



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.556 OF 2025

Aryan Naresh Mandale
Age: 23 years, Occu.: Labour,
R/o. Bodhighat, Ambajogai,
Tq. Ambajogai, District Beed.

.. Petitioner

Versus

1. The State of Maharashtra
Through Section Officer,
Home Department (Special),
2nd Floor, Mantralaya, Mumbai-32
2. The District Magistrate,
Collector and District
Magistrate Office, Beed,
Taluka and District Beed.
3. The Superintendent,
Central Prison, Harsool,
Chhatrapati Sambhajnagar.

.. Respondents

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Ms. Sunita G. Sonawane, Advocate for the petitioner.
Mrs. P. R. Bharaswadkar, APP for the respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 30 JUNE 2025

JUDGMENT (Per Smt. Vibha Kankanwadi, J.)

. Heard learned Advocate Ms. Sunita G. Sonawane for the
petitioner and learned APP Mrs. P. R. Bharaswadkar for the 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 12.03.2025 bearing No.2025/RB-Desk-1/Pol-1/MPDA-02 passed by respondent No.2 and approval order dated 21.03.2025 as well as the confirmation order dated 14.05.2025 passed by respondent No.1, 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, two offences were considered i.e. Crime No.398 of 2024 registered with Ambajogai City Police Station, District Beed for the offences punishable under Sections 125, 352, 35(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Crime No.558 of 2024 registered with Ambajogai City Police Station, District Beed for the offences punishable under Section 109, 3(5) of the Bharatiya Nyaya Sanhita, 2023. Learned Advocate for the petitioner submits that two offences i.e. Crime No.398 of 2024 dated 19.09.2024 and Crime No.558 of 2024 dated 26.12.2024 as well as two in-camera statements have been considered by the detaining authority for passing

the detention order. However, the order would demonstrate that there was no such material which would give subjective satisfaction to the detaining authority to pass the order of detention. The ordinary law was sufficient to take care of the alleged criminal activities of the petitioner. The in-camera statements were based on unbelievable story and, therefore, such illegal 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. Avinash Pathak, the District Magistrate, Beed, who has stated as to how he had arrived at the subjective satisfaction and what was the material before him at the time of passing the impugned order. Learned APP submits that in spite of involvement of the petitioner in so many cases, his criminal activities have not been curtailed. The criminal antecedents can

be taken into consideration for passing the detention order. There is no illegality or error committed by the learned District Magistrate in holding the petitioner as a dangerous person. Therefore, no fault can be found in the impugned order.

6. Before considering the case, we would like to take note of the legal position as is emerging in the following decisions :-

(i) Nenavath Bujji etc. Vs. State of Telangana and others, [2024 SCC OnLine SC 367],

(ii) Aameena Begum Vs. The State of Tamilnadu and Ors., [2023 LiveLaw (SC) 743];

(iii) Kanu Biswas Vs. State of West Bengal, [1972 (3) SCC 831] wherein reference was made to the decision in *Dr. Ram Manohar Lohia vs. State of Bihar and Ors. [1966 (1) SCR 709];*

(iv) Mustakmiya Jabbarmiya Shaikh Vs. M.M. Mehta, [1995 (3) SCC 237];

(v) Pushkar Mukherjee and Ors. Vs. The State of West Bengal, [AIR 1970 SC 852];

(vi) Phulwari Jagdambaprasad Pathak Vs. R. H. Mendonca and Ors., (2000 (6) SCC 751) and;

(vii) Smt. Hemlata Kantilal Shah Vs. State of Maharashtra and another, [(1981) 4 SCC 647].

7. Taking into consideration the legal position as summarized above, it is to be noted herein as to whether the detaining authority while passing the impugned order had arrived at the subjective satisfaction and whether the procedure as contemplated has been complied with or not. In **Nenavath Bujji** (*Supra*) itself it has been reiterated by the Hon'ble Supreme Court 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. As aforesaid, two offences i.e. Crime No.398 of 2024 and Crime No.558 of 2024 and two in-camera statements were considered for passing the detention order. As regards Crime No.398 of 2024 is concerned, while passing the detention order, the detaining authority has stated that the petitioner was absconding and not yet arrested. That means, the order came to be passed allegedly when the petitioner is absconding. It is not stated whether steps under Section 7 of the M.P.D.A. have been taken. As regards Crime No.558 of 2024 is concerned, the entire story in the FIR would show that general public was not involved. At the most, law and order situation would have been created and not the public order.

8. Further, as regards in-camera statements of witnesses 'A' and 'B' are concerned, we would say that at the most law and order situation would have arisen and not the public order and, therefore, we conclude that there was no such material before the learned District Magistrate,

which would have given him subjective satisfaction that only detention of the petitioner would curtail the criminal activities of the petitioner and the ordinary law will not give the same result.

9. 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.

10. For the aforesaid reasons, the petition deserves to be allowed. Hence, following order is passed :-

ORDER

- I) Writ Petition stands allowed.
- II) Detention order dated 12.03.2025 bearing No.2025/RB-Desk-1/Pol-1/MPDA-02 passed by respondent No.2 and the approval order dated 21.03.2025 as well as confirmation order dated 14.05.2025 passed by respondent No.1, are hereby quashed and set aside.

III) Petitioner viz. Aryan Naresh Mandale shall be released forthwith, if not required in any other offence.

IV) Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm