

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

**CRIMINAL WRIT PETITION NO. 2403 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 15708 OF 2025**

Avinash Gopal Shilimkar
Age : 23 years
Residing at Samarth Complex,
Flat No.11, Pokale Wasti, Dhayari,
Pune and at presently detained in
Akola Central Prison.

... Petitioner

V/s.

1. The State of Maharashtra
Through Additional Chief Secretary
to Government of Maharashtra,
Home Department (Special), Mantralaya,
Mumbai.
2. The Commissioner of Police,
Pune City, Pune at the instance of
Sinhgad Police Station, Pune
in C. R. No.664/2024
3. The Superintendent of Prison,
Akola District Prison.

... Respondents

Mr. Rishabh Vakharia, Advocate for the Petitioner.
Mr. Shreekant V. Gavand, A.P.P. for the State.

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

RESERVED ON : 12th NOVEMBER 2025

PRONOUNCED ON : 14th NOVEMBER 2025

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

1) By this Petition, under Article 226 of the Constitution of India, the Petitioner seeks quashing of the Order of Detention dated 26th December, 2024, being O. W. No. CRIME PCB/DET/NANDED CITY/SHILIMKAR/1041/2024 (Detention Order) passed by the Respondent No.2, 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 of the Committal Order of even date whereby the Petitioner has been detained in the Akola District Prison, Akola. The Petitioner prays that, he be released and set at liberty.

2) By an Order dated 2nd May 2025, this Court has issued Rule in the petition. The Respondent Authorities have filed their Affidavits-in-Reply, wherein they have opposed the Petition on various grounds.

3) Heard Mr. Rishabh Vakharia, Advocate for the Petitioner. Mr. Shreekant V. Gavand, A.P.P. for the State. Perused the Affidavits-in-reply filed by the Respondents and the record before us.

4) Mr. Rishabh Vakharia, learned Advocate for the Petitioner has raised various grounds in the Petition for challenging the Detention Order but has restricted his arguments to only one ground i.e. that the in-camera statements should be verified by the Detaining Authority itself. Learned

Advocate for the Petitioner submits that, in-camera statement of witness 'A' and witness 'B', have been verified by the Assistant Commissioner of Police, Sinhgad Road Division, Pune City. He submits that, the Detaining Authority, has only seen, the verification for both in-camera statements. He submits that, the in-camera statements should be personally verified by the Detaining Authority himself. In the alternative, he submits that, in-camera statements ought to be verified jointly by the Assistant Commissioner of Police and the Detaining Authority. He submits that, the Detaining Authority should have at least personally verified the in-camera statements by speaking/having a dialogue with the Assistant Commissioner of Police. That, the fact of the in-camera statements been verified by the Assistant Commissioner of Police is not mentioned in the Detention Order.

4.1) Learned Advocate for the Petitioner relied upon the Judgment of the Hon'ble Supreme Court in the case of *Ameena Begum vs. The State of Telangana & Ors., arising out of SLP (Criminal) No.8510 of 2023, dated 4th September, 2023* and whilst referring to Paragraph No.16 of the said Judgment submitted that, the Detaining Authority must satisfy the Court that, it acted in accordance with the law. That, while passing the Detention Order the requirements of the law have to be strictly observed and that, in the event there is a slightest breach in following the requirements of the law, this Court should not hesitate to strike down the Order of Detention. In short, learned Advocate for the Petitioner submits that, in-camera statements ought to have

been personally verified by the Detaining Authority. On this ground, he calls in question the subjective satisfaction of the Detaining Authority and submits that the same is vitiated.

