

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

CRIMINAL WRIT PETITION NO. 1350 OF 2025

Lakhan Uttam Chavan

Age : 32 years,

R/o. C/o. Amarsheth Rajput Dhanore

Tal. Khed, Dist. Pune.

... Petitioner

V/s.

1. Commissioner of Police,
Pimpri Chinchwad.

2. The State of Maharashtra
(Through Addl. Chief Secretary to
Government of Maharashtra, Mantralaya,
Home Department Mantralaya, Mumbai.)

3. The Superintendent,
Yerwada Central Prison, Pune.

... Respondents

Ms. Jayshree Tripathi, a/w Anjali Raut, Advocate for the Petitioner.
Mr. Shreekant V. Gavand, Additional Public Prosecutor for the State.
Mr. T. S. Pawar, PSI, Alandi Police Station.

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**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.**

DATE : 6th OCTOBER 2025.

JUDGMENT [Per: RANJITSINHA RAJA BHONSALE, J] :-

1) Petitioner, by the present Petition under Article 226 of the Constitution of India, seeks to challenge the Detention Order, bearing No. O.

W. No./CRIME PCB/DET/32/2025, Pimpri Chinchwad, dated 12th February 2025 (the Detention Order), passed by the Respondent No.1, issued 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 of Essential Commodities Act, 1981 (MPDA Act) and the Order of Committal of even date, thereby detaining him in the Yerwada Central Prison, Yerwada, Pune. The Petitioner being detained seeks a direction for being released and set at liberty.

2) By Order dated 13th March 2025, this Court issued Rule in the Petition. The Respondent No.1 to 3, have filed their respective Affidavits in reply dealing with the contentions/grounds raised by the Petitioner and opposed the Petition.

3) We have heard Ms. Jayshree Tripathi, learned Advocate for the Petitioner and Mr. Shreekant V. Gavand, learned Additional Public Prosecutor for the Respondent–State. Perused the record and the Affidavits in Reply.

4) At the outset, it would be important to make a mention of the fact that, though the learned Advocate for the Petitioner has raised various grounds in paragraph No.4 (a) to 4 (g) of the Petition for challenging the Detention Order dated 12th February 2025, however, learned Advocate for the Petitioner submits that she is restricting her argument only to the ground of delay in recording of the in-camera statements and in passing the Impugned Detention Order.

5) Learned Advocate for the Petitioner submits that, two in-camera statements of witness 'A' and 'B' are recorded on 7th December 2024 for offences allegedly committed in November 2024. The last offence which is relied upon by the Detaining Authorities is registered on 16th September 2024 i.e. about 3 months prior to the recording of the 2 in-camera statements. The Detention Order is passed on 12th February 2025. Learned Advocate would further go on to submit that, there is a delay, of more than 2 months, in passing the Detention Order dated 12th February 2025 as the last in-camera statement was recorded on 7th December 2024. Learned Advocate for the Petitioner further submits that, after the Assistant Commissioner of Police, Chakan Division received the proposal on 10th December 2024, the same was forwarded by him to the Deputy Commissioner of Police, Zone III only 23rd December 2024 i.e after a 13 days delay. The Deputy Commissioner of Police, Zone III in turn forwarded the said proposal to the Deputy Commissioner of Police (Crime) on 16th January 2025 i.e after a 24 days delay. That, on the ground of delay, the Detention Order dated 12th February 2025 ought to have been quashed and set aside.

6) Learned Advocate for the Petitioner further submits that, the Detaining Authority has taken into consideration one crime i.e. C. R. No. 277 of 2024 under Section 65 (e) of Maharashtra Prohibition Act, registered on 16th September 2024. The Detention Order was passed after 5 months of registering the last crime and there is no explanation given for the said delay.

7) Mr. Shreekant V. Gavand, Additional Public Prosecutor for the State, in reply submits that, the said delay has been explained by the Respondents in their Affidavits in reply. Learned APP submits that, in the present matter there has been no delay much less, unexplained delay. While referring the Affidavit-in reply, he submits that, a detail account has been given in respect of the movement of the proposal and the ultimate approval and issuance of the Detention Order.

