

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

CRIMINAL WRIT PETITION NO. 2867 OF 2025

Mr. Omkar alias Tedy Umesh Satpute
Age: 23 years, Occ:- Labour
Residing at: Survey No. 135,
Yashodeep Chowk, Warje Malwadi, Pune
(Presently in custody of Nagpur Central Prison) ... Petitioner

V/s.

1. State of Maharashtra.
Through Principal Secretary,
Department of Home,
Govt. of Maharashtra,
Mantralaya, Madam Cama
Road, Mumbai-40032
(Summons to be served upon
Office of Government Pleader,
High Court, Mumbai
2. Commissioner of Police,
Having Address at : Pune,
3. The Superintendent of Jail,
Nagpur Central Prison. ... Respondents

Mr. Kuldeep U. Nikam, Advocate for the Petitioner.
Mr. Shreekant V. Gavand, APP for the State.

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

RESERVED ON : 16th DECEMBER 2025

PRONOUNCED ON : 18th DECEMBER 2025

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

- 1) The Petitioner, by the present Petition, filed under Article 226 of

the Constitution of India, seeks to quash and set aside the Detention Order, bearing No.OW. NO./CRIME PCB/DET/WARJE MALWADI/SATPUTE/77/2025, dated 31st January 2025 and Committal Order of even date issued by the Respondent No.2 i.e. Commissioner of Police, Pune City (Detaining Authority) 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, further prays that the Petitioner being detained in the Nagpur Central Prison be released and set at liberty.

2) By an Order dated 16th September 2025, this Court was pleased to issue notice and direct the Respondents to file their Affidavits in Reply. The Respondents have filed their Affidavits in reply and opposed the Petition.

3) We have heard Mr. Kuldeep U. Nikam, learned Advocate for the Petitioner and Mr. Shreekant V. Gavand, learned APP for the Respondents. Perused the record and the Affidavits in Reply filed by the Respondent Authorities.

4) At the outset, learned Advocate appearing for the Petitioner seeks to challenge the impugned Order on two grounds i.e. i) the Detaining Authority has not considered whether the conditions of bail imposed upon the Petitioner by order dated 25/11/2024 passed in C.R. No. 469 of 2024 were sufficient to restrain the Petitioner from again indulging in criminal activities

and ii) that, the perusal of the relied upon sole C.R. bearing No. 469 of 2024 and two in-camera statements dated 30th December 2024 and 1st January 2025 do not indicate that, the acts and conduct of the Petitioner were of such a nature so as to term them as acts prejudicial to 'public order'.

4.1) Learned counsel appearing for the Petitioner, while referring to the Bail Order dated 25th November 2024 passed by the learned J.M.F.C Court No.3, Pune in C.R.No.469 of 2024 submitted that, the conditions of bail mentioned therein were sufficient to ensure that the Petitioner does not again indulge in any prejudicial activities. That, the Detention Order has not considered the said conditions and effect thereof while arriving at its subjective satisfaction in issuing the Detention Order dated 31st January 2025.

4.2) Learned Advocate for the Petitioner submits that, the sole C.R. bearing No. 469 of 2024 and the two in-camera statements dated 30th December 2024 and 1st January 2025 on which the Detention Order is based do not even prima facie indicate or make out a case that, there is any act of the Petitioner which would be prejudicial to public order. He would further submit that, the perusal of the solitary C.R. No. 469 of 2024 would indicate that the said C.R. has been filed by the Police Personnel who were on patrolling duty within the Warje Malwadi Police Station limits on 22nd November 2024. That, it is alleged in the C.R., that the complainant on receiving confidential information that two persons were standing on the service road near Rosary school towards MHADA colony and that they had a

pistol in their possession. The complainant along with panch witnesses and police staff after making a station diary entry, went to the said place near the Rosary school. That, they noticed two persons suspiciously standing near a two wheeler moped vehicle. That, the police staff caught hold of the said persons. That, the Police could identify them as they were criminals. They were identified as the Petitioner and one Soham Anant Satav. That, the Police searched the persons and the said two wheeler vehicle and found a silver coloured pistol with an empty magazine in the dickey of the said two wheeler vehicle. On being questioned regarding the license of the weapon, they gave vague answers. The Police took search of the persons and seized the material found in the possession of the persons including three live cartridges. That, an investigation was carried out and the Petitioner was arrested on 22nd November 2024 and subsequently released on 25th of November 2024.

