

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

CRIMINAL WRIT PETITION NO. 2433 OF 2025

Mrs.Rukmini Sunil Gaikwad
(Mother of the detenu)
Age-40 years,
R/o- Kawadi Pat (Gujar Wasti)
143/1, Taluka-haweli, Dist Pune
Kadamwak Wasti, Pune
Maharashtra 412201

... 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,
Amravati Central Prison,
Amravati.

... Respondents

Ms.Jayshree Tripathi with Ms.Anjali Raut for the Petitioner.
Ms.Madhavi H. Mhatre, A.PP for the Respondent- State.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 10th OCTOBER 2025.**

JUDGMENT:- (Per: A.S.Gadkari, J)

- 1) The mother of detenu has invoked jurisdiction of this Court under Article 226 of the Constitution of India, impugning the Detention Order

dated 16th November 2024 bearing No.OW.NO./CRIME PCB/ DET/ LONIKALBHOR/GAIKWAD/935/2024, passed by Respondent No.1, 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 (for short "MPDA Act") and the Committal Order of the even date bearing No.OW.No./CRIME PCB/ DET/ LONIKALBHOR/GAIKWAD/936/2024, thereby detaining the detenu at Amaravati Central Prison from 16th November 2024.

2) Heard Ms.Tripathi, learned counsel for the Petitioner and learned A.P.P. Perused the entire record produced before us and the Affidavits in reply filed by the Respondents.

3) The impugned Detention Order is based on one crime i.e. C.R.No.316/2024 registered with Loni Kalbhor Police Station, District- Pune on 11th June 2024 under sections 324, 323, 427, 504, 506, 34 of Indian Penal Code, under section 37(1)(3)/135 of MPDA Act and under sections 3 and 7 of the Criminal Law Amendment Act and two in-camera statements of witnesses 'A' and 'B' recorded on 17th October 2024 and 18th October 2024 respectively. Respondent No.1 passed the impugned Order under section 3 of the MPDA Act as the Respondent No.1 reached to the subjective satisfaction that the Petitioner is a dangerous person as contemplated under section 2(b-1) of the said Act.

4) In the said Crime No.316/2024, the Investigation Agency had issued notice under section 41(1)(a) of Code of Criminal Procedure, 1973 (Cr.P.C.) on 21st August 2024 to the Petitioner, as the police did not want to arrest him. As noted earlier, the in-camera statements of witnesses 'A' and 'B' are recorded by the Sponsoring Authority on 17th and 18th October 2024 respectively. Thus there is a delay of about 128 days in recording in-camera statements of the said witnesses from the date of lodgment of the crime i.e. 11th June 2024 and 118 days from the date of issuance of notice under section 41(1)(a) of CR.P.C.

5) Perusal of the record reveals that, the Sponsoring Authority or the Detaining Authority have not offered any explanation least to say any plausible explanation about the approximate delay of 128 days in recording in-camera statements of witnesses 'A' and 'B' either in the grounds of detention or in the Affidavit dated 30th June 2025.

6) This Court in the case of *Sameer @ Panna Mehboob Shaikh v. The State of Maharashtra and another* (Writ Petition No.1136/2025 decided on 20th September 2025), after taking into consideration the decision of the Hon'ble Supreme Court in the case of *Nilkanth Paturkar v. S. Ramamurthi and others* reported in *1993 Supp (3) SCC 61* and the decisions of this Court has held that, the delay of about 70 days in recording in-camera statements of concerned witnesses is fatal in passing the Detention Order by the concerned Authority, in absence of any plausible explanation offered for the said delay.

7) As noted earlier, there is a delay of about 128 days in recording in-camera statements of the said witnesses 'A' and 'B'.

7.1) The overall effect of the said delay is that the Detention Order is vitiated on account of delay and therefore deserves to be quashed and set aside.

7.2) Hence the following Order:

- a) Detention Order bearing No.OW.NO./CRIME PCB/DET/LONIKALBHOR/GAIKWAD/935/2024 dated 16th November 2024 issued 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 operative part of the 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 operative part of the Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)