

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

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3380 OF 2025

Sourabh Kalu Koli]
Age : 22 years, Occupation : Business,]
R/At : Near Korgaonkar School,]
Sadar Bazar, Kolhapur, Tal. Karveer,]
Dist. Kolhapur.]
[Currently detained in Yerwada Jail]] ... Petitioner

Versus

1. The State Of Maharashtra]
Through Additional Chief Secretary,]
Home Department, Mantralaya,]
Mumbai – 400 032.]
2. District Magistrate, Kolhapur]
Collector Office, Kolhapur.]
3. The Superintendent]
Central Prison, Yerwada, Pune.] ... Respondents

Mr. Harshvardhan Suryavanshi for the Petitioner.
Mr. Anand Shalgaonkar , A.P.P. for the Respondents-State.

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

Date : 9th September 2025.

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

1. Rule. Rule made returnable forthwith and taken up for final disposal with consent of the parties.
2. The Petition seeks quashing of the Order of detention dated 7th March 2025 passed by the Respondent No.2, under the provisions 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. Though the Petition takes multiple grounds for challenging the detention order, Mr. Suryavanshi, learned counsel for Petitioner has confined himself substantially to Ground 29 of the Petition that the in-camera statements were not independently verified by the Detaining Authority.
4. Mr. Suryavanshi would submit that the subjective satisfaction has been arrived at by the Detaining Authority on the basis of C.R. No. 861 of 2024 registered against the Petitioner and two in-camera statements, and as the genuineness of the statements is itself doubtful and were not verified by the Detaining Authority, the detention order stands vitiated.

5. *Per contra* Mr. Shalgaonkar, learned A.P.P. submits that in-camera statements which are recorded were verified and the Detaining Authority has rightly arrived at subjective satisfaction based on the material which is placed on record. He submits that the Sub-Divisional Police Officer after verifying the truthfulness of the confidential testimonies had submitted a report based on which the Detaining Authority arrived at a satisfaction that the fear demonstrated by the witnessess is genuine.

6. We have considered the submissions and perused the record.

7. The Petitioner is detained on the ground that he has proved himself to be a dangerous person within the meaning of Section 2(b-1) of the M.P.D.A. Act and it is necessary to detain the Petitioner to prevent him from acting in a prejudicial manner for maintenance of the public order in future also.

8. Before considering the reasons on the basis of which the detaining authority has arrived at this subjective satisfaction, it would be apposite to make a brief reference to the relevant statutory provisions of the M.P.D.A. Act. Section 2(a) of M.P.D.A. Act provides that acting in a manner prejudicial to the maintenance of public order in case of dangerous person means when he is engaged or is making preparations for engaging, in any of his activity as a dangerous person, which affect adversely or is likely to affect adversely the maintenance of public order.

Considering the aforesaid statutory provision, it is necessary when the detaining authority is exercising power under Section 3 of the M.P.D.A. Act to arrive at a subjective satisfaction that the act of the person to be detained is prejudicial to the maintenance of public order. In the present case, the subjective satisfaction of the Detaining Authority is based on the one C.R No. 861 of 2024 and two in-camera statements.

9. We have minutely perused the grounds of detention and in particular the in-camera statements. The grounds of detention does not mention that the Detaining Authority is satisfied about the genuineness and truthfulness of the in-camera statements. The averment is that the in-camera statements have been duly verified by the Sub-Divisional Police Officer and seen by the Superintendent of Police and by the Detaining Authority. It is further stated that the report of Sub-Divisional Police Officer has been reviewed by the Detaining Authority and the Detaining Authority is convinced that the fear demonstrated by the witnesses is genuine.

10. The ground of detention indicate that the Detaining Authority has not independently verified the genuineness and truthfulness of the in-camera statements. The Detaining Authority has seen the in-camera statements and reviewed the report of Sub-Divisional Police Officer. The grounds of detention are completely silent as to the basis on which the

Detaining Authority was satisfied about the genuineness and truthfulness of the in-camera statements. The requirement of the verification of the in-camera statements by the Detaining Authority was emphasised in the decision of ***Shaikh Hussain @ Shahrukh Shaikh Fatru vs State of Maharashtra in Criminal Writ Petition No. 873/2022***, which held in paragraph Nos. 18 and 19 as under:

“18. First of all, it is observed that the grounds of detention nowhere discloses that the detaining authority interacted with the witnesses A and B so as to satisfy itself that the statements of these witnesses are genuine to be true and or instances which they disclosed were correct. There is no interaction by the detaining authority with the Assistant Superintendent of Police, who verified such statements. The copies of statements of witnesses A and B attached to the petition and provided to the detainee, nowhere show any endorsement of the detaining authority so as to confirm that such statements were perused by the detaining authority and said authority considered that the witnesses were depicting true events. There is absolutely no whisper in the grounds of detention as to on what count the detaining authority found itself satisfied about the truthfulness or genuineness of such statements made by the witnesses.

19. This Court in the case of Shahjahan w/o. Kalimkhan Samshadkhan Pathan v. State of Maharashtra, 2016 ALL MR (Cri) 4233 (supra), observed in para 5 that, in the absence of any record of the statements being seen by the Commissioner of the Police thereby affecting his subjective satisfaction, the Petitioner is

entitled to succeed in the petition. These observations are clearly attracted to the matter in hand. There is no contemporaneous material placed before us to show that the detaining authority had in fact verified the statements and had any interaction with the Assistant Superintendent of Police, who recorded his report. Similarly, by reproducing the contents of statements of witness A and B in the grounds of detention without the material to show that the detaining authority had in fact interacted either with the witnesses or discussed it with the authority, who verified such statements, the order of detention stands vitiated.”

11. The consistent view thus is that the Detaining Authority’s subjective satisfaction, if based on the in-camera statements of witnesses, must be verified by the Detaining Authority. The grounds of detention must demonstrate the basis on which the Detaining Authority arrived at a satisfaction about the genuineness and truthfulness of the in-camera statements, which is absent in the present case. Even accepting that the basis on which the satisfaction was arrived at need not be recorded in the grounds of detention, the same should have been set out in the Affidavit in reply of the Detaining Authority. In response to Ground 29, the Affidavit-in-Reply merely states that the ground pertains to arguments. With such material on record, it is difficult to accept that the Detaining Authority had applied its mind and was satisfied on the basis of the material placed before it, that the Petitioner was a dangerous person and

was liable to be detained to maintain public order.

12. If the in-camera statements are discarded, the Detention Order is based only on C.R. No. 861 of 2024 registered on 13th September 2024 and the Detention Order having being passed after six months after registration of C.R. No. 861 of 2024 vitiates the Detention Order.

13. Resultantly, we are of the considered opinion that the Detention Order dated 7th March 2025 passed by the Respondent No.2 cannot be sustained and is therefore quashed and set-aside. The Detaining Authority is directed to forthwith release the Petitioner, if not required in any other case.

14. Rule is made absolute in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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