4.3) The Detention Order relies on the in-camera statement of witness 'A', wherein the witness has stated that on 21st November 2024 at around 9.30 pm, when the witness was proceeding towards his house on his vehicle, the Petitioner and his accomplice came near the witness, stopped him and demanded Rs. 10,000/- for the Petitioner's sister wedding. The said witness in reply informed the Petitioner that, he did not have that much money. It is alleged that, the Petitioner took out a Koyta from the dickey and put it on the stomach of the witness and abused him. That, the persons accompanying the Petitioner caught hold of the hands of the witness and the Petitioner searched

the pocket of the witness and forcefully took out Rs. 1,500/-. That, the person accompanying the Petitioner assaulted the witness with kicks and fist blows. That, as witness started shouting for help. That, the two passersby did not attempt to help as they saw the Koyta (sickle) in the hand of the Petitioner. That, no one came to help the witness. That, the Petitioner threatened the witness.

4.4) The in-camera statement of witness 'B' which is relied upon refers to an incident of 19th November 2024. The complainant, an auto rickshaw driver has stated that, when he was waiting at the stand for passenger, the Petitioner and his accomplice came in front of the complainant's rickshaw on two wheeler. That, the Petitioner got down from the two wheeler vehicle, came near the witness, grabbed his collar and abused him. The Petitioner demanded money. The witness being scared and terrified, informed the Petitioner that, as there was no business which was undertaken by him on that day he did not have any money. That, the Petitioner at that time took out the Koyta (sickle) and hit the glass of the rickshaw. That, when the nearby rickshaw drivers gathered there, the Petitioner waived the Koyta and threatened the people. That, the said rickshaw drivers ran away and no one helped the witness.

4.5) Learned Advocate for the Petitioner submitted that, perusal of the relied upon material does not indicate that the acts of the Petitioner were such so as to disturb the society or the even tempo of life. He submits that, the said

acts which against a particular individual and not against the general public or the society at large. The said acts alleged and attributed to the Petitioner cannot be said to be acts which can disturb the public order or be termed as acts prejudicial to public order.

5) Mr. Shreekant V. Gavand, learned APP for the Respondent-State in reply submitted that, the Detention Order is properly passed. Learned A.P.P submits that, the Detention Order in fact complied with the principle and guidelines as enunciated by the the Hon'ble Apex Court in the case of *Kamarunnisa V. Union of India reported in (1991) 1 SCC 128* it is held that a detention order can be validly passed if the following conditions are satisfied:

(1) If the authority passing the order is aware of the fact that the person is actually in custody;

(2) If the authority has reason to believe on the basis of reliable material placed before it;

(a) that there is a real possibility of the person being released on bail, and

(b) that on being so released, the person would in all probability indulge in prejudicial activity and

(3) If it is felt essential to detain the person to prevent him from doing so.

In the present case, we are of the opinion that the conditions as stood in *Kamarunnisa V. Union of India (supra)* are satisfied.

5.1) Learned A.P.P further submits that, the Detention Order records that, the Petitioner has been released on bail and that in view of the

tendencies and inclination reflected in the offence committed by the Petitioner as well as the in-camera statements, it was clear that the Petitioner on being released would in all probabilities indulge in similar criminal activities which are prejudicial to maintenance of public order. He submits that, the perusal of the grounds of detention would indicate that, the Detaining Authority was aware of the ground of bail. That, the Order of Bail being the material relied upon has been forwarded to the Petitioner and is considered by the Detaining Authority.

5.2) As regards, the contention of the Petitioner that the acts and conduct of the Petitioner are not of such a nature so as to be termed as acts prejudicial to public order. Learned A.P.P further submits that, on perusal of the relied upon material that in C.R. No. 469 of 2024 and from the two in-camera statements, it is abundantly clear that the acts of the Petitioner complained of are clearly acts which are prejudicial to public order and which would disturb public order. That, in C.R. No. 469 of 2025, the Petitioner and his accomplice Soham were apprehended, and on a search being conducted, a pistol was found in the Moped vehicle and three live cartridges were found in the pant pocket of his accomplice Soham. This would indicate that, the Petitioner is a dangerous person. That, the said conduct is not that of a normal and prudent person. That, the Petitioner or the said accomplice could not provide the license of the said pistol. While referring to the in-camera statement, he would submit that or the perusal of the in-camera statements

would clearly indicate that the acts and the conduct of the Petitioner are prejudicial to public order so as the nature and manner of the extortion. He submits that, when viewed in totality the said C.R. and the two in-camera statements would clearly make out a case against the Petitioner for disturbing public order or acting in a manner which is prejudicial to public order.

6) A perusal of the C.R. and the two in-camera statements even if read individually or read collectively, in our opinion do not indicate and are not enough to term the act and conduct of the Petitioner as being prejudicial to public order. The acts are clearly individualistic and are such which can be dealt with and controlled under the normal criminal law and system. The acts do not indicate that the same caused extreme fear in the minds of the public or a serious disturbance in the routine and life of the general public. In our opinion, the acts are not such that would disturb or interfere with the even tempo of life. Though, the acts and conduct would cause disturbance to a certain extent the same cannot be stretched to mean or be elevated to act of disturbing public order or being prejudicial to public order.

6.1) We are of the opinion that, any and every disorderly or wrongful behaviour of a person in a public space or commission of wrongful act or offences will surely disturb and affect peace and social equilibrium in an area or locality to a certain extent and may at times be aggravated to law and order situation. Such law and order situation can be dealt with by the law under the normal criminal system. Every such disorderly behaviour or infraction as we

may call it does not and cannot be said to affect public order or be termed as public disorder. Every public disorder will emanate from law and order situation but it is not necessary that every law and order situation culminates into a public disorder kind of situation. A quarrel between two individuals or an assault on an individual will be termed as a personal or individualistic attack which will affect those individuals and others to a certain extent but will surely not disturb public peace or amount to a situation of public disorder. Individualistic acts raise only a law and order problem. In the present case, on perusal of the relied upon material i.e. C.R. and the in-camera statements and the description of the alleged offences committed therein do not indicate that the same disturb the even tempo or normal life of the people in a locality or disturb the general peace and harmony of the locality or create and instill a sense of fear and insecurity in the people. The act of the people in staying away from the incident or running away can also be termed as a normal reaction of a common man which would tend to be cautious. A general public incident cannot be stretched to a level and degree to say that public order or the even tempo of the life of the community has been affected. In the facts of the present case, we do not find that the act and conduct of the Petitioner is such as would be prejudicial to maintenance of public order or disturb the even tempo or normal life of the society. In view of the aforesaid facts, we do not find any merit.

7) We would make a useful reference to the judgment of the

Supreme Court in the case of *Arjun s/o Ratan Gaikwad Vs. The State of Maharashtra* reported in (2024) 12 SCR 637, wherein in paragraphs 12 to 15 it is observed that,

12. The distinction between a public order and law and order has been succinctly discussed by Hidayatullah, J. (as His Lordship then was) in the case of Ram Manohar Lohia v. State of Bihar and Anr. 1965 : INSC:175: (1966) 1 SCR 709:

“54.... Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are....

55. It will thus appear that just as 'public order' in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting 'security of State', 'law and order' also comprehends disorders of less gravity than those affecting 'public order'. One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State.”

13. It could thus be seen that a Constitution Bench of this Court in unequivocal terms held that every breach of peace does not lead to public disorder. It has been held that when a person can be dealt with in exercise of powers to maintain the law and

order, unless the acts of the proposed detainee are the ones which have the tendency of disturbing the public order a resort to preventive detention which is a harsh measure would not be permissible.

14. Recently, a Bench of this Court has referred to various judgments of this Court while following the law laid down by this Court in the case of Ram Manohar Lohia (supra), it will be appropriate to reproduce the following paragraph from the judgment of this Court in the case of Ameena Begum v. State of Telangana and Ors. 2023:INSC: 788 :(2023) 9 SCC 587.

“38. For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquillity affects the public order and the question to be asked, as articulated by Hon'ble M. Hidayatullah, C.J. in Arun Ghosh v. State of W.B. [Arun Ghosh v. State of W.B.,1969:INSC:331: (1970) 1 SCC 98: 1970 SCC (Cri) 67], is this: (SCC p. 100, para 3)

“3.... Does it [the offending act] lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed?”