5) Mr. Shreekant V. Gavand, A.P.P. for the State submits that, the Detention Order dated 26th December, 2024 has in fact relied upon and referred to the in-camera statements in the Detention Order. That, both the in-camera statements have been enclosed with the grounds of Detention and provided to the Petitioner. That, the gist of the in-camera statements is stated in the Detention Order. That, the in-camera statements have been verified by the Assistant Commissioner of Police and a report to that effect has been forwarded to the Detaining Authority. The same is enclosed with the grounds of detention and served upon the Petitioner. Learned APP relied upon the Judgment of the Hon'ble Supreme Court in the case of *Rameshwar Shaw vs. District Magistrate, Burdwan and Anr.*, reported in AIR 1964 Supreme Court 334 and submit that, it would not be open to the detenu to ask the court to consider as to whether the subjective satisfaction of the Detaining Authority can be justified by the application of the objective test. That, the reasonableness of the satisfaction of the Detaining Authority cannot be questioned. That, the Detention order is well founded and the in camera statements have been properly verified by the Assistant Commissioner of Police. That, the Detaining Authority has considered the entire proposal, the verification and the report of the Assistant Commissioner of Police on

verification etc and arrived at its subjective satisfaction.

6) We have considered the arguments advanced before us and minutely perused the Grounds of Detention, the report of the Assistant Commissioner of Police and the verification of in-camera statements. Perusal of it, indicates that, the in-camera statements have been properly and personally verified by the Assistant Commissioner of Police and that the said fact is also stated in the Grounds of Detention. It is an admitted position that, both the in-camera statements alongwith the verification by the Assistant Commissioner of Police has been enclosed with the grounds of Detention and served upon the Petitioner. This is obviously done with an object of ensuring that, the Petitioner has been informed of and is aware of the grounds of detention and has with him all the material which is relied upon/used, in support of the Detention Order.

7) We have minutely perused the verification of both the in-camera statements. We note that, the Assistant Commissioner of Police has personally interacted with the witnesses, confirmed that the statements have been given without any fear or pressure and are voluntarily. We have also noted that, the Assistant Commissioner of Police has personally visited the spot of incidence and made enquiries with the persons residing in the said area/vicinity and with the shopkeepers, who have confirmed the incidents, which have been narrated in the in-camera statements. As noted earlier, both the in-camera statements and the verifications have been forwarded by the Assistant

Commissioner of Police, as a part of the report to the Detaining Authority. The report enclosed with the grounds of detention, has been served upon the Petitioner.

8) The Detaining Authority, before giving approval to the proposal, himself considers all the documents which are relied upon including the in-camera statements and the verifications thereof. In the grounds of Detention, the Detaining Authority has specifically noted and acknowledged the fact that, he has seen the verification of the in camera statements. Further, the Detaining Authority in Paragraph No. 6 of the grounds of Detention has specifically recorded that, the Senior Police Inspector of Nanded City Police Station has conducted the confidential inquiry and recorded in-camera statements. Further, the Assistant Commissioner of Police, Sinhagad Road Division, Pune City has verified the said in-camera statements and the statements of the witnesses revealed the recent criminal activities of the Petitioner classifying him as a 'dangerous person', were prejudicial to the maintenance of public order. The grounds of Detention specifically records that, the in camera statements of the witnesses except the identifying particulars are enclosed therewith, to enable the Petitioner to make an effective representation. The Detention Order in Paragraph No 9 specifically records as required under Section 8 of the MPDA Act read with Article 22(5) of the Constitution of India, the grounds on which Detention Order is based have been communicated alongwith copies of the documents, which were

placed before the Detaining Authority, except identifying particulars of the witnesses, which cannot be furnished to the Petitioner in public interest under Clause 8(2) of the MPDA Act read with Article 22(6) of the Constitution of India.

9) We have also noted the fact that, in Paragraph No. 9 of the Grounds of Detention, the Detaining Authority has stated that, the Assistant Commissioner of Police has verified the truthfulness and genuineness of the incidents, narrated in the in-camera statements of witness 'A' and 'B' and submitted a report. In the said report, the Assistant Commissioner of Police has mentioned that the facts given in the statements are true. The Detaining Authority further specifically states that, after perusing the said report and statements, the Detaining Authority is satisfied that, the facts given in the statements and apprehension entertained by witness 'A' and 'B' are true and reasonable.

10) We would also make useful reference to the Judgment of this Court in the case of *Shri. Nagnarayan Saryu Singh Vs. Shri. A. N. Roy & Ors.*, reported in 2006 ALL MR (Cri) 2147, wherein in Paragraph No. 20, this Court has made following observations that;

“Moreover, it would be pertinent to note that the decision in the case of Pradip Nilkanth Paturkar (supra), was rendered in the year 1992. At that time, in camera statements which were recorded by the sponsoring authority were not verified by an Assistant Commissioner of Police as is done nowadays. All the in

camera statements recorded by the sponsoring authority nowadays are verified by the Officer of the rank of the Assistant Commissioner of Police. The Assistant Commissioner of Police verifies the identity of the person making the statement i.e. the in camera witnesses are indeed real persons and not fictitious persons. After making enquiries with the in camera witnesses when the Assistant Commissioner of Police is satisfied about the genuineness of the statement made by the witness, he certifies the said in camera statement. The very purpose of an officer of the rank of Assistant Commissioner of Police verifying the statements of in camera witnesses is to lend assurance that the statements can be safely relied upon. Unless the in camera witnesses had indeed suffered at the hands of the detenu, there would be no reason for these persons to come forward and give statements against the detenu. In our view, verification of in camera witnesses by an Officer of the rank of the Assistant Commissioner of Police would provide a sufficient check & would lend sufficient assurance that the statements are genuine.”

11) We are in the agreement with the aforesaid observations, in as much as the verification of the in-camera statements is undertaken by an officer above the rank of Assistant Commissioner of Police. The same is done to ensure, confirm and re-verify that, the in-camera statements recorded by the Sponsoring Authority are true, correct and genuine. This in our opinion, is a necessary and sufficient check to rule out the implication and/or harassment. It would not be necessary for the Detaining Authority to personally verify the in-camera statements, as is sought to be contended by

the Petitioner. The necessary procedure followed, to ensure compliance of the requirement of law is that; (i) the in-camera statements are first recorded by the sponsoring Authority; (ii) then, they are personally verified by a senior, responsible officer i.e Assistant Commissioner of Police; (iii) the process as carried out by the Assistant Commissioner of Police is reported to the Detaining Authority; (iv) the in-camera statements and verification form a part of the report of the Assistant Commissioner addressed to the Detaining Authority; (v) the Detaining Authority personally goes through/sees, checks and re-confirms/verifies the entire proposal alongwith all the documents which are relied upon and form part of the detention proposal, including the report of the Assistant Commissioner of Police, the in-camera statements, the verifications done by the Assistant Commissioner of Police. In our view, as stated in the judgment of *Shri. Nagnarayan Saryu Singh (Supra)* this process would provide a sufficient check and would lend sufficient credence to and assurance that the in-camera statements are true and genuine. We are of the view that, the verification of the in-camera statements by the Assistant Commissioner of Police is in accordance with the procedure and complies with the requirement of law. The verification of the in-camera statements, by a officer of the rank of the Assistant Commissioner of Police, is sufficient compliance and also ensures compliance of the procedural safeguards in preventive detention matters. It is not the requirement of law, that the in-camera statements have to be personally verified by the Detaining Authority.

In view thereof, it is not necessary that the verification of the in-camera statements has to be personally done by the Detaining Authority.

12) Considering the overall facts and circumstances, we are of the opinion that, the Order of Detention has been properly passed and the subjective satisfaction arrived at by the Detaining Authority is on the basis of relevant material and documents, which have all been admittedly supplied to the Petitioner.

13) In light of the aforesaid observations and findings, we do not find any merits in the ground of challenge urged by the Petitioner and therefore, the Petition deserves to be dismissed.

13.1) The Petition is dismissed.

13.2) Rule is accordingly discharged.

13.3) In view of disposal of Petition, Interim Application (St.)

No.15708/2025 does not survive and is accordingly disposed of.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)