

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

CRIMINAL WRIT PETITION NO. 2388 OF 2025

Omkar Rajendra Bhosle

Age : 26 years,

R/o. Shriram Apartments, Flat No.06,

Near Rutunagari Society, Dhayri, Pune.

(At present Wardha District Prison, Wardha)

... Petitioner

V/s.

1. Commissioner of Police,
Pune City.

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

3. The Superintendent,
Wardha Prison, Wardha.

... Respondents

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

Mrs. Madhavi. H. Mhatre, Additional Public Prosecutor for the State.

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

RESERVED ON : 23rd SEPTEMBER 2025

PRONOUNCED ON : 30th SEPTEMBER 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, bearing No. O. W. No./CRIME PCB/DET/NANDED CITY/BHOSLE/157/2025, dated 03rd

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March, 2025 (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). The Petitioner being detained seeks a direction for being released and set at liberty.

2) By Order dated 25th April 2025, this Court issued Rule in the Petition. The Respondent No.1 to 3, have filed their respective Affidavit in replies dated 8th June, 2025, 13th June 2025 and 4th July 2025 respectively, dealing with the contentions and grounds raised by the Petitioner and opposed the Petition.

3) Heard Ms. Jayshree Tripathi, learned Advocate for the Petitioner and Ms. Madhavi. H. Mhatre, learned Additional Public Prosecutor for the Respondent–State. Perused the record, the Affidavits in Reply and considered the Judgments cited and relied upon by the Advocates appearing for the parties.

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 paragraph No.4 (a) to 4 (k) in the Petition for challenging the Detention Order dated 3rd March, 2025, however she has restricted her argument only to ground (j) at Page No.13 of the Petition i.e delay in recording the in-camera statements and in passing the Detention Order.

5) Whilst, agitating the said ground, the learned Advocate for the Petitioner submits that, in the grounds of detention, the Detaining Authority has only relied upon C. R. No. 622 of 2024 and two in- camera statements. The C.R. No. 622 of 2024 was registered on 1st November 2024, the Petitioner was arrested on 7th November, 2024 and granted bail on 13th November 2024. The two in-camera statements of witnesses 'A' and 'B' are recorded on 15th January, 2025 and 13th January, 2025 respectively i.e 2 months after the Petitioner's release on bail, on 13th November, 2024. Further, the Detention Order came to be passed on 3rd March, 2025 i.e. nearly after 45 days of recording statements, and 3 & ½ months after the Petitioner was released on bail. The Petitioner submits that, if the activities of the Petitioner were so dangerous and/or prejudicial to the maintenance of public order, then the authorities ought to have taken prompt and immediate steps to initiate the present proceedings. The delay, in recording statements and passing the impugned Detention Order, indicates a very casual approach of the Respondents. Delay on both the counts is fatal to the case i.e. issuance of Detention Order.

6) Learned Advocate for the Petitioner placed reliance on the Judgment of the Hon'ble Supreme Court in the case of *Pradeep Nilkanth Paturkar V/s. S. Ramamurthi & Ors.* reported in *1993 Supp (2) Supreme Court Cases 61*, to contend that, even in the present case the in-camera statements are recorded only after the Petitioner has been successful in getting

bail. The in-camera statements of witnesses 'A' and 'B' were recorded on 15th January, 2025 and 13th January 2025 respectively i.e. two months after Petitioner got bail on 13th November, 2024. The delay thereof vitiates the Detention Order.

6.1) Learned Advocate for the Petitioner placed reliance on the Order passed by this Court in the case of *Daksh Juber Ghelani Vs. The Commissioner of Police, Pune City & Ors in Criminal Writ Petition No.3994 of 2023 dated 4th April, 2024*, which relies upon and follows the case of *Pradeep Nilkanth Paturkar V/s. S. Ramamurthi & Ors (Supra)*. Whilst relying on Paragraph No.7, she submits that the Court has expressed its anguish about the fact that, the statements of witnesses were recorded only after the detenu became successful in getting the bail. Learned Advocate for the Petitioner submits that, the unexplained delay, whether short or long especially when the detenu has taken a specific plea of delay, ought to have been explained properly. She would submit that, there is no proper and satisfactory explanation.

