

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

CRIMINAL WRIT PETITION NO. 307 OF 2025

Suyash @ Tatya Somnath Ghodke

..Petitioner

Versus

District Magistrate & Anr.

..Respondents

Ms. Jayshree Tripathi a/w. Anjali Raut for Petitioner.

Mr. S. V. Gavand, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL &
S. M. MODAK, JJ.**

DATE : 4 APRIL 2025

JUDGMENT: (Per Sarang V. Kotwal, J.)

1. The Petitioner has challenged the detention order Out Ward No.PGM/MPDA/SR/06/01/2024, dated 03.09.2024, issued U/s.3 of The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons engaged in Black-Marketing of Essential Commodities Act, 1981 (for short 'MPDA'), by the District Magistrate, Pune.

2. Heard Ms. Jayshree Tripathi, learned counsel for the Petitioner and Mr. Gavand, learned APP for the State.

3. The grounds of detention which were served on the Petitioner are annexed to the Petition. In those grounds, there is a reference to various offences committed by him and the material relied on by the detaining authority to reach its subjective satisfaction which necessitated detention of the petitioner. The grounds of detention referred to C.R.No.127 of 2024, registered at Natepute police station, under sections 324, 341, 323, 504 and 506 r/w. 34 of the I.P.C. The ground 4(a)(i) referred to the F.I.R. in respect of the incident dated 05.04.2024. In that offence, the complainant was assaulted by the detainee and his associates with a weapon like *koyta*. The investigating agency had issued notice U/s.41A of the Cr.p.c. to the Petitioner on 07.04.2024.

4. The ground 4(b)(i) referred to the in-camera statement of witness 'A' which was recorded on 15.04.2024 in respect of two incidents. The first incident had taken place two weeks prior to 15.04.2024 and the second incident had taken place on 12.04.2024. The Petitioner had demanded extortion money and had actually taken away Rs.2400/- from that witness on 12.04.2024 by pointing a firearm.

5. The witness 'B' had given his statement which was referred to in Ground 4(b)(ii). That statement was recorded on 22.04.2024 in respect of the incident which had taken place on 21.04.2024 in the evening. Again, the Petitioner had shown a firearm and had told this witness to pay the money.

6. In paragraph-5 of the grounds of detention, there is a reference to seven registered offences from the year 2019 to 2023 at Walchandnagar police station, Vadgaon Nimbalkar police station and Natepute police station. There is also a reference to preventive action taken U/s.110(e)(g) of the Cr.p.c., in June 2023.

7. The detaining authority in his concluding opinion in paragraph-5 has stated that it was clear from all that material that the detenue's actions were dangerous to the society and that he had created terror in the area. His criminal behaviour was a threat to public order. Having stated so, in the next paragraph i.e. in paragraph-6 of the grounds of detention, the detaining authority has recorded his subjective satisfaction that the petitioner was a dangerous person within the meaning of Section 2(b-i) of the

MPDA. In paragraph-7 the detaining authority has stated that he had carefully gone through the material placed before him and the confidential statements recorded of witnesses 'A' and 'B'. Having observed thus, he had passed the detention order.

8. Learned counsel for the Petitioner had raised grounds (a) to (f) in the petition, but she restricted her arguments only to ground (e) mentioned in the petition. Her contention in that ground is that the statements of witnesses 'A' and 'B' were recorded on 15.04.2024 and 22.04.2024. After that, there were no prejudicial activities attributed to the Petitioner. In spite of that, the detention order was passed after a gap of almost four months. This has snapped the live-link. She submitted that, if the activities of the petitioner were so dangerous to the maintenance of the public order, then the authority ought to have taken immediate action against the petitioner. According to her and as mentioned in that ground (e), the said delay showed that the authority had taken a very casual approach and the detention order will have to be set aside on that ground alone.

9. In response to this argument and the grounds raised in this behalf, learned APP referred to the Affidavit filed by the detaining authority. He submitted that, there was no delay in passing the order and the detaining authority has explained as to how the proposal for detention progressed from April 2024 onwards. He invited our attention to the reply given by the detaining authority in paragraph-11 of his affidavit.

10. We have considered these submissions. According to the detaining authority, the 'in-camera' statements of the witnesses 'A' and 'B' were verified by the Sub Divisional Officer, Daund Division, Pune on 27.04.2024. After such verification, the report to that effect was forwarded to the Police Inspector, Walchandnagar police station. It is further mentioned in the Affidavit that, after completing the necessary formalities the proposal was forwarded to the Superintendent of Police, Pune Rural, on 14.08.2024 by the Sponsoring Authority. The proposal was sent to the detaining authority on 20.08.2024. On 22.08.2024, the detaining authority carefully went through the papers and gave his endorsement. He gave his approval for the same proposal on 22.08.2024. After that,

necessary work of typing the grounds of detention, translation of documents etc. was completed and the detention order was issued on 03.09.2024.

11. From this affidavit, it is clear that actual movement of the proposal started from 14.08.2024 onwards. From that point onwards, the authorities have acted promptly. There does not appear to be any delay from 14.08.2024 till 03.09.2024, but the Affidavit is totally silent about the movement of the proposal or even about initiation of the proposal from 27.04.2024 up to 14.08.2024. Learned counsel for the Petitioner is right in submitting that, if the petitioner's activities were so dangerous which had the effect of affecting public order adversely, the Sponsoring authority should have acted immediately from 27.04.2024, when the 'in-camera' statements were verified. Till 14.08.2024 nothing had transpired. The petitioner had not committed any objectionable activities during that phase. Similarly, the sponsoring authority had also not taken trouble to initiate the proceedings. Therefore, suddenly on 14.08.2024 the proposal being sent to the Superintendent of Police, Pune Rural, for

consideration of proposal does not show that there was real necessity to initiate the proceedings in the nature of preventive detention which is a drastic step. The detaining authority has not considered this aspect. The period between 27.04.2024 to 14.08.2024 is totally unexplained by the authorities and, therefore, we find substance in the submission that the detention order is passed belatedly from the last activity. The live-link was snapped and it was not necessary to take the step of issuing the order in the nature of preventive detention. On this ground alone, the petition succeeds and the detention order is required to be set aside.

12. Hence, the following order:

O R D E R

- i) The Rule is made absolute in terms of prayer clause (b); which reads thus:

“(b) The order of Detention bearing No.PGM/MPDA/SR/06/01/2024 Dated 03.09.2024 issued under Section 3 of M.P.D.A. Act 1981 by the Respondent No.1 be quashed and set aside and on quashing, the same the petitioner be ordered for release forthwith.”

- ii) The Petitioner be released forthwith if not required in any other case.

iii) The Petition is disposed of.

(S. M. MODAK, J.)

(SARANG V. KOTWAL, J.)