

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

**CRIMINAL WRIT PETITION NO.987 OF 2025**

Rajkumar Lalchand Gupta @ Bail

.... Petitioner

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Ms. Aisha Z. Ansari a/w Nasreen Ayubi, Advocate for Petitioner.
- Mr. J. P Yagnik, APP for the State/Respondent.

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

**DATE : 04<sup>th</sup> APRIL, 2025**

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

1. The Petitioner has challenged the Detention Order dated 11/12/2024 bearing No.D.O. No.03/CP MBVV/ZONE-2/2024 passed by the Respondent No.2, the Commissioner of Police, Mira-Bhayander, Vasai-Virar under the provisions 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 Act').

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2. Heard Ms. Aisha Z. Ansari, learned Counsel for the Petitioner and Mr. J. P. Yagnik, learned APP for the State.
3. The Petitioner was served with the grounds of detention. In paragraph No.2 of the grounds of the detention a list of offences registered against him right from the year 2006 upto 2018 are mentioned. They are registered at Nalasopara Police Station and Tulinj Police Station.
4. In paragraph No.3 list of offences registered against the Petitioner in the last five years are mentioned. They are as follows:
  - (i) C.R.No.559/2024 u/s 77, 78, 79, 351 (3), 352 of BNS. That offence is registered at Tulinj Police Station on 02/08/2024.
  - (ii) C.R. No.788/2022 u/s 8 (c), 22 of NDPS Act, u/s 3, 25(1)(b) of the Arms Act dated 11/12/2022, registered with Tulinj Police Station.
  - (iii) C.R.No.1272/2021 u/s 326, 367, 323, 452, 504, 506, 427, 143, 147, 148, 149 of the Indian Penal Code and u/s 3, 25 of the Arms Act, registered at Tulinj Police Station dated 10/10/2021.

5. Besides these registered offences, there is a reference to the two externment proceedings initiated against him in the year 2016 and 2022. At the bottom of the paragraph No.3, the Detaining Authority has specifically stated that while passing the detention order, he had relied on one offence and two confidential statements mentioned in paragraph No.4, 4(i) and 4(ii). The offence referred to was C.R.No.559/2024 registered with Tulinj Police Station and two 'in-camera' statements were in respect of the incidents which had taken place in the first week of July 2024 and the last week of May 2024, which were in the nature of extortion.

6. The paragraph No.5 is a crucial paragraph in which he has stated that he was satisfied that the Petitioner was a dangerous person within the meaning of section 2(b-1) of MPDA and while concluding that paragraph it was specifically mentioned by the Detaining Authority that the Petitioner's criminal activities were disturbing normal tempo of life of citizens of the said localities and areas, which can be seen from paragraph Nos.3 and 4. Thus, while recording his subjective

satisfaction in paragraph No.5, the Detaining Authority has also referred to the material reproduced in paragraph No.3.

7. Learned counsel for the Petitioner submitted that since arriving at the subjective satisfaction, the Detaining Authority had referred to material in paragraph No.3 which included C.R. No.788/2022 and C.R.No.1272/2021 both registered at Tulinj Police Station; it was necessary for the Detaining Authority to have giving the documents pertaining to those registered offence to the Petitioner, to enable him to make the earliest representation dealing with those allegations. However, the documents pertaining to these two particular offences were not given to the detenu. Therefore, the entire process is vitiated. She invited out attention to the grounds No.5(vi) taken by her specifically in the Petition, wherein it is mentioned that the documents pertaining to the incident dated 11/12/2022 and 10/10/2021 were not given to the Petitioner along with the grounds of detention. Those incident pertained to the C.R. No.788/2022 and C.R.No.1272/2021 of Tulinj Police Station.

8. Learned APP tried to respond to these submissions by referring to the affidavit-in-reply. But he could not point out anything relatable to the specific ground raised by the Petitioner in that behalf. The response of the Respondent No.2 in the affidavit-in-reply at paragraph No.11 with reference to ground No.5(vi) of the Petition is simply that the order of detention relied on one offence and two 'in-camera' as referred in paragraph No.4(i) and 4(ii) respectively. But there is no reference to the subjective satisfaction mentioned in paragraph No.5 of the grounds of detention which refers to the material in the paragraph No.3, which in turn refers to C.R. No.788/2022 and C.R.No.1272/2021. The affidavit-in-reply is completely silent on this aspect. Therefore, the contention that the documents pertaining to these two particular offences were not given to the Petitioner is a fact which has remained uncontroverted by the authorities.

9. These two particular offences were important because while reaching the subjective satisfaction, the Detaining Authority had referred to this particular material as well. In this

view of the matter, the Petitioner is deprived of making effective representation before the authorities and the State Government because he did not have the relevant documents on which the Detaining Authority had based his subjective satisfaction. It is also not clear whether the Detaining Authority himself had those documents before him.

10. On this count, the detention order is not sustainable and is liable to be set aside.

11. Hence the following order is passed :

### **ORDER**

(i) Rule is made absolute in terms of prayer clause (a), which reads thus:

“(a) That this Honourable Court be pleased to issued a Writ of Habeas Corpus or any other appropriate writ, order or direction quashing and setting aside the said order of detention Order **D.O.NO.03/CP/MBVV/DP/Zone-2/2024**, dated 11.12.2024 and

pleased to direct that the detenu  
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be set at liberty.”

(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.)