6.2) Learned Advocate for the Petitioner also placed reliance upon the Judgment of this Court, Nagpur Bench in the case of *Niyazuddin @ Sonu Sirajuddin Ansari V/s. State of Maharashtra & Anr reported in 2013 ALL MR (Cri) 3870*. While referring to Paragraphs Nos. 11 and 12 of the said Judgment, she submits that, in the present case the delay of two months in recording the in-camera statements and delay of more than three and half

months in passing the Detention Order dated 3rd March, 2025 has vitiated the detention order.

7) Learned APP for the State, in reply, while referring to the Affidavits filed by the Respondents, submits that, there is no delay in the matters and the delay if any, has been properly explained. It is submitted that, investigations and inquiries were carried out, material was collected and collated etc. and therefore, it required time to pass the detention order. Learned APP further submits that, witnesses were not coming forward to make any complaints against the Petitioner. It was only after assurances were given to the witnesses, that their names and identifying particulars would not be disclosed, that the witnesses agreed to give their statements. She further submits that, after the statements were recorded, the sponsoring authority carefully went through all the material collected, prepared the necessary sets of documents and submitted the proposal through proper channel to the concerned authorities for approval. The Authorities, at their respective ends perused and considered the proposal, processed the same and after their respective approvals the entire material was placed before the Respondent No.1. The Respondent No.1 after examining all the material and after arriving at his subjective satisfaction gave approval to the proposal. Thereafter, the Sponsoring Authority took some time to fair type the proposal, prepare translations of the documents in the language known to the Detenu, prepared the required sets of documents and after verification by the office of the Sr. PI,

PCB Crime Branch, Pune City placed the same before the Respondent No.1. The Respondent No.1 once again went through the proposal, finalized the grounds of detention and passed the Detention Order. Learned APP submits that, considering the entire process of approval and preparation, the time taken to issue the Detention Order is reasonable and there is no delay. The Learned APP submits that, in the aforesaid circumstances, it cannot be said that, the live link between the prejudicial activities and Order of Detention is snapped.

7.1) Learned APP relies on the Judgment of this Court in the case of *Shri. Nagnarayan Saryu Singh V/s. Shri. A. N. Roy & Ors., reported in 2006 ALL MR (Cri) 2147*. Whilst relying on the Paragraph No. 21 of the said Judgment, the learned APP submits that the delay was caused as the witnesses were not “easily available” and only when the witnesses were taken into confidence, some of them were “willing to make a statement”. Learned APP submits that, the delay has also occurred due to the said reason. She further submits that, as in the case of *Shri. Nagnarayan Saryu Singh* (supra) the statement of the witnesses in the present case have been recorded within few days of one another.

8) Perusal of the reasons for the delay, leaves much to be desired. We note that there is a considerable delay of around 2 months in recording the two in-camera statements and more than 3 months delay in passing the Detention Order from the date of release of Petitioner on bail. Pertinent to

note that, both in-camera statements have been recorded 2 months after the Petitioner was released on bail. We are of the considered opinion that, the Respondents have failed to give satisfactory and plausible explanation for the delays. In a matter of preventive detention, such delay is not acceptable. The delay in recording the in-camera statements and/ or issuing a Detention Order, would certainly affect the validity of the Detention Order and frustrate the very purpose of preventive detention.

9) As regards the observations in the case of *Shri. Nagnarayan Saryu Singh* (supra) which pertains to the year 2006, the observations are correctly made in context to and after considering the prevailing circumstances and the difficulties faced by the Authorities at the said relevant time. As regards, the reason of “unwilling witnesses” given, as a ground for delay in recording the in-camera statements, we find that the same witness coincidentally agrees or is somehow persuaded to give the statement, immediately after the individual /proposed detenu is granted bail. It is intriguing that, the same set of persuasive skills and methods don’t seem to be available till the detenu is released on bail. We have, observed in similar matters of detention, including the present matter, that after the concerned individual is released on bail, apparently willingness is shown by the witnesses to give in-camera statements against the individual. This, to say the least, is a strange coincidence.

10) One cannot loose sight of the fact that, over the past two decades, much has changed and developed for the better, in the field of

communication, technology and surveillance. In the present day and age, the Authorities have available with them modern and most advanced means of communications, tools for surveillance and facilities to speed up and monitor work, deal with crimes and crime situations, track miscreants and their activities, deal and interact with witnesses, gather information etc. The Authorities, for sure, now have better resources and abilities to deal with and handle undecided/unwilling or scared witnesses and convince them. The Authorities with the development of communication, technology and surveillance, are now surely in a position to track and keep a tab on history-sheeters, miscreants and their activities, which are prejudicial to public order or are against the law. The Authorities are now in a position, with the help of the modern means of communication technology and surveillance to compile and keep ready and available the entire data of the history-sheeters and miscreants, who by their acts/activities threaten the general public or create atmosphere of terror amongst the people residing in neighbourhood. This exercise may possibly come-in to the aid of the Authorities in surveillance, tracking of such individuals. We are of the opinion that, this may also help in reducing the time and effort of the Authorities, which is required in procedural matters as the entire data as collected and uploaded could be readily available for verification or cross-checking to the various authorities.

11) The reasons/justifications for delay as stated in the Affidavit in reply, which may have been acceptable as “sufficient or just” explanation two

decades ago, ought not to be taken as a spacious plea now, in the current times. In our opinion, delay in matters of preventive detention is unacceptable and the concept of delay is itself contrary to and destructive of the basic object of preventive detention. Under the detention laws, there is a period/time line prescribed for the stages of the process of approving/issuing a Detention Order. The Legislature has, intentionally incorporated the period/time line. The same, to our minds, is done with a reason, i.e to ensure that the entire procedure/process which is followed for preventive detention is time bound as the personal liberty of an individual is curtailed and at stake, in a summary procedure i.e. without a trial. The delay, being unexplained or explained in a casual manner further vitiates the urgency and the very need for preventive detention. Whilst restricting the liberty of an individual under the preventive detention laws, the well settled principles of law and procedural laws have to be followed with more rigor and seriousness.

12) Preventive detention restricts personal liberty in a summary manner, without affording an individual the rights otherwise available under the normal laws. In such cases, the procedural safeguards have to be followed and implemented in a strict manner. Personal liberty of an individual cannot be taken away and then be dealt with, in a casual manner. Lethargic administrative process/actions camouflaged with untenable justifications as reasons for delay, as in the present case, cannot be accepted in today's day and age of technological advancements and developments. The investigating

Authorities, having at their disposal the most advanced and current form of communications, surveillance equipment's and methods, ought to make effective use of the modern means and available alternatives of communication and technology. Even otherwise, we find that due to the delay the live and proximate link is snapped. We are of the opinion, that there is considerable unexplained delay in between the date of the incident, the recording of in-camera statements and passing of the Detention Order. The Detaining Authorities, explanation for delay, on both counts is unacceptable. For the aforesaid reasons, we cannot accept the reasons given for delay. In effect the Detention Order is vitiated on account of delay and it deserves to be quashed and set aside.

12.1) Hence, the following order;

- (a) Detention Order dated 03rd March, 2025 bearing No. O. W. No. /CRIME PCB/DET/NANDED CITY/BHOSLE/157/2025 issued by the Respondent No.1, is quashed and set-aside.
- (b) Petitioner 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 the aforesaid terms.
- (d) Rule is accordingly made absolute.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)