

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1520 OF 2025

Shri. Krishna Nana @ Somnath Nehatrao	]	
Age – 27 Years,	]	
R/at- Rambaug Road, Harihar Maharaj Math,	]	
Juni Peth Pandharpur, Tal. Pandharpur,	]	
Dist. Solapur.	]	
At present detained in	]	
Yerwada Central Prison, Pune.	]	... Petitioner

Versus

1.	Kumar Ashirwad	]	
	District Magistrate, Solapur.	]	
2.	The Senior Inspector of Police	]	
	Pandharpur City Police Station,	]	
	Pandharpur.	]	
3.	The State of Maharashtra	]	
	Through the Additional Chief Secretary,	]	
	(Home), Mantralaya, Mumbai – 32.	]	
4.	Superintendent of Jail	]	
	Yerwada Central Prison, Pune.	]	... Respondents

Mr. D.S. Mhaispurkar (Through V.C.) a/w. Mr. Shailesh Chavan, Mr. Hrishikesh Pawaskar, Mr. Ajinkya Sangitrao & Mr. Mohit Dalavi for the Petitioner.

Mr. Shrikant V. Gavand, A.P.P. for the Respondent.

Coram : M. S. Karnik &
Sharmila U. Deshmukh, JJ.

Date : August 20, 2025.

JUDGMENT (PER : Sharmila U. Deshmukh, J.)

- 1.** Rule. Rule made returnable forthwith with consent of learned counsel for the parties and heard finally.
- 2.** The challenge in this Petition is to the Order of detention bearing No. 2024/DCB-2/RR-5863(1)/2024 dated 14th November 2024 passed by the District Magistrate, Solapur, in exercise of powers under Section 3(1) of The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders and Dangerous Persons, Video Pirates, Sand Smugglers and persons engaged in Black-marketing of Essential Commodities Act, 1981 (for short, “M.P.D.A. Act”).
- 3.** Briefly stated the facts which led to passing of the detention order as borne out from the material on record is that the proposal was submitted by the Pandharpur City Police Station to initiate action of preventive detention against the Petitioner. The detaining authority noted the preventive action already initiated against the Petitioner and the offence registered on 25th June 2024 under Section 379 of the Indian Penal Code and Sections 9, 15 of the

Environment Protection Act and Section 142 of the Maharashtra Police Act. Post a confidential inquiry, the statements of the witnesses were recorded.

4. On the basis of the documents produced before the detaining authority and the confidential statements of the witnesses, the detaining authority came to a subjective satisfaction that in order to prevent the Petitioner from acting in any manner prejudicial to the maintenance of public order, it is necessary to make an order directing him to be detained under Section 3(1) of M.P.D.A. Act.

5. We have heard Mr. Mhaispurkar, learned counsel for the Petitioner and Mr. Gavand, learned counsel for the Respondents at length. With the assistance of the learned counsel for both the parties, we have perused the material on record.

6. Though, the Petition challenges the detention on multifold grounds, during the course of submissions, Mr. Mhaispurkar has restricted the challenge only to ground Nos. "A" and "B" of the Petition, which reads as under :

A) That the Detaining Authority has issued the Detention order in Marathi as well as English and from perusal of the same it appears that in the order issued in English, the Detaining Authority has arrived at the satisfaction due to the prejudicial activities of the detenu alone, it was necessary to issue the detention order. Whereas

in the Marathi order, the Detaining Authority has arrived at the satisfaction due to the prejudicial activities of the detenu and his associates, it was necessary to issue the detention order. This clearly shows non application of mind on the part of the Detaining Authority, thereby the subjective satisfaction arrived at by the Detaining Authority stands vitiated.

B) That there is variance in the Marathi and English version of the detention order about the detenu having entered the area from which he was externed. This clearly shows non application of mind on the part of the Detaining Authority, thereby the subjective satisfaction arrived at by the Detaining Authority stands vitiated.

7. In the Affidavit-in-Reply filed by the detaining authority, while dealing with grounds “A” and “B” of the challenge to the detention order it is stated that there is no variance in Marathi and English version in respect of entering the area from which the Petitioner was externed.

