

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

CRIMINAL WRIT PETITION NO. 2561 OF 2025

Om Dadarao Mhaske

Age : 19 years, Occupation – Student,

R/at Lane No.13, Dube Nagar,

Gurudatta Society, Wagholi, Haveli,

District Pune.

(At present in Central Jail at

Chhatrapati Sambhajnagar)

... Petitioner

V/s.

1. The State of Maharashtra
(Through the Secretary of Home Dept.
(Preventive Detention) (Special),
Mantralaya, Mumbai-400032.

2. The Commissioner of Police,
Pune.

3. The Superintendent of Central Jail,
Chhatrapati Sambhajnagar

4. The Senior Police Inspector,
Through Wagholi Police Station,
Wagholi, District – Pune.

... Respondents

Mr. Ghanasham Jadhav, Advocate for the Petitioner.

Smt. M. H. Mhatre, Additional Public Prosecutor for the State.

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

RESERVED ON : 14th OCTOBER 2025

PRONOUNCED ON : 15th OCTOBER 2025

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

1) By the present Petition under Article 226 of the Constitution of India, the Petitioner seeks to challenge the Detention Order, bearing O. W. No./CRIME PCB/DET/WAGHOLI/MHASKE/113/2025 dated 14th February, 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) and the Order of Committal of even date, thereby detaining the Petitioner in the Chhatrapati Sambhaji Nagar Central Prison, Chhatrapati Sambhaji Nagar. The Petitioner being detained seeks a direction for being released from detention and set at liberty.

2) By Order dated 7th May 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. Ghanasham Jadhav, learned Advocate for the Petitioner and Smt. M. H. Mhatre, Additional Public Prosecutor for the State. Perused entire record and the Affidavits in Reply filed by the Respondents.

4) Learned Advocate for the Petitioner, at the outset submits that, though various grounds in paragraph No.9 (a) to 9 (u) of the Petition have been raised for challenging the Detention Order dated 14th February 2025,

however, he is restricting his argument only to the ground of delay.

5) Learned Advocate for the Petitioner submits that, the Detention Order dated 14th February 2025 is based on one C. R. bearing No.1223/2024 registered with Lonikand Police Station on 25th December 2024 under Section 118(2), 189(2), 191(2), 191(3), 190, 352, 351(2), 351(3) of Bhartiya Nyaya Sanhita, Section 4, 25 of Arms Act, Section 3, 11 of Criminal Amendment Act and Section 37(1), 37(3), 135 of Maharashtra Police Act and two in-camera statements. In the said crime, Petitioner was arrested on 25th December 2024 and released on bail on 4th January 2025. Learned Advocate for the Petitioner submits that, in C. R. No. 1223/2024, it is inter-alia contended that, the Petitioner assaulted the complainant on the shoulder with iron koyata (sickle) and due to said assault, the complainant was injured and started running away. Complainant was injured on the back and blood was oozing from the said injury. That, the documents provided to the Detenu do not contain the injury certificate. Due to the non-supply of injury certificate, the right of Petitioner to file a effective representation is impaired and adversely affected. Learned Advocate for the Petitioner states that, in the bail order dated 4th January 2025, passed by the learned Judicial Magistrate, First Class, Pune, Court No.6, it is recorded in the Paragraph No.4 that, the alleged weapon was recovered, but there was nothing mentioned regarding the current medical condition of the injured. Learned Advocate submits that, considering these aspects and the fact that, though the complainant was injured and the injury

certificate was not provided, clearly demonstrate that, the subjective satisfaction of the Detaining Authority is faulted. That, he is stressing on the ground of the injury certificate, not being provided to him, though relied upon, as there is only one crime and two in-camera statements, on which the Detention Order is based.

6) Learned Advocate for the Petitioner, in support of his submission relied upon the the Judgment dated 6th February 2024 of this Court in *Criminal Writ Petition No.3703 of 2023 in the matter of Firoz Mohammad Shaikh Vs. The Commissioner of Police & Ors.* Learned Advocate for the Petitioner whilst placing reliance on Paragraph No.8 and 9 of the said Judgment, submit that even in the said case medical yadi and injury certificate of the injured witnesses were not placed before the Detaining Authority along with the proposal for passing the Detention Order. He submit that, in such a scenario, the lodging of the FIR is not corroborated by the injury certificate. The same cast doubt on the entire prosecution story and so also the subjective satisfaction arrived at, by the Detaining Authority.

7) Smt. M. H. Mhatre, Additional Public Prosecutor for the State, in reply, whilst referring to the Affidavit filed by the Detaining Authority dated 24th September 2025, states that, the injury certificate and other hospital documents were not placed before him as they are not relied upon by the Detaining Authority whilst arriving at the subjective satisfaction. Learned APP would further submit that, considering the said crime and two in-camera

statements recorded, it is clear that, the Petitioner's activities are prejudicial to public order and therefore, the Detention order not ought to be interfered.

8) We have considered the submissions made by the Advocates on behalf of the parties and also perused the Judgment dated 6th February, 2024 of this Court passed in Criminal Writ Petition No.3703 of 2023. In our opinion, the subjective satisfaction arrived at by the Detaining Authority seems to be unfounded and misplaced. In the present case, non-supply of the injury certificate, in our opinion, adversely affects and impairs the right of the Petitioner to make a effective representation and deal with the material used against him by the Detaining Authority to arrive at the subjective satisfaction. In the facts of the present case, the right of the Petitioner to make a effective representation has been adversely affected. On perusal of the bail Order dated 4th January, 2025, it is clear that, during the hearing of the bail application, the Investigating Officer had himself sought Magistrate Custody of the accused. The said Order was passed on 4th January 2025 and the Detention Order is passed on 14th February 2025. The investigating authorities have in a way on their own admitted and accepted that, the custody of the Petitioner is not required. This is as of 4th January, 2025. From perusal of record, we do not find that, any other incident attributed to the Petitioner or taken place with regards to the Petitioner between 4th January 2025 and passing of Detention Order on 14th February 2025. We also note that, the investigating authority did not oppose the bail application in strictest sense or

seek the remand of the Petitioner in C. R. No.1223/2024 registered with Lonikand Police Station. As noted earlier, it is not the case of the Respondents that, there has been any activity of the Petitioner or any act of the Petitioner, which would be prejudicial to the public order. It appears that, the normal law of land and procedure is enough to deal with the criminal activities of the Petitioner. We find it strange that, within the period of little more than one month, the Petitioner's activities became prejudicial to the public order and the same have not justified by the Detaining Authorities. We note that, there is no criminal activities/offence committed by the Petitioner from 4th January 2025 to 14th February 2025. That being the case, we are of the firm view that, the subject satisfaction arrived at by the Detaining Authority is totally unfounded and misplaced. In view of the above, the Detention Order deserves to be quashed and set aside.

8.1) Hence, the following order;

- a) Detention Order, bearing O. W. No./CRIME PCB/DET/WAGHOLI/MHASKE/113/2025 dated 14th February, 2025 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.

8.2) 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.)