

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

CRIMINAL WRIT PETITION NO.20 OF 2025

Maruti Narayan Jadhav

.... Petitioner

versus

The State of Maharashtra & Ors.

.... Respondents

.....

- Mr. Harshvardhan B. Suryawanshi, Advocate for Petitioner.
- Smt. M. H. Mhatre, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.**

DATE : 07th MARCH, 2025

JUDGMENT : (PER : SARANG V. KOTWAL, J.)

1. The Petitioner has challenged the detention order dated 23/10/2024 passed by the Respondent No.2, the District Magistrate, Solapur, bearing No.2024/DCB-2/RR-4977(1)/24. The Petitioner is detained in Yerwada Central Jail, Pune. Along with the detention order, the Petitioner was served served with the grounds of detention. The paragraph No.4 of the grounds of detention mentioned five previous offences registered in different police stations viz. Mohol, Jail Road, Kamti and Vijapur Naka, between 2017 to 2024. There was a proposal for taking

the preventive action u/s 107 of Cr.P.C. The detention order then refers to the registered offence i.e. C.R.No.493/2024 at Mohol police station u/s 74, 75 of Bharatiya Nyay Sanhita and u/s 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s) 3(2)(va) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and u/s 7(1)(d) of Civil Protection Rights Act. Besides the registered offence, there is reference to two 'in-camera' statements of witnesses 'A' and 'B' dated 30/08/2024. Based on this material, the detention order was passed.

2. Heard Mr. Harshvardhan B. Suryawanshi, learned Counsel for the Petitioner and Smt. M. H. Mhatre, learned APP for the State.
3. Learned counsel for the Petitioner made only one submission before us which he has taken in grounds at paragraph No.8 of this Petition. He submitted and it is mentioned in that ground that the representation dated 02/12/2024 was sent to State Government against his detention, but it was not expeditiously dealt with and decided,

thereby infringing his valuable right under Article 22(5) of the Constitution of India. Learned counsel for the Petitioner therefore submitted that on this ground the Petition be allowed and the Petitioner be directed to be released forthwith.

4. In answer to this submission, learned APP tried to justify the delay and explain it by referring to the affidavit filed by Mr. Rajendra Bhalwane, Deputy Secretary, Government of Maharashtra, Home Department, Mantralaya, Mumbai. She relied on paragraph No.2 of the said affidavit.

5. We have considered these submissions. This is a serious issue raised by learned counsel for the Petitioner that the detenu's representation was not expeditiously considered by the State Government. There was delay which has remained unexplained. In that context, explanation of the State Government through Mr. Bhalwane's affidavit is as follows:

“2. With reference to Para (8) of Writ Petition, It is submitted that the representation dated 02.12.2024 of the advocate on the behalf of the

detenu was received by the Central Registry Unit of Mantralaya as on 02.12.2024 By Hand. The Central Registry Unit forward it to, Desk Special-3B by e-office on 03.12.2024. Therefore, the remarks were called for, from the Detaining Authority i.e. The District Magistrate, Solapur on the 05.12.2024 by Special Branch-3B Desk. The remarks of the Detaining Authority were received on 16.01.2025 vide letter dated 16.01.2025. The concerned Assistant Section Officer submitted file containing remarks of Detaining Authority along with the representation of the detenu to the Section Officer on 16.01.2025. The Section Officer endorsed it on 17.01.2025 and forwarded it to the Under Secretary on the same day. The Under Secretary endorsed it on 17.01.2025 and forwarded it to the Deputy Secretary on the same day. The Deputy Secretary endorsed it on the 17.01.2025 and forwarded it to the Additional Chief Secretary (Home). As being holidays on 18.01.2025 (Saturday) and 19.01.2025 (Sunday), the Additional Chief Secretary (Home) considered the remarks of the detaining Authority and rejected the said representation on 20.01.2025 by applying his mind. The rejection of representation was communicated by post to the detenu vide letter dated 20.01.2025 through the Registry

section of Home Department. Thus, the representation of the detenu was considered by the State Government as expeditiously as possible.”

Thus, it can be seen that after receiving the representation, by the concerned Desk on 03/12/2024, the remarks of the Respondent No.2, the detaining authority, was called for on 05/12/2024. But the remarks were received only on 16/01/2025. There is absolutely no explanation coming forth either in the affidavit of Mr. Bhalwane or in the affidavit of the detaining authority i.e. the Respondent No.2. The fact remains that between 05/12/2024 and 16/01/2025 what steps were taken by the detaining authority, has remained totally unexplained. It is not every delay which entitles the detenu to claim release from his detention, but it is only the unexplained delay which affects his valuable right. In this case, there is absolutely no explanation as to how the representation was processed between 05/12/2024 to 16/01/2025. From 16/01/2025 onwards, the representation was processed expeditiously and ultimately it was rejected on 20/01/2025. But

when the detenu's detention is under preventive detention laws, the authorities are required to be diligent in processing the detenu's representation. As rightly submitted by the learned counsel for the Petitioner, his valuable right of making the earliest effective representation is infringed because affording the detenu to make an earliest representation also includes consideration of the representation expeditiously. Accordingly, affording a right to make a representation without processing it expeditiously, has no meaning. It definitely infringes his valuable right if the representation is not decided expeditiously. In a given case, the delay caused in considering and processing representation can be explained and can be accepted. But in this particular case, since there is absolutely no explanation, the said delay between 05/12/2024 and 16/01/2025 has remained totally unexplained. Thus, the Petitioner's valuable right is infringed. The detenu is entitled to be released from detention on this ground. The detention order makes reference to his right to make representation but that right is not given effect to by the authorities themselves. Therefore, the detention order is also liable to be set aside.

6. Hence, the following order :

ORDER

- (i) The Petition is allowed.
- (ii) The Rule is made absolute in terms of prayer clause (B) which reads thus;

“(B) This Hon’ble Court be Pleased to quash and set aside the impugned detention order dated 23.10.2024 bearing no. 2024/DCB-2/RR-4977(1)/2024 issued under section 3(1) of M.P.D. Act 1981 by the Respondent No.4 and on quashing the same, the Petitioner ordered for release forthwith.”

- (iii) The Petitioner be released forthwith, if not required in any other case.
- (iv) The Petition is disposed of.

(SHYAM C. CHANDAK J.)

(SARANG V. KOTWAL, J.)