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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1255 OF 2025

Shubham Dashrath Jadhav
Age – 32 Years, Occ – Labourer,
R/o Naikota, Taluka – Sonpeth,
District – Parbhani
At present Vidya Nagar, Parli,
Taluka Parali, District - Beed

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Section Officer
Home Department (Special)
Mantralaya, Mumbai
2. The District Magistrate,
Beed, District – Beed
3. The Superintendent of Jail
Central Prison, Aurangabad

RESPONDENTS

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Mr. R. R. Karpe h/f Ms. Ashwini A. Lomte, Advocate for Petitioner
Mr. V. K. Kotecha, APP for Respondents - State
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[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

RESERVED ON : 14th OCTOBER, 2025
PRONOUNCED ON : 17th OCTOBER, 2025

JUDGMENT (PER NITIN B. SURYAWANSHI J.):

1. Rule. Rule made returnable forthwith. Heard finally at the admission stage with the consent of the learned Advocates for the parties.

2. This Petition challenges the order dated 18th August, 2025 passed by Respondent No.2, 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 (Herein after for short will be referred as "MPDA Act"), thereby detaining the Petitioner for a period of 12 months.

3. Learned Advocate for the Petitioner assailed the detention order contending that, the FIR, which was relied upon by the detaining authority. In camera statements of the witnesses show individual disputes and there is no breach of public peace. After recording of the said statements, after one and half month, the impugned order is passed, therefore, there is no live link. The Petitioner was granted bail in the crimes registered against him and his post bail conduct is not taken into consideration by the detaining authority. Therefore, there is no material available before the detaining authority to reach at subjective satisfaction and the impugned order is vitiated on these grounds. In support of his submissions,, reliance is placed on decision of the Apex Court in Criminal Appeal No. ____ of 2024 (Arising out of SLP (Cri.) No. 12516 of 2024) in the case of **"Arjun Ratan Gaikwad**

V/s State of Maharashtra and Others”, “Ganesh @ Gajraj Sainath Patil V/s State of Maharashtra” AIR Online 2021 Bom 5781 and decision of this Court in Criminal Writ Petition No. 1097 of 2025 (***Umesh Shivaji Vetal V/s District Magistrate, Ahilyanagar and Others***).

4. On the other hand, learned APP vehemently opposed the Petition. He submits that all the offences registered against the Petitioner are under Chapters 16 and 17 of the Indian Penal Code. Four offences are referred in the proposal submitted by the sponsoring authority. Two preventive actions were taken against the Petitioner. The Petitioner committed offences after he executed bond of good behaviour. In camera statements refer to the incidents after the Petitioner was released on bail. He submits that proximity of time and live link is established from the material placed on record. All the statutory requirements are complied with while passing the detention order. By relying on ***“Phulwari Jagdamba Prasad Pathak (smt) V/s R. H. Mendonca and Others” (2000) 6 SCC 751***, he submits that there is no merit in the Petition and the same may be dismissed.

5. Heard learned Advocate for the Petitioner and learned APP for the Respondent - State. Learned APP has made available the record. With the assistance of the learned Advocates, we have

perused the record, so also the citations relied upon by both the sides.

6. The record shows that following offences are registered against the Petitioner:

S. N.	Police Station	CR No.	Sections	Date of filing	Charge sheet No.	Court Case No.	Present status
1	Parali Rural	11/2024	295A, 323, 504, 506 IPC	09.01.24	110/24 dt 22.7.24	RCC No. 171/24 31.7.24	Subjudice
2	Parali City	04/2025	118 (1), 352, 351 (2) BNS	12.1.25	26/2025 12.3.25	RC 114/25 12.3.25	Subjudice
3	Sonpeth District Parbhani	43/2025	119 (1), 118 (2), 126 (2), 353, 351 (2) 3 (5) BNS	25.02.25			Investigation
4	Parali City	85/2025	109, 117 (2), 119 (1), 140 (1), 324 (4), 324 (5) 3(5) BNS	19.04.25			Investigation

7. Details of preventive action initiated against the Petitioner are as follows :

S.N.	POLICE STATION	CHAPTER CASE NO	SECTION	DATE	REMARKS
1	Sambhaji Nagar Police Station, Parali	02/2027	56 (1) (A) Maharashtra Police Act	09.11.2014	Externment order dated 31.07.2018

2	Parali City	20/2025	126 BNSS	14.02.2025	Final Bond
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8. It is significant to note that, the Petitioner was granted bail in the offence at serial No. 4 on 8th May, 2025. In camera statement of witness "A", recorded on 7th July, 2025, shows that on 22nd June, 2025, at 2.00 p.m. the Petitioner met him at Itke corner and started abusing him. When the witness requested him not to abuse, the Petitioner picked up stick from food cart and abused him. The witness shouted for help, but no one dared to save him. The food cart owners, present there, ran away by leaving their food carts. Tapari owners and tea hotel owners also have shut their shops and ran away.