8. Mr. Mhaispurkar would point out that the detention order in Marathi mentions that the Petitioner along with his associates for the purpose of carrying out illegal sand mining have attempted to commit murder, issued threats of committing murder, carried out illegal mining of sands etc. and during the period of externment has entered into the

prohibited area without seeking permission of the Police Superintendent or the State Government. He would further point out that the English version of the detention order makes no mention of the Petitioner's associates and only mentions the Petitioner. He would further submit that in the English version, there is no mention of the period of externment and it only mentions that Petitioner has entered restricted area without permission from the concerned authority, the Superintendent of Police or the Government of Maharashtra during the prohibited period. He submits that the variance in the English version and the Marathi version shows non application of mind by the detaining authority vitiating the subjective satisfaction and that the detenu was confused and has been deprived of his right to make a representation. In support of his submission Mr. Mhaispurkar relies on the decision dated 24th November 2020 of this Court in the case of ***Rohit Sidram Khatal (Detenu) Vs. The Commissioner of Police, Solapur & Ors., Criminal Writ Petition No. 1576 of 2020.***

9. *Per contra* Mr. Gavand, learned A.P.P. would take this Court through the grounds of detention and would submits that there is no variance in the grounds of detention in the Marathi version and English version. He submits that the variance must be of such a nature which goes to the root of the matter and in the present case as the grounds of detention do not show any variance between Marathi version and the English version,

detention order is not vitiated.

10. We have given our thoughtful consideration to the submissions and perused the record.

11. Article 22(5) of the Constitution of India provides that, when any person is detained in pursuance of an Order made under any law providing for preventive detention, the authority making the order shall as soon as may be communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making representation against the order.

12. The submission of Mr. Gavand, learned A.P.P. that there is no variance in the grounds of detention in the Marathi and the English version overlooks that the detention order itself shows variance between the Marathi and the English version. Article 22(5) permits the detenu to make a representation against the detention order and therefore as there is variance in the English and Marathi version of the detention order which is substantial, the right of detenue to make effective representation is impaired.

13. In the Marathi version of the impugned Detention order the subjective satisfaction is arrived at by the Detaining authority on the grounds that :

(a) The Petitioner along with his associates for purpose of illegal

sand mining within jurisdiction of Pandharpur Police Station attempted to commit murder, issued threats to commit murder, illegally mined the sand, transported the stolen sand for sale.

(b) During externment period entered the prohibited area without permission from concerned Authority, Police Superintendent or State Government.

(c) Have committed serious crimes under Environment Protection Act and Minor Minerals Act.

14. In the English version, the subjective satisfaction is arrived at by the Detaining Authority on the grounds that :

(a) Crimes are registered against Petitioner under the Environment Protection Act and Minor Minerals Act.

(b) These offences include attempted murder due to illegal sand mining, issuing life threats, illegally transporting sand, theft of sand and transporting stolen sand for sale.

(c) Entered restricted area without permission from the concerned Authority, Superintendent of Police or Government of Maharashtra during prohibited period.

15. The variance in the Marathi version and English version is that the Marathi version mentions that the offences of attempted murder, issuing threats, illegally mining of sand etc are committed by Petitioner along

with his associates, whereas the English version states that Petitioner alone has committed these offences. Secondly, the Marathi version states that the Petitioner and his associates have committed serious offences under Environment Protection Act and Minor Minerals Act, whereas English version mentions that crimes are registered against the Petitioner under Environment Protection Act and Minor Minerals Act. Thirdly, Marathi version mentions the entry of Petitioner and his associates in the prohibited area during externment period whereas English version mentions entry of Petitioner in restricted area during prohibited period.

16. The variations in the two versions are not minor variations. The subjective satisfaction which is arrived at by the detaining authority, as recorded in the Marathi version being at variance from the English version would amount to non application of mind by the detaining authority and the discrepancy would result in impairing the right of a detainee to make an effective representation. Though it is sought to be contended by Mr. Gavand that entry in restricted area during prohibited period would mean externment period, we are of the view, that the detainee must be made aware of the grounds on which the subjective satisfaction was arrived at by the Detaining Authority and it cannot be presumed that restricted area means externed area.

17. In the light of the above discussion, we are of the view, that the

variance in the English version and Marathi version of the detention order vitiates the detention order and thus the impugned detention order deserves to be quashed and set-aside.

18. Hence the following order is passed.

- (a) Writ Petition is allowed.
- (b) The impugned detention order dated 14th November 2024 is quashed and set-aside.
- (c) Petitioner / detenue Mr. Krishna Nana @ Somnath Nehatrao, who has been detained in connection with the impugned detention order bearing No. 2024/DCB-2/RR-5863(1)/2024 dated 14th November 2024 be set at liberty forthwith, if not required to be detained in any other case.
- (d) Rule is made absolute in the aforesaid terms.
- (e) All concerned to act on an authenticated copy of this Judgment.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik]