



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

**CRIMINAL WRIT PETITION NO.1319 OF 2025**

Ibbu Kashim @ Kasim Nuriwale,  
Age : 34 years, Occu.: Agri., & Labour,  
R/o.: Gavlipura, Tq. Ambajogai,  
District : Beed ... PETITIONER

**VERSUS**

1. The State of Maharashtra,  
Through :  
The Additional Chief Secretary (Home),  
Home Department (Special),  
Mantralaya, Mumbai-400032
2. District Magistrate, Beed,  
District : Beed
3. The Superintendent of Police,  
Beed, District : Beed
4. Additional Superintendent of Police,  
Ambajogai, District : Beed
5. Officer Incharge,  
Police Station Ambajogai (Rural),  
District : Beed ... RESPONDENTS

...  
Mr. Sudarshan J. Salunke, Advocate for the Petitioner  
Mr. S. P. Sonpawale, APP for Respondents-State  
...

**CORAM : SANDIPKUMAR C. MORE AND  
Y. G. KHOBRAGADE, JJ.**

**RESERVED ON : 20/11/2025**

**PRONOUNCED ON : 24/11/2025**

***JUDGMENT : (Per : Sandipkumar C. More, J.) :***

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned advocate for the petitioner and learned APP for the State at the admission stage.

2. The petitioner, who is a bootlegger, has challenged the order No.2025/RB-Desk-1/POL-1/MPDA-12 dated 30/06/2025 passed by the District Magistrate, Beed, whereby he has been detained and also the approval order dated 09/07/2025 and the order dated 29/08/2025 passed by the Section Officer, Government of Maharashtra, Home Department (Special), on the ground that the said orders are arbitrary and have been issued without proper subjective satisfaction, by invoking powers of this Court under Article 226 of the Constitution of India.

3. Learned counsel Mr. S. J. Salunke, appearing for the petitioner, submits that respondent No. 2 has considered only two offences .i.e. Crime No. 30 of 2025 under Section 65(f)(e) of the Maharashtra Prohibition Act, 1949 and Crime No. 49 of 2025 under Section 65(f) of the said Act. Both registered with Ambajogai (Rural) Police Station, out of total nine crimes and one preventive action under Section 93 of the Prohibition Act. He further points

out that, in the preventive action, a final bond of Rs.25,000/- has already been taken from the petitioner. He submits that respondent No. 2 has erroneously relied upon the statements of secret witnesses “A” and “B” to conclude that there was a disturbance to public order. According to him, those statements are stereotype and at the most, could reflect a breach of personal security, but do not amount to disturbance of public order. He specifically submits that though it is alleged that the petitioner is dealing in country-made liquor, no Chemical Analyzer’s reports in respect of the two crimes were placed before the Detaining Authority to substantiate that the petitioner was involved in the sale of illicit country liquor at the relevant time. He further submitted that there is nothing on record to show that the alleged liquor was containing poisonous material to deter the public health. In support of his submissions, learned counsel relies on the following judgments.

- A) Sandip Haridas Patil vs. State of Maharashtra and another, reported in [2025(3) Mh.L.J. (Cri.)130;**
- B) Armansingh Mansingh Tak vs. District Magistrate, Nagpur, reported in AIROnline 2024 BOM 1430 &**
- C) Criminal Writ Petition No.582 of 2025 ( Narayan Vasudev Ghumare vs. The District**

***Magistrate, Beed and other delivered by this court [Coram : Smt. Vibha Kankanwadi & Sanjay A. Deshmukh, JJ.] on 17/06/2025.***

4. On the contrary, the learned APP strongly supported the detention order issued against the petitioner. According to him, the petitioner is a “dangerous person” as defined under the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons and Video Pirates Act, 1981 (for short, “MPDA”). He submitted that the detention order under challenge is not based merely on the two offences and the statements of the secret witnesses, but on the overall activities of the petitioner, which demonstrate that he is regularly involved in the production of country-made liquor. Such activities, according to the learned APP, not only disturb public order but also adversely affect the health of the public at large. He further contended that there is no illegality in the procedure adopted while recording the in-camera statements of the secret witnesses and merely because the allegations in those statements are similar in nature, it only indicates that due to the terror created by the petitioner, people are hesitant to lodge complaints against him. Hence, it cannot be said that the petitioner’s activities do not affect public order. Ultimately, he prayed for dismissal of the petition. The learned APP also relied

upon the judgment in ***Criminal Writ Petition No. 3804 of 2023 (Saraswati Santosh Rathod vs. Commissioner of Police, Pune City & Ors.), delivered by this Court at the Principal Seat, Bombay (Coram: Bharati Dangre & Manjusha Deshpande, JJ.) on 20/06/2024.***

5. Admittedly, on going through the impugned order of detention passed by respondent No. 2, it is seen that as many as nine crimes were registered against the petitioner during the period from 05/07/2023 to 09/02/2025. It further appears that prohibitory action under the Prohibition Act has already been taken against the petitioner by initiating Chapter Case No. 1 of 2025, in which a final bond of Rs. 25,000/- has been obtained from him. However, the detention order indicates that the Detaining Authority has primarily considered the last two crimes, bearing Crime Nos. 30 of 2025 and 49 of 2025, registered with Ambajogai (Rural) Police Station under the Prohibition Act, along with the statements of two secret/confidential witnesses.

6. According to the learned counsel for the petitioner, though the Detaining Authority has considered the aforesaid crimes, but before passing the order there was no material to show that the

Authority had arrived at a subjective satisfaction regarding the dangerous nature of the petitioner towards the public at large. He relied upon the judgment of the Hon'ble Apex Court in ***District Collector, Ananthapur vs. V. Laxmanna, reported in 2005 Mh.L.J. Online (Cri.) (S.C.) 49***, wherein it has been observed as follows:

- “7. We do not think this argument of the learned counsel can be accepted. If the detention is on the ground that the detenu is indulging in manufacture or transport or sale of arrack then that by itself would not become an activity prejudicial to the maintenance of public order because the same can be effectively dealt with under the provisions of the Excise Act but if the arrack sold by the detenu is dangerous to public health then under the Act, it becomes an activity prejudicial to the maintenance of the public order, therefore, it becomes necessary for the detaining authority to be satisfied on material available to him that the arrack dealt with by the detenu is an arrack which is dangerous to public health to attract the provisions of the Act and if the detaining authority is satisfied that such material exists either in the form of report of the Chemical Examiner or otherwise copy such material should also be given to the detenu to afford him an opportunity to make an effective representation.

8. *Therefore, while holding that dealing with arrack which is dangerous to public health would become an act prejudicial to the maintenance of public order attracting the provisions of the Act. It must be held that it is obligatory for the detaining authority to provide the material on which it has based its conclusion on this point. Therefore, we are in agreement with the High Court that if the detaining authority is of the opinion that it is necessary to detain a person under the Act to prevent him from indulging in sale of goods dangerous for human consumption the same should be based on some material and the copies of the such material should be given to the detenu."*

On going through the aforesaid observations, it is clearly evident that in order to determine whether the act of preparing illicit country liquor is dangerous to public health, the Detaining Authority must be satisfied on the basis of the Chemical Analyser's report that the country-made liquor in question was injurious to public health. It is extremely important to note that in the present case as well, no such CA reports were before the Detaining Authority at the time of passing the impugned order. Though the learned APP, relying on the documents, pointed out that CA reports were obtained showing 3%, 11% and 5% alcohol content in the liquor seized in the aforesaid two cases, but the record pertaining

to the impugned order does not indicate that these reports were placed before the Detaining Authority. Moreover, the impugned order also does not reflect that the Detaining Authority had arrived at subjective satisfaction by referring to those CA reports.