39. In Arun Ghosh case [Arun Ghosh v. State of W.B.,(1970) 1 SCC 98: 1970 SCC (Cri) 67], the petitioning detenu was detained by an order of a District Magistrate since he had been indulging in teasing, harassing and molesting young girls and assaults on individuals of a locality. While holding that the conduct of the petitioning detenu could be reprehensible, it was further held that it (read: the offending act) "does not add up to the situation where it may be said that the community at large was being disturbed or in other words there was a breach of public order or likelihood of a breach of public order. (Arun Ghosh case [Arun Ghosh v. State of W.B.,:INSC:331: (1970) 1 SCC 98: 1970 SCC (Cri) 67], SCC p. 101, para 5)”

40. In the process of quashing the impugned order, the Hidayatullah, C.J. while referring to the decision in Ram Manohar Lohia [Ram

Manohar Lohia v. State of Bihar, (1966) 1 SCR 709] also ruled :
(Arun Ghosh case [*Arun Ghosh v. State of W.B.*, 1969:INSC:331:
(1970) 1 SCC 98: 1970 SCC (Cri) 67], SCC pp. 99-100, para 3)

“3.... Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order.... It is always a question of degree of the harm and its effect upon the community. This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another.”

41. In *Kuso Sah v. State of Bihar* [*Kuso Sah v. State of Bihar*, :(1974) 1 SCC 185: 1974 SCC (Cri) 84], Hon'ble Y.V. Chandrachud, J. (as the Chief Justice then was) speaking for the Bench held that: (SCC pp. 186-87, paras 4 & 6)

“4.... The two concepts have well defined contours, it being well-established that stray and unorganised crimes of theft and assault are not matters of public order since they do not tend to affect the even flow of public life. Infractions of law are bound in some measure to lead to disorder but every infraction of law does not necessarily result in public disorder.

6.... The power to detain a person without the safeguard of a court trial is too drastic to permit a lenient construction and therefore Courts must be astute to ensure that the detaining authority does not transgress the limitations subject to which alone the power can be exercised.”

(emphasis supplied)

15. As to whether a case would amount to threat to the public order or as to whether it would be such which can be dealt with by the ordinary machinery in exercise of its powers of maintaining law and

order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not be amounting to a threat to the public order. As against this, if a person in a public space where a number of people are present creates a ruckus by his behaviour and continues with such activities, in a manner to create a terror in the minds of the public at large, it would amount to a threat to public order. Though, in a given case there may not be even a physical attack.

8) In our opinion, observations of the Hon'ble Supreme Court are squarely applicable to the facts of the present case. A bare perusal of the material which has been relied upon in the Detention Order i.e. relied upon C.R. and in-camera statements of witness 'A' and 'B' would clearly indicate that, the acts/ conduct of the Detenue which are complained of, are against an individual and not against public order or the society at large. The conduct of the Detenue in the present case appears to be an act which affects law and order and not public order. We are of the opinion that, in the present case, the conduct of the Detenue cannot be said to amount to an act of public disorder. In our opinion, the wrong doings/wrongful acts of the Detenue do not impact the society so as to adversely affect the general public to instill a feeling of fear, panic or insecurity. A natural reaction of prudence of the public in staying away from trouble makers or keeping away from trouble makers cannot be said or construed to be a result of the general disturbance to public tranquility that affects public order.

9) In effect, the Detention Order is vitiated on the ground that the

acts and conduct of the Detenue do not amount to an act of disturbing public order or acts attributed to the Detenue cannot be termed as acts prejudicial of public order. In view thereof, the Detention Order dated 31st January 2025, cannot be sustained and deserves to be quashed and set aside.

10) Hence, the following order:

- i) Detention Order dated 31st January 2025, bearing No. OW. NO./CRIME PCB/DET/WARJE MALWADI/SATPUTE/77/2025, issued by the Respondent No.2, is quashed and set aside.
- ii) Petition is allowed in terms of prayer clause (a).
- iii) Petitioner be released from Jail forthwith, if not required in any other case/cases, on production of operative part of an authenticated copy of this Judgment.
- iv) All the concerned to act on the basis of an authenticated copy of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)