

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

**CRIMINAL WRIT PETITION NO. 1142 OF 2025**

Gaurav @ Gulabya Vishnu Ghuge.  
Age: 25 years, Occ.: Labour,  
Residing at Post Pimpalgaon Bahula,  
Satpur, Nashik.  
(Presently in Nashik Central Jail)

... Petitioner.

V/s.

1. The Commissioner of Police, Nashik,  
Opposite K.T.H.M. College,  
Gangapur Road, Nashik
2. The State of Maharashtra Through  
Addl. Chief Secretary (Home),  
Government of Maharashtra,  
Mumbai- 400 032.
3. Chairman, Advisory Board,  
C/o. Desk Officer, Desk- 10,  
Home Department (Special),  
Mantralaya, Mumbai- 400 032.
4. The Jailor, Nashik Road Central Prison,  
Jail Road, Nashik Road, Nashik.

... Respondents

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Mr.Akshay Bankapur for Petitioner.  
Ms.Mankuwar M. Deshmukh, P.P. with Mr.Shreekant V. Gavand, A.P.P.  
for Respondent No.1-State.

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**CORAM : A. S. GADKARI AND  
RANJITSINHA RAJA BHONSALE, JJ.  
DATED : 15<sup>th</sup> SEPTEMBER 2025.**

**ORAL JUDGMENT:- (PER A.S. Gadkari, J.)**

1) Petitioner has impugned the Order of Detention dated 13<sup>th</sup> September, 2023 bearing No.D.O.2023/ MPDA/DET-10/CB-187 issued by Respondent No.1 i.e. Commissioner of Police, Nashik City, under section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug-offenders and Video Pirates Act, 1981 (for short MPDA Act) by invoking jurisdiction of this Court under Article 226 of the Constitution of India.

2) Heard Mr.Bankapur, learned Advocate for the Petitioner and Ms. Deshmukh, learned APP for the Respondents-State. Perused entire record produced before us and the Affidavits in Reply filed by the Respondents.

3) Record clearly indicates that, the Order of Preventive Detention against the Petitioner passed under section 3(2) of the MPDA Act was issued on 13<sup>th</sup> September 2023. A Committal Order was also issued on the same day. The Detention Order and Committal Order were accompanied with the Grounds of Detention dated 13<sup>th</sup> September, 2023.

4) It is an admitted fact on record that, the Petitioner came to be arrested on 23<sup>rd</sup> January 2025 and the Order of Detention along with Committal Order were served on him at that time on the said day. The

Petitioner thereafter has been detained at Nashik Central Prison. It is, thus apparent that, the Order of Detention dated 13<sup>th</sup> September, 2023 has been executed on the Petitioner approximately after lapse of one year and four months and therefore the live link between his prejudicial activities as stated in the Grounds of Detention dated 13<sup>th</sup> September 2023 till the execution of the Order of Detention is snapped.

4.1) The Hon'ble Supreme Court in the case of *T.A. Abdul Rahman v. State of Kerala* reported in *AIR 1990 SC 225*, in paragraph-12 has held as under:

*"12. Similarly when there is unsatisfactory and unexplained delay between the date of order of detention and the date of securing the arrest of the detenu, such a delay would throw considerable doubt on the genuineness of the subjective satisfaction of the detaining authority leading to a legitimate inference that the detaining authority was not really and genuinely satisfied as regards the necessity for detaining the detenu with a view to preventing him from acting in a prejudicial manner."*

4.2) The Affidavit in Reply filed by Detaining Authority is silent about the effective steps taken by it in securing the presence/ arrest of the Petitioner. There is unexplained delay between the date of Order of Detention and the date of securing the arrest of Petitioner.

5) There is another facet to the present case. It is already an admitted fact on record that, though the Petitioner was not traceable to the Detaining Authority or to the Police, during the period from 13<sup>th</sup> September 2023 till 23<sup>rd</sup> January 2025, no steps as prescribed under section 7 of the MPDA Act, were adopted by the Detaining Authority. Record indicates that during the said period Petitioner was not arrested, detained or behind bars in any other crime by other Investigating Agency and therefore it was imperative for the Respondents to adopt the procedure as prescribed under section 7 of the MPDA Act. The Detaining Authority has not complied with the said provision.

6) In view of the above, Petition succeeds on both the above counts.

6.1) Hence, the following order:

O R D E R

a) Detention Order bearing No.D.O.2023/MPDA/DET-10/CB-187 and Committal Order No.C.O.2023/MPDA/DET-10/CB-188, both dated 13<sup>th</sup> September, 2023, are 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.
- 7) All the concerned to act on the basis of an authenticated copy of this Order.

**(RANJITSINHA RAJA BHONSALE, J.)**

**(A.S. GADKARI, J.)**

SANJAY  
KASHINATH  
NANOSKAR

Digitally signed by  
SANJAY KASHINATH  
NANOSKAR  
Date: 2025.09.17  
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