7. Further, insofar as the statements of the two secret/confidential witnesses are concerned, the Hon'ble Apex Court in case of **Arjun Ratan Gaikwad vs. State of Maharashtra and Others, 2024 Mh.L.J. Online (Cri.) (S.C.) 85, arising out of SLP (Cri.) No. 12516 of 2024**, has observed as follows:

*“17. Insofar as the statement of two unnamed witnesses are concerned, the allegations are as vague as it could be. In any case the statements which are stereotype even if taken on its face value would show that the threat given to the said witnesses is between the appellant and the said witnesses. The statements also do not show that the said witnesses were threatened by the appellant in the presence of the villages which would create a perception in the mind of the villagers that the appellant herein is a threat to the public order.”*

8. On an independent perusal of the said statements, what can be gathered is that at the most, the acts of the petitioner referred to therein may be considered dangerous to individuals; however, they

cannot be said to be prejudicial to the maintenance of public order. Moreover, in the absence of a CA report, it also cannot be determined whether the liquor was injurious to public health. Admittedly, there is nothing on record to show that the illicit country liquor produced by the petitioner contained any poisonous substance.

9. The learned APP heavily relied upon the judgment of the ***Coordinate Bench of this Court at the Principal Seat, Bombay (Coram: Bharati Dangre & Manjusha Deshpande, JJ.) in Criminal Writ Petition No. 3804 of 2023 (Saraswati Santosh Rathod vs. Commissioner of Police, Pune City and Others), delivered on 20/06/2024***, wherein the petition challenging the detention order passed against the petitioner therein, who was a bootlegger, came to be dismissed. However, on going through the said judgment, it is evident that the Chemical Analyser's report was on record, which showed the presence of 24% ethyl alcohol. Per contra, in the present case, no such CA reports are on record. It is extremely important to note that the Coordinate Bench of this Court at the Nagpur Bench has held in ***Armansingh Mansingh Tak vs. District Magistrate, AIROnline 2024 Bom 1430***, as follows:

*“19. The samples of the seized articles were sent for Chemical Analysis. The report of Chemical Analysis shows that “the sample contains 16.42% V/v of Ethyl alcohol in water. It is not a medicinal antiseptic / toilet preparation for a flavouring material”. The opinion of the medicine and Toxicology Government Medical College Nagpur was obtained and the Assistant Professor Department of Foreign-sic medicine has opined that “ the alleged liquor does not contain any poisonous form of Alcohol like methyl alcohol any preparation containing ethyl alcohol in concentration mentioned in the letter when consumed excessively is injurious to health and likely to cause death.” It is clearly shows that it depend on consumption of quantity of liquor. Hence, the opinion is also in favour of the petitioner as no poisonous form of alcohol is found.”*

10. Thus, even though it was found that there was 16.42% V/v of ethyl alcohol in the sample and though it was not a medicinal antiseptic/toilet preparation or a flavouring material, the sample did not contain any poisonous form of alcohol such as methyl alcohol. Therefore, even if the CA reports which were admittedly not before the Detaining Authority at the time of passing the impugned order indicating that the seized liquor contained a certain percentage of alcohol, they do not show the presence of any

poisonous substance. Consequently, even on presumption, it cannot by any stretch of imagination be held that the country-made liquor produced by the petitioner was dangerous to public health.

11. In view of the observations made by the Coordinate Bench of this Court as well as the Hon'ble Apex Court, it appears that the petitioner may, at the most, have created a law-and order situation, but not a disturbance to public order. The impugned order clearly reflects that it has been passed without adequate supporting material and without proper subjective satisfaction. The material on record is undoubtedly insufficient to categorize the petitioner as a "dangerous person" or "bootlegger." Accordingly, the impugned orders cannot be sustained and the petition deserves to be allowed. In the result, the following order is passed:

#### ORDER

- A) The writ petition stands allowed in terms of prayer clauses- B, C, D & E.
- B) The impugned order bearing No.2025/RB-Desk-1/POL-1/MPDA-12 dated 30/06/2025, passed by the District Magistrate, Beed as well as the approval order bearing the same number and date, and the order dated 29/08/2025 passed by the Section Officer, Government of Maharashtra, Home

Department (Special), are hereby quashed and set aside.

- C) The petitioner, Ibbu Kashim @ Kasim Nuriwale, shall be released forthwith, if not required in any other offence.
- D) Rule is made absolute in above terms.
- E) The criminal writ petition is disposed of accordingly.

**( Y. G. KHOBRAGADE, J. )**

**( SANDIPKUMAR C. MORE, J. )**

VS Maind/-