

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

CRIMINAL WRIT PETITION NO. 2071 OF 2025

Atish Balkrushna Khandagale
Detenu Detained in Nagpur Central Prison,
Through his Mother,
Smt. Lata Balkrushna Khandagale
Aged:- 55 years, Occ: Housewife;
Residing at Survey No.580, Anandnagar Slum,
Market Yard, Pune 411 037.

... Petitioner.

V/s.

1. The State of Maharashtra
Through the Secretary,
Home Department (Special), Mantralaya,
2nd Floor, Madam Cama Road,
Hutatma Rajguru Chowk, Mumbai – 400 032.
2. The Commissioner of Police, Pune City,
Sadhu Wasvani Road, Camp, Pune 411 001.
3. Assistant Commissioner Police,
Wanwadi Division, Wanwadi, Pune.
4. Market Yard Police Station,
Through the Senior Police Inspector,
Market Yard, Pune 411 037.
5. The Superintendent of Prison,
Central Prison Nagpur, Nagpur.
6. Bibwewadi Police Station,
Through the Senior Police Inspector,
Bibwewadi, Pune 411 037.

... Respondents

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Mr. Sujay H. Gangal a/w. Mr. Swaraj M. Savant, Advocate for the Petitioner.
Shri. Shreekant V. Gavand, A.P.P. for the State.

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

DATE : 14th October, 2025

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

1) The Petitioner, by the present Petition under Article 226 of the Constitution of India, seeks to challenge the Detention Order, O.W. NO/CRIME PCB/DET/MARKET YARD/KHANDHAGLE/822/2024 dated 14th October, 2024 (the Detention Order), 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 the Petitioner in the Central Prison Nagpur, Nagpur. The Petitioner being detained seeks a direction for being released and set at liberty.

2) By Order dated 28st February 2025, this Court issued Rule in the Petition. The Respondents have filed their respective Affidavits in reply, dealing with the contentions/grounds raised by the Petitioner and opposed the Petition.

3) Heard Mr. Sujay H. Gangal with Mr. Swaraj M. Savant, Advocate for the Petitioner and Shri. Shreekant V. Gavand, A.P.P. for the State. Perused entire record and the Affidavits in Reply filed by the Respondents.

4) Learned Advocate for the Petitioner submits that, the Detaining

Authority whilst passing the Detention Order has relied upon one C.R. No. 195/2024 registered with Bibwewadi Police Station on 16th August, 2024 under Sections 126(2), 309(4), 74, 115(2), 352, 351(2) and 3(5) of BNS Act. The Petitioner was arrested on 17th August, 2024 in C.R.No. 195/2024. The Detention Order relies upon 4 in-camera statements i.e. statement of witness 'A' dated 1st August, 2024 for offences registered on 31st July, 2024, statement of witness 'A' dated 23rd July, 2024 for incident dated 31st July, 2024, statement of witness 'B' dated 2nd August, 2024 for the incident of 18th July, 2024 and statement of witness 'B' dated 29th July, 2024 for the incident of 18th July, 2024. Referring to the four statements, learned advocate for the Petitioner, submits that, the statement of witness 'A' dated 23rd July 2024 for incident dated 31st July, 2024 is a got up and false statement and therefore no reliance can be placed on it. He submits that the statement dated 23rd July, 2024 of witness 'A' pertains to the incident of 31st July, 2024 i.e. the incident which is supposed to take place at a future date. Learned Advocate would submit that, the statement being false, the subjective satisfaction of the Detaining Authority, becomes doubtful and therefore cannot be sustained. Learned Advocate for the Petitioner would further submit that, the right of filing of effective and proper representation, by the Petitioner, has been impaired, because the four in-camera statements have created a confusion in the mind of the Petitioner as to which of the statements have really been relied upon by the Detaining Authority to arrive at his subjective satisfaction and which

statements need to be dealt with by him.

5) Learned APP in reply while referring to Affidavit of Respondent No.2 dated 24th April 2025 submitted that, the Detaining Authority, had perused the proposal as submitted by Sponsoring Authority, which proposal does not contain the statements in question i.e. statement of witness 'A' dated 23rd July, 2024 and statement of witness 'B' dated 29th July, 2024. Learned APP for the State submits that, the Sponsoring Authority, inadvertently has attached, wrong statements in addition to the correct statements in the proposal compilation which was served upon the Petitioner. Learned APP for the State submitted that Detaining Authority has placed reliance on only two witness statements i.e. statement of witness 'A' dated 1st August, 2024 and witness 'B' dated 2nd August, 2024 and the C.R.No. 195/2024 to arrive at his subjective satisfaction.

6) We agree with the submissions made by the learned Advocate for the Petitioner. On considering the Affidavits and in particular the Affidavit in Reply filed by the Detaining Authority, we are of the firm view that, the additional statements/incorrect statements which have been provided to the detenu are of such a nature as would create confusion in the mind of any person including the Petitioner. The said statements and the resultant confusion, in our opinion, are such that would adversely affect the rights of the detenu to file/make a effective and purposeful representation to the Competent Authority.

7) We are shocked, to notice that, one of the statement at page No.49 of the Petition i.e. statement of witness 'A' dated 23rd July, 2024 is based upon a incident which according to the Respondent is supposed to or going to occur in the future i.e. on 31st July 2024. We have no words, to even describe or comment upon casual and negligent approach of the Sponsoring Authority. The conduct of the Sponsoring and Detaining Authority indicate that their approach has been very casual and they have no regard or respect for the life and personal liberty of the detenu. There is total non-application of mind and complete disrespect and disregard to the liberty of the Petitioner. Apart from impairing the right of the Petitioner to make an effective representation and violating the fundamental rights of the Petitioner the Sponsoring and Detaining Authority, have because of their casual and negligent approach, detained the Petitioner, since 13th November, 2024, under Detention Order dated 14th October, 2024. The acts of Sponsoring and Detaining Authority amount to tinkering with the personal liberty of the Petitioner. In view of the above, the Detention Order is vitiated on account of denying the Petitioner a right of filing an effective representation and therefore deserves to be quashed and set aside.

7.1) Hence, the following order;

- (a) Detention Order dated 14th October, 2024 bearing No. OW. NO./
CRIME PCB/DET/MARKET YARD/KHANDHAGLE/822/2024
issued by the Respondent No.2, is quashed and set aside.

- (b) Petitioner/Detenu be released from Jail forthwith, if not required in any other case/cases, on production of an authenticated copy of the operative part of present Judgment.
- (c) Petition is allowed in terms of prayer clauses (a), (b) and (c).
- (d) Rule is made absolute in the aforesaid terms.
- (e) All concerned to act on the basis of an authenticated copy of operative part of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)