

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1490 OF 2025**

Gaurav Sanjay Shelke
Age: 23 years, Occ:- -
Residing at: Nile Vadal Chowk,
Khan Wasti Road, Ramnagar, Pune,
(Presently at Nashik Prison, Nashik)

... Petitioner

V/s.

1. The Commissioner of Police,
Pune City, Pune.
2. The State of Maharashtra
(Through the Principal Secretary,
Home Department, Mumbai.)
3. The Superintendent of Jail
Nashik Central Prison, Nashik

... Respondents

Ms. Anjali Raut i/b Mr. Pranav Girme, Advocate for the Petitioner.
Mr. Shreekant V. Gavand, APP for the State.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 3rd DECEMBER, 2025.**

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

- 1) Leave to amend, to correct details of the Detention Order in the pleadings and prayer clauses, granted.
 - 1.1) Amendment be carried out forthwith.
- 2) The Petitioner, by the present Petition, filed under Article 226 of the Constitution of India, seeks to quash and set aside the Detention Order, bearing No. CRIME PCB/DET/WARJE MALWADI/SHELKE/101/2025, dated

10th February 2025 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 Committal Order of even date where by he is detained in Nashik Central Prison, Nashik. The Petitioner being detained seeks a direction for being released and set at liberty.

3) By an Order dated 21st March 2025, this Court had issued rule in the Petition. The Respondent Nos.1 to 3 have filed their Affidavits in reply and opposed the Petition.

4) We have heard Ms. Anjali Raut, learned Advocate for the Petitioner and Mr. Shreekant V. Gavand, learned APP for the Respondent–State. Perused the entire record and the Affidavits in reply filed by the Respondent Authorities.

5) At the outset, learned Advocate for the Petitioner submits that though she has raised various grounds in the Petition for challenging the Detention Order dated 10th February 2025, she is restricting her arguments only to ground 5(f) of the Petition i.e. delay in recording the in-camera statements, thereby resulting in delay in passing the Detention Order. Learned Advocate for the Petitioner submits that the Detaining Authority for the purposes of passing the Detention Order has relied upon one C.R. and two in-camera statements. The C.R. in question being C.R. No.408 of 2024

registered on 17th October 2024 with the Warje Police Station under Section 118(1), 351(2), 352, 3(5) of BNS and two in-camera statements of witness 'A' and 'B' recorded on 3rd January 2025 and 10th January 2025. The two in-camera statements of witness 'A' and 'B' recorded on 3rd January 2025 and 10th January 2025 are recorded after registration of the relied upon C.R. on 17th October 2024 after delay of at least 2 months and 17 days (78 days). That, Detaining Authority has failed to give any explanation for the said delay of 78 days in recording the in-camera statements.

6) Learned APP Mr. Shreekant V. Gavand appearing for the State whilst referring to the Affidavit in Reply of Respondent No.1 submits that, the authorities have acted with diligence and after recording and verifying the in-camera statements on 17th January 2025, the Detention Order has been passed on 10th February 2025. He submits there is no delay. That, delay if any in recording the in-camera statements is due to the fact that the witnesses are not coming forward to give the statements due to the prejudicial criminal activities of the Petitioner and as an after effect of the same. That, the Detention proposal has been properly processed by the authorities.

7) We have perused the Affidavit of Respondent no.1 and we find that the Respondent No.1 has in fact not even dealt with the ground of delay. There is no explanation nor any justification given by the Respondent No.1 for the said delay of 78 days in recording the in-camera statements. We are of the opinion that, as no explanation has been provided for the said delay, it can be

safely inferred that the in-camera statements have been recorded only to plug the gap between the sole relied upon crime being C.R. No. 408 of 2024 registered on 17th October 2024 and passing of the Detention Order on 10th February 2025. We find that, there is no explanation at all much less any satisfactory or plausible explanation for the said delay.

8) We have in the case of *Sameer @ Panna Mehboob Shaikh Vs. State of Maharashtra and ors* passed in Writ Petition No.1136 of 2025 in para 6, observed that,

“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.

9) In view of the ratio laid down by Supreme Court in the case of *Pradeep Nilkanth Paturkar (supra)* and the decision of this Court in the case of *Sameer @ Panna Mehboob Shaikh Vs. State of Maharashtra and ors (supra)* the Detention Order dated 10th February 2025 deserves to be quashed and set aside on the ground of unexplained delay of about 78 days i.e. from 17th October 2024 to 3rd January 2025. In our view, if the authorities were of the opinion that the Petitioner is a dangerous person within the meaning of

Section 2(b-1) of the MPDA Act, the Authorities for preventing the Petitioner from acting in any manner prejudicial to the maintenance of public order ought to have taken effective steps in a swift and prompt manner to detain him under the provisions of the MPDA Act. The unexplained delay of more than 78 days in the present case according to us, defeats the very purpose and object of the MPDA Act. For the aforesaid reasons we cannot accept the reasons for the delay as conversed by the learned APP.

10) In effect, the Detention Order is vitiated on account of delay and deserves to be quashed and set aside.

10.1) Hence, the following order:

- a) Detention Order dated 10th February 2025 bearing No. CRIME PCB/DET/WARJE MALWADI/SHELKE/101/2025, issued by the 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 operative part of an authenticated copy of this Judgment.
- d) Rule is made absolute in the aforesaid terms.

11) All the concerned to act on the basis of an authenticated copy of this operative part of the Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)