

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

CRIMINAL WRIT PETITION NO.1076 OF 2025

Hukumsingh Ramsingh KalyaniPetitioner
Versus
Commissioner of Police
Pune city and othersRespondents

Ms. Jayshree Tripathi, Advocate a/w. Anjali Raut for the Petitioner.
Mr.J.P. Yagnik, APP for the Respondents-State.

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

DATE : 17th APRIL, 2025

ORAL JUDGMENT : [PER SARANG V. KOTWAL, J.]

1. Heard Ms. Jayshree Tripathi, learned counsel for the
Petitioner and Mr.J.P. Yagnik, learned APP for the Respondents-
State.

2. The Petitioner has challenged the detention order
dated 18.11.2024 bearing outward
No.CRIME/PCB/DET/WANAVDI/KALYANI/943/2024 passed by
the Respondent No.1-the Commissioner of Police, Pune City
issued 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'). Along with the detention order, committal order was also passed on the same day directing that the Petitioner be detained at Amravati Central Prison.

3. The Petitioner was served with the grounds of detention dated 18.11.2024. In the grounds of detention, the Detaining Authority has described the past activities in paragraph-3. There are seven offences registered against him which are mentioned in paragraph-3.1; they are registered at Wanavdi Police Station, Mundhwa Police Station, Hadapsar Police Station, Chandan Nagar Police Station, Sangvi Police Station and Pimpri Police Station between the years 2020 to 2024. There is a reference to two preventive actions taken against him in the year 2020 and 2023 initiated by Wanavdi Police Station under Section 110(a)(g) of Cr.P.C. Significantly, in paragraph-3.1, the Detaining Authority has mentioned that the past offences mentioned in the chart were only referred to show that the Petitioner has been habitually committing serious offences. In paragraph-4, he has specifically mentioned that as a Detaining Authority he has relied mainly upon the registered offence of Wanavdi Police Station

vide C.R. No.336/2024 and two in-camera statements. The Detaining Authority has further mentioned that he had considered the registered offence mentioned in paragraph-5.1 and the two in-camera statements mentioned in paragraphs-6.1 & 6.2 to issue the detention order. Thus he has very specifically mentioned that he was relying on only C.R. No.336/2024 of Wanavdi Police Station and two in-camera statements for passing the detention order. C.R. No.336/2024 at Wanavdi police station was registered under Sections 307, 324, 143, 147, 148, 149, 323, 427, 504, 506(2), 120-B of IPC, under Section 4(25) of the Arms Act, under Sections 37 and 135 of the Maharashtra Police Act and under Section 7 of the Criminal Law Amendment Act. The said offence pertains to the incident dated 5.5.2024 and the main incident dated 6.5.2024 during which the Petitioner and his associates had assaulted the complainant therein with sword and similar weapons.

4. The statement of Witness 'A' refers to the incident dated 4.9.2024 when the Petitioner had extorted Rs.500/- from him by showing the knife. The statement of Witness 'B' refers to the incident dated 7.9.2024 when by showing a *koyata* the

Petitioner forcefully removed Rs.700/- from this witness.

5. These are the materials on which the detention order was passed.

6. Learned counsel for the Petitioner submitted that in spite of taking specific stand that the Detaining Authority was relying only on one registered offence and the two in-camera statements, in paragraph-8 again he has gone back to the offences and preventive actions mentioned in paragraph-3, 3.1 and 3.2 of the grounds of detention. She submitted that this has created confusion and, therefore, the Petitioner could not make effective earliest representation challenging the detention order. She further submitted that this also shows non-application of mind on the part of the Detaining Authority, thereby vitiating his subjective satisfaction.

7. Learned APP relied on the affidavit filed by the Detaining Authority in reference to this particular ground taken by the Petitioner in ground (d) of the memo of the Petition. With reference to the said ground taken by the Petitioner, the Detaining Authority has again reiterated that the activities in

paragraph-3.1 of the grounds of detention were mentioned to show that the Petitioner was a habitual criminal involved in continuous criminal activities. Learned APP, therefore, submitted that the detention order is passed on proper subjective satisfaction.

8. We have considered these submissions. As mentioned earlier and as rightly submitted by learned counsel for the Petitioner, the Detaining Authority has taken contrary stand in different paragraphs of the grounds of detention. He has specifically stated in paragraph-4 of the grounds of detention that he had considered only C.R. No.336/2024 registered at Wanavdi Police Station and two in-camera statements to pass the said detention order. However in paragraph-8, he has then mentioned that he had referred to the offences and preventive action taken in paragraphs-3, 3.1 and 3.2 of the grounds of detention to show that he was a habitual criminal involved in the continuous criminal activities. If that is the case then his subjective satisfaction definitely stands vitiated because he has relied on that particular material to reach his subjective satisfaction that the Petitioner was a habitual criminal. The

definition of the ‘dangerous person’, as mentioned in Section 2(b-1) of the MPDA Act is as follows:

“Section - 2 (b-1) :

“dangerous person” means a person, who either by himself or as a member or leader of a gang, habitually commits, or attempts to commit or abets the commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code or any of the offences punishable under Chapter V of the Arms Act, 1959; ”

9. The main ingredient of this section is the habitual nature of the activities on the part of the detainee. For this main consideration, the Detaining Authority had to revert back to the past activities and past offences mentioned in paragraphs-3, 3.1 and 3.2 of the grounds of detention, therefore, he could not have said that he was passing the detention order based on C.R. No.336/2024 of Wanavdi police station and two in-camera statements only. Thus, his stand is totally contrary. It certainly created confusion and his subjective satisfaction is not based on the consistent material. On all these reasons, the subject satisfaction is vitiated and the detention order is not sustainable.

On these grounds, the detention order is required to be quashed and set aside.

10. Hence, the following order:

:: O R D E R ::

- i. The Petition is allowed.
- ii. Rule is made absolute in terms of prayer clause (b), which is as follows :

“(b) The order of Detention bearing No. CRIME PCB/WANWADI/KALYANI/943/2024 Dated 18.11.2024 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.”

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

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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