

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3952 OF 2025

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Ajinkya alias Bablu Chandrakant Rokade
R/o Ozhewadi, Tal. Pandharpur
Dist. Solapur (Presently detained at
Yerwada Central Prison, Pune

... Petitioner

Versus

1. District Magistrate Solapur

2. The State of Maharashtra
(through Addl. Chief Secretary to Government
of Maharashtra, Mantralaya, Home Department,
Mantralaya, Mumbai.

3. The Superintendent
Yerwada Central Prison, Pune

... Respondents

.....
Ms. Jayashree Tripathi a/w Ms. Anjali Raut for the Petitioner.
Mr. Pankaj Deokar a/w Mr. Anand Shalgaonkar, APP for the
Respondents.
Mr. Gaval, PC-12116, Pandharpur Taluka present.
.....

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : November 27, 2025.

ORAL JUDGMENT :- (Per M.S. Karnik, J.)

1. The challenge in this petition is to the order of detention dated
27th May 2025 issued by the respondent No.1 – District Magistrate

Solapur under Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981 (for short "MPDA Act"). The offence mentioned in para 5(1), 5(2)A and 5(2)B along with two in camera statements of witness 'A' and 'B' are taken into consideration by the detaining authority to arrive at his subjective satisfaction and pass the order of detention. Representation of the petitioner was sent to the State Government through the Superintendent Yerwada Central Prison, Pune for expeditious consideration and revocation of the order of detention.

2. Learned counsel for the petitioner in support of her submissions relied on ground (c) of the petition, which reads thus :-

"(c) The petitioner says and submits that a representation of the petitioner dated 26.06.2025 was sent to the Superintendent Yerwada Central Prison, Pune for further sending it to the State Government for expeditious consideration, revoke and communication. The petitioner says and submits that so far no communication has been received from the State Government as regards to the consideration of the said representation by the State Government, thereby the State Government has delayed in considering the representation of the petitioner expeditiously and diligently and communicating the result to the petitioner. All respective authorities are called upon to explain the delay, if any, occurred from the date of representation till today to the satisfaction of this Hon'ble Court failing which the continued detention will be held as illegal and bad in law, liable to be quashed and set aside."

3. Learned APP argued in support of the detention order. Our attention is invited to the affidavit-in-replies filed by the respondents. It is submitted that there is no delay in sending the representation to the State Government. He submits that delay in sending the representation is the only ground urged by the learned counsel for the petitioner.

4. Heard. We have perused the affidavit-in-reply of the respondent no.1 – detaining authority, which is at page 129 of the paper book. Paragraph 10 of the affidavit-in-reply filed by the respondent no.1 reads thus :-

"10. With reference to ground 5(c) of the petition, it is denied the representation of the detenu was not decided on time and thus the order of detention will be held as illegal, bad in law and liable to be quash and set aside.

It is submitted that the representation of the detenu was received in my office on 02/07/2025 from State Government. The parawise comments were prepared and forwarded to State Government on 02/07/2025 which was received by the State Government on 23/07/2025. Thus, the representation was dealt with expeditiously and diligently. Rest of the contents may be perused from the affidavit of State Government and Jail Affidavit."

5. To consider the question whether there is a delay, even the reply of respondent No.2- State Government is necessary to be looked into. In paragraph 2 of the reply filed by the respondent No.2 it is stated thus :-

"With reference to Para 5(c) of the Writ Petition, it is submitted that the representation dated 01.07.2025 of the detenu was received by desk Special 3-B on dated 01.07.2025 along with advocate letter dated 26.06.2025 by e-mail through Yerwada Central Prison, Pune vide letter dated 01.07.2025. Therefore, the remarks were called for, from the Detaining Authority i.e. The District Magistrate, Solapur on dated 02.07.2025 by Special Branch-3B Desk. The remarks of the Detaining Authority were received on dated 23.07.2025 vide letter dated 23.07.2025 by e-mail. The concerned clerk upload the remarks on e-office and forwarded it to the concerned Assistant Section Officer on dated 24.07.2025. The Assistant Section Officer submitted file containing remarks of Detaining Authority along with the representation of the detenu to Section Officer on the dated 25.07.2025. As being holidays on 26.07.2025 (Saturday) and 27.07.2025 (Sunday), the Section Officer endorsed it on dated 29.07.2025 and forwarded it to the Under Secretary. The Under Secretary endorsed it on dated 29.07.2025 and forwarded it to the Deputy Secretary. The Deputy Secretary endorsed it on dated 29.07.2025 and forwarded it to the Additional Chief Secretary (Home). The Additional Chief Secretary (Home) considered the remarks of the detaining Authority and rejected the said representation on 29.07.2025 by applying his mind. The rejection of representation was communicated by post to the detenu vide letter dated 29.07.2025 through the Registry section of Home Department. Thus, the representation of the detenu was considered by the State Government as expeditiously as possible."

6. So far as reply of the respondent No.3 – Superintendent, Yerwada Central Prison, Pune is concerned, in paragraph 5 it is stated thus :-

"(5) I say and submit that representation dated 26.06.2025 submitted through Advocate of the detenue was received to this Prison on 30.06.2025 by post, addressed in the name of Superintendent of Yerwada Central Prison, Pune. The signature of the said detenue was taken on it, on 01.07.2025 and the representation was forwarded to the Additional Chief

*Secretary, Home Department Special Branch (3-B), Govt. of Maharashtra, Mantralaya Mumbai through speed post on Dt. 01.07.2025. As an acknowledgment thereof, a copy of the relevant documents are Annexed herewith as **Exhibit-D.**"*

7. We, thus, find that the representation dated 26th June 2025 was made against the order of detention. The representation was received by the office of the detaining authority on 2nd July 2025. The parawise comments were sent to the State Government on 23rd July 2025. The State Government rejected the representation on 29th July 2025.

8. In our considered opinion, no explanation as to why the delay of 20 days had occurred in sending the parawise comments to the State Government. We, therefore, have no option but to allow this writ petition on the ground that this undue and unexplained delay is in violation of the constitutional obligation enshrined in Article 22(5) of the Constitution of India rendering the impugned order invalid.

9. In support of the view that we take, reference to the decision of the Hon'ble Supreme Court in the case of **Mahesh Kumar Chauhan alias Banti v/s Union of India and others, (1990) 3 Supreme Court Cases 148** would be profitable, Paragraph 20 of which reads thus;

"Reverting to the facts of the present case as submitted by the learned counsel, except merely mentioning that

the representation was forwarded to the concerned sponsoring authority on 25.8.1989 and the comments from the sponsoring authority was received by the Department on September, 11, 1989, there is absolutely no explanation as to why such a delay had occurred. Therefore, in the light of the proposition laid down in Rama Dhondu Borade's case (From the Judgment and Order dated July, 5, 1984 of the Gujarat High Court in CRA No.948 of 1984) (albeit), we have no other option except to allow this appeal on the ground that this undue and unexplained delay is in violation of the constitutional obligation enshrined in Article 22 (5) of the Constitution of India rendering the impugned order invalid”.

10. For the aforesaid reasons, we set aside the order of detention.

The Writ Petition is allowed in terms of prayer clause (b).

11. The parties to act on the authenticated copy of this order.

[Ajit B. Kadethankar, J.]

[M. S. Karnik]