

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 1136 OF 2025**

Sameer @ Panna Mehboob Shaikh

Age- 22 year.

R/at- Lane No.1, Room No.8,

Near Bismillah Masjid, Green Park Kondhwa.

A present Kolhapur Central Prison, Kolhapur.

... Petitioner.

V/s.

1. The State of Maharashtra.

2. Commissioner of Police, Pune City

Sadhu Wasvani Road Camp, Pune.

... Respondents

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

Mr .Shreekant V. Gavand, A.PP for the Respondent-State.

CORAM : A. S. GADKARI AND

RANJITSINHA RAJA BHONSALE, JJ.

DATE : 20th SEPTEMBER 2025

JUDGMENT:- (Per : A.S. Gadkari, J.) :-

1) By this Petition under Article 226 of the Constitution of India, the Petitioner, a detenu, has impugned the Detention Order dated 13th December 2024 bearing No.OW.NO./CRIME PCB/DET/ KONDHWA/ SHAIKH/ 1009/2024 issued by the Respondent No. 2, under section 3(2) of

the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons engaged in Black-marketing Essential Commodities Act, 1981 (Maha. Act No LV of 1981) (Amendment -1996, 2009, 2015) (for short “MPDA Act”) and the Order of Committal of even date, thereby detaining him in Kolhapur Central Prison, Kolhapur.

2) Heard Ms. Tripathi, learned Advocate for the Petitioner and Mr. Gavand, learned A.P.P. for the State. Perused entire record produced before us and the Affidavits in Reply filed by the Respondent Authorities.

3) Learned Advocate for the Petitioner submitted that, though the Petitioner has taken various grounds in the Petition, while challenging the Order of Detention, she restricts her argument and assails the Detention Order on the ground of delay of 70 days in issuing it, from the date of recording of in-camera statements of the concerned witnesses.

4) Record indicates that, along with the Detention Order dated 13th December 2024, the Petitioner was also served with the Grounds of Detention dated 13th December 2024. Perusal of Grounds of detention reveals that, to term the Petitioner as a dangerous person as contemplated under section 2(b-1) of the MPDA Act, the Sponsoring Authority has taken into consideration and based its conclusions on one crime i.e. C.R. No.633 of 2024 registered with Kondhwa Police Station, Pune, dated 2nd June 2022 under sections 326, 323, 504, 506, 427 read with 34 of the Indian Penal

Code, under section 4(25) of the Arms Act and under section 37(1)(3)/135 of the MPA and two in-camera statements of witnesses 'A' and 'B', recorded on 8th November 2024 and 7th November 2024 respectively. The last in-camera statement of the witness 'A' is admittedly recorded on 8th November 2024.

5) It be noted here that, in the said C.R. No.633 of 2024, the Petitioner was initially absconding and was arrested on 19th August 2024. The Petitioner was released on regular bail by the competent Court on 29th August 2024. As noted earlier, the last in-camera statement of witness 'A' was recorded on 8th November 2024. The Sponsoring Authority as also the Detaining Authority have not offered any plausible and satisfactory explanation about the delay in recording the in-camera statement of witness 'A' on 8th November 2024 from 29th August 2024 i.e. belatedly after about 70 days. The delay of about 70 days in recording the in-camera statements of witnesses has not been explained by the Detaining Authority either in the Grounds of detention or in its Affidavit dated 12th April 2025.

6) In the case of *Pradeep Nilkanth Paturkar v. S. Ramamurthi and others* reported in *1993 Supp (3) SCC 61*, the Hon'ble Supreme Court has expressed its anguish about the fact that, the statements of witnesses were recorded only after the detenu became successful in getting bail from the concerned Court. It is further held that the unexplained delay, whether short or long, especially when the detenu has taken a specific plea of delay,

has to be explained properly. This Court in the cases of *Austin William Luis Pinto Vs Commissioner of Police, Greater Mumbai & Ors.*, reported in 2005 ALL MR (Cri) 28 and *Daksh Juber Ghelani v. The Commissioner of Police, Pune City & Ors (Writ Petition No.3994/2023 decided on 4th April 2024)* has also granted benefit of unexplained delay, to the detenus therein.

7) As noted earlier, in the case in hand also the Petitioner was released on bail on 29th August 2024 and the in-camera statements of two witnesses were recorded on 7th November 2024 and 8th November 2024. Undoubtedly there is delay of about 70 days in recording the in-camera statements of said witnesses, namely, 'A' and 'B'. The Detaining Authority i.e. the Respondent No.2 has not given and/or offered any explanation for the said delay.

8) In view of ratio laid down by the Hon'ble Supreme Court in the case of *Pradeep Nilkanth Paturkar (supra)* and the decisions of this Court in the cases of *Austin William Luis Pinto (supra)* and *Daksh Juber Ghelani (supra)*, the Detention Order deserves to be quashed and set aside on the ground of unexplained delay of about 70 days from 29th August 2024 to 8th November 2024. According to us, if the Sponsoring Authority so also the Detaining Authority were of the opinion that, the Petitioner is a 'dangerous person' as defined in section 2(b-1) of the MPDA Act, the concerned Authorities for preventing the Petitioner from acting in any manner prejudicial to the maintenance of public order ought to have taken effective

steps swiftly to detain him under the provisions of the said Act. As there is unexplained delay of 70 days in issuing the Detaining Order, according to us, the purpose and object of the Act is not met. The overall effect of the aforesaid discussion is that the Detention Order is vitiated on account of delay and therefore deserves to be quashed and set aside.

9) Hence, the following Order:

ORDER

a) Detention Order bearing No.OW.NO./CRIME
PCB/DET/KONDHWA/SHAIKH/1009/2024 dated 13th
December 2024 is quashed and set aside.

b) Petition is allowed in terms of prayer clause (b).

c) Petitioner be released from Jail forthwith, if not required in any other case/cases, on production of an authenticated copy of this Order.

d) Rule is made absolute in the aforesaid terms.

e) All the concerned to act on the basis of an authenticated copy of this Order.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)