8) We have perused the record and given our considered thought to the ground of delay as raised by the learned Advocate for the Petitioner. It is well settled that on the ground of unexplained delay, a detention order can be set aside. The Supreme Court in the matter of *Pradeep Nilkanth Paturkar V/s. S. Ramamurthi & Ors*, reported in 1993 Supp (2) Supreme Court Cases 61 in paragraph 14 has observed that unexplained delay whether short or long especially when the detinue has taken a specific plea of delay, has to be explained. The Supreme Court quashed and set aside the order of detention on the ground of unexplained delay. This Court has, reiterated with affirmation the ratio laid down by the Order of the Supreme Court in the matter of *Pradeep Nilkanth Paturkar* (Supra) in the matters of (i) *Mr. Austin William Luis Pinto Vs. Commissioner of Police, Greater Mumbai And Others* reported in 2005 ALL MR (Cri) 28 at paragraph 8; (ii) *Niyazuddin @ Sonu Sirajuddin Ansari Vs. State of Maharashtra and Anr* reported in 2013 ALL MR (Cri) 3870 at Paragraph No. 12 (iii) *Shri. Sanjeev @ Sanjay @Tatyasaheb*

Nagnath Upade Vs. The Commissioner of Police, Solapur and others passed in Criminal Writ Petition No.3035 of 2021 at paragraph no 9.

9) Perusal of the record and the Affidavit-in replies, in the present matter, indicates that the delay has not been explained properly. We are of the opinion that the in-camera statements have been recorded only to fill in the gap and explain/cover up the delay. The record indicates that the proposal of detention was sent by the Sponsoring Authority to the Assistant Commissioner of Police, Chakan Division on 10th December 2024, which proposal was forwarded on 23rd December 2024 to the Deputy Commissioner of Police, Zone III. There is a delay of 13 days in sending the proposal from the Assistant Commissioner of Police, Chakan Division to the Deputy Commissioner of Police, Zone III. There is no explanation for the same. Then, the Deputy Commissioner of Police, Zone III forwarded the said proposal to the Deputy Commissioner of Police (Crime) on 16th January 2025. Here again, there is unexplained delay, this time of 24 days. As noted earlier, it is well settled that unexplained delay, in detention proceeding is fatal and on this ground alone, the Detention Order ought to be quashed and set aside.

10) We have also noted the fact that, the Detention Order is based on CR No.277 of 2024, registered on 16th September 2024 and two in-camera statements, both recorded on 7th December 2024, for the offences occurred in the month of November 2024. In the said crime, the Petitioner was arrested on 15th October 2024 and granted bail on the same day. The Detention Order

is passed on 12th February 2025 i.e after 5 months of registering the crime. Here again, the explanation for the delay of 5 months is absent.

11) We find that there is an unexplained delay of 13 days i.e. from 10th December 2024 to 23rd December 2025 in forwarding the proposal by the Assistant Commissioner of Police, Chakan Division. So also, there is unexplained for the delay of 24 days i.e from 23rd December 2025 to 16th January 2025 in forwarding the proposal from DCP Zone III to ACP Crime. There is also a delay of more than 2 months in issuing the Detention Order dated 12th February 2025 from the recording of the last in-camera statement on 7th December 2025. The said delay is again, unexplained.

12) We find no plausible explanation for the delay. We are of the view that, there is an undue and unreasonable delay in passing the order by the detaining authority. The delay, being unexplained, vitiates the impugned detention order. There is unexplained delay. Unexplained delay, in the matters of preventive detention, cannot be accepted, it is fatal. Unexplained delay vitiates the very urgency and the object with which action of preventive detention is initiated. In the matters of preventive detention, the timelines and procedural safeguards as envisaged have to be complied with, in a most strict form and manner. Any action which affects the personal liberty of a citizen, cannot be dealt in the casual manner, nor is there any room for unexplained delay. In effect, the Detention order is vitiated on the count of delay and deserves to be quashed and set aside.

12.1) Hence, the following order;

- (a) The impugned Detention Order dated 12th February 2025 bearing Conf. OW. No. /PCB/DET/32/2025, Pimpri - Chinchwad, passed by Respondent No.1, 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 Judgment.
- (d) Rule is made absolute in the aforesaid terms.
- (e) All the concerned to act on the basis of an authenticated copy of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)