9. Confidential witness "B" has stated that, on 23rd June, 2025, at 6.00 p.m. the Petitioner met him at Azad Chowk and abused him, by saying that why he was looking at him and he will take away his eyes. When this witness told him that, he was not looking at him, the Petitioner took out a knife from his waist and rushed towards him. The witness asked for forgiveness, on that the Petitioner assaulted him. Due to the assault by the Petitioner, the witness fell down, the petitioner continued assaulting him, by kicks. Though this witness requested people to save him, due to the fear of the Petitioner, no one came to

rescue him. On seeing knife in the hands of the Petitioner, the people present in the chowk ran away. Petitioner caught hold of his collar and told him that he is Dada of that place and if he looks at him, he will kill him.

10. Record further reveals that, the Petitioner has executed a bond of good behaviour on 14th February, 2025 and he has committed offence at serial No. 4 during the bond period. Thus, he has violated the conditions of the bond.

11. It is clear from the above stated facts that the Petitioner is a dangerous person and he has created terror in the locality. Because of his fear, when he attacked witnesses "A" and "B", people shut down their shops and ran away from there. These facts are sufficient to categorize the Petitioner as "Dangerous Person" and come to a conclusion that the Petitioner has repeatedly created public order situation. In this view of the matter, the argument of the Petitioner that, in camera statements do not show that public peace was breached, is liable to be rejected.

12. Since the Petitioner has indulged in criminal activities affecting public order, immediately after his release on bail and during the bond period, in our view the action of detention of the

Petitioner is perfectly justified. The authorities have rightly applied their mind to the facts of the present case and have passed a well reasoned order detaining the Petitioner.

13. We find no merit in the contention of the Petitioner that, there is no proximity or live link for passing detention order against the Petitioner. Offene at serial No.3 is committed by the Petitioner on 25th February, 2025 and offene at serial No. 4 is committed by him on 19th April, 2025. Thereafter, the Petitioner threatened witnesses "A" and "B" in the month of June. Their statements are recorded on 7th July, 2025 and, thereafter the sponsoring authority has submitted the proposal on 11th July, 2025 and the impugned order of detention against the Petitioner is passed on 18th August, 2025. Therefore, it cannot be said that there is no live link. As stated above, since the Petitioner has indulged in the criminal activities, immediately after his release on bail that too during the subsistence of the good behaviour bond period, live link is very much available in the present case. The Petitioner has committed offences at serial No.3 and 4 after executing the bond of good behaviour on 14th February, 2025. Therefore, there is no merit in the contention of the Petitioner that, there is no live link in the present case.

14. Since after release on bail, the Petitioner has indulged into

criminal activities, by threatening witnesses "A" and "B", there is no substance in the argument of the Petitioner that there is no post bail act committed by the petitioner which would justify invoking of stringent provisions of the preventive detention.

15. In "***Phulwari Jagdamba Prasad Pathak (smt)***" (supra), the Apex 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 are:

"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 detenue it is clear that the detaining authority based his subjective satisfaction on a series of contemporaneous incidents in which the detenue 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 detenue 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 detenue 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 detenue 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.”

16. Aforesaid observations are applicable the facts of the present case and support the arguments of the learned APP.

17. The Petitioner has relied on "**Umesh Shivaji Vetal**" (supra), wherein this Court, in the facts of that case, was considering, "*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*". In the facts of that case, this Court held, "*In our view, the material establishes an ordinary criminal law infraction and not a disturbance of public order contemplated by the MPDA Act*". Proximity between the offence considered and the action under the MPDA Act was also considered in this judgment. This Court held that, "*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*".

These observations are made in the facts of that case.

In the present case, we have already observed that, there is a live link and proximate nexus between post conduct and the facts of the present case and material against the petitioner justify the need to forestall the actions of the petitioner and need to take action against the petitioner under the MPDA Act. Therefore, this judgment is of no assistance to the Petitioner.

18. In "**Ganesh @ Gajraj Sainath Patil**" and "**Arjun Ratan Gaikwad**" (supra), a distinction is made about disturbance of

public order and acts directed against individuals, which do not disturb the society to the extent of causing a general disturbance of public tranquility and that every breach of peace does not lead to public disorder.

In the present case, we have already held that the acts committed by the Petitioner in respect of witnesses "A" and "B" have created public order situation. Therefore, these judgments are also not helpful to the case of the Petitioner.

19. For the aforestated reasons, we find no merit in the challenge raised by the Petitioner to the detention order. Hence, the Criminal Writ Petition is dismissed. Rule stands discharged.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE