same is not explained by the respondents.

8. In *Ameena Begum v. State of Telangana and others*², it is observed that, preventive detention is impermissible when the ordinary law of the land is sufficient to deal with the situation created by the petitioner. The Apex Court further explained the distinction between the threat to "law and order" and acts "prejudicial to public order" stating 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.

In *Ram Manohar Lohia v. State of Bihar*³, it is held that,

² (2023) 9 SCC 587

³ 1965 SCC OnLine 709

"the detention orders were not justified as it was dealing with a law and order situation and not a public situation."

9. In the present case also, we are of the considered view that the petitioner can be dealt with by ordinary law and a harsh action of preventive detention is not warranted in the facts of the present case. In the impugned order the detaining authority has not recorded any reason as to how the actions of the petitioner are against the public order. It is well settled that the power of detention is an exceptional power and has to be exercised in exceptional circumstances. No such circumstances are spelt out in the impugned order. Though, the advisory board has opined in favour of detention of the petitioner, for the aforesaid reasons we find that the impugned order is unsustainable.

10. Learned APP has relied on *Phulwari Jagdambaprasad Pathak* (supra). However, we have already held that the impugned order cannot be sustained for the reasons stated herein above. This citation is therefore of no help to the respondents.

11. In the result, we pass the following order:

ORDER

I) The Writ Petition is allowed.

- II) The order dated 19.03.2025 bearing no.2024/ RB-1/ Desk2/ T-4/ MPDA/CR-56 passed by respondent no.2 -District Magistrate, Nanded and confirmation order dated 28.04.2025 passed by the respondent no.1, are hereby quashed and set aside.
- III) Petitioner - Sumit S/o Santosh Sarode be released forthwith, if not required in any other case.
- IV) Rule is made absolute in the above terms.

(VAISHALI PATIL JADHAV, J.)

(NITIN B. SURYAWANSHI, J.)