

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3092 OF 2025**

Shadab Ahmed Aftab Ansari

Age: 36 years, Occ:- -

Residing at: Block No.4, Ground Floor,

building No.642, Vanjarpatti Naka,

Patel Nagar, Bhiwandi,

Dist.Thane

(At present Yerwada Central Prison, Pune)

... Petitioner

V/s.

1. Commissioner of Police, Thane.

2. The State of Maharashtra
(Through the Secretary Home Department (Spl)
Mantralaya, Mumbai.

3. The Superintendent
Yerwada Central Prison, Pune

... Respondents

Ms. Jayshree Tripathi along with Ms. Anjali Raut, Advocate for the Petitioner.

Mr. Shreekant V. Gavand, APP for the State.

Mr. V. S. Labhude- PSI, Thane Nizampura Police Station.

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

DATE : 2nd DECEMBER 2025.

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

1) By the present Petition, filed under Article 226 of the Constitution of India, the Petitioner, seeks to quash and set aside the Detention Order, bearing No. TC/PD/DO/MPDA/04/2025, dated 28th March 2025 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 his release and set at liberty.

2) By Order dated 17th June 2025, this Court had issued rule in the Petition. The Respondent Nos. 1 to 3 have filed their Affidavits in reply and opposed the Petition.

3) We have heard Ms. Jayshree Tripathi, learned Advocate for the Petitioner and Mr. Shreekant V. Gavand, APP for the Respondent–State. Perused the record and the Affidavits in Reply filed by the Respondent Authorities.

4) At the outset, learned Advocate for the Petitioner submits that though she has raised various grounds i.e. 5(a) to 5(k) in the Petition for challenging the Detention Order dated 28th March 2025, she is restricting her arguments only to ground 5(f) at page 9 of the Petition i.e. delay in recording the in-camera statements thereby resulting in delay in passing the Detention Order. Learned Advocate for the Petitioner submits that the Detaining Authority has for the purposes of passing the Detention Order relied upon one CR and 2 in camera statements. The crime in question being CR No.903 of 2024 is registered on 11th December 2024. The Petitioner was arrested on 9th January 2025 and granted bail in the said crime on 15th January 2025. The Detention Order also relies on two in-camera statements of witness 'A' and 'B'

recorded on 28th of February 2025 and 1st of March 2025 respectively.

4.1) Learned Advocate for the Petitioner would submit that, the Petitioner was released on bail on 15th January 2025 and the in-camera statement of witness 'A' was recorded only on 28th February 2025 and the in-camera statement of witness 'B' has been recorded on 1st March 2025 i.e. after delay of about 44 days. That, the Respondent No.1 has not given any satisfactory explanation for the said delay of 44 days in recording the in-camera statements. She submits that the delay in recording the in-camera statements and passing the impugned Detention Order indicates that there was no grave urgency in passing the detention order.

5) Learned APP for the State in reply, while referring to the Affidavits in reply submitted that, there is no delay and that the statements have been recorded promptly. That, the time taken to record the statements is due to the fact that witnesses were not coming forward to give the statements against the Petitioner and it was only after the witness were assured that, they would not be called openly to give evidence against the Petitioner and that their identity shall not be disclosed, the witnesses agreed to give in-camera statements against the Petitioner. The Petitioner has continued with his criminal activities. That the processing of the detention proposal has been done expeditiously. The Authorities at their respective ends have perused and considered the proposal and processed the same after which the entire detention proposal was placed before the Respondent No.1, the Detaining

Authority. The Detaining Authority, after examining all the material and the entire proposal, arrived at his subjective satisfaction and gave approval to the Detention proposal. He submits that in view of the said facts there is no delay in processing the proposal.

6) On perusal of the Affidavits, we find that, the Respondent No.1 apart from giving the routine explanation, have not explained the said delay nor given any explanation for the period from 15th January 2025 i.e. when the Petitioner was released on bail till 28th February 2025 when the in-camera statement of witness 'A' was recorded. We note that, this period is of, more than a month and to be precise 44 days for which there is no explanation offered. The second in-camera statement is recorded on 1st March 2025. We find that no satisfactory and plausible explanation for the said delay has been given. It appears to us that, the in-camera statements have been recorded to fill in gaps or explain away the time taken to pass the Detention Order.

7) We have in the case of *Sameer @ Panna Mehboob Shaikh Vs. State of Maharashtra and ors* passed in Writ Petition No.1136 of 2025 in para 6 observed that,

"6. In the case of Pradeep Nilkanth Paturkar V. S. Ramamurthi and others reported in 1993 Supp (3) SCC 61, the Hon'ble Supreme Court has expressed its anguish about the fact that, the statements of witnesses were recorded only after the detenu became successful in getting bail from the concerned Court. It is further held that the unexplained delay, whether short or long, especially when the detenu has taken a specific plea of delay, has to be explained properly. This Court in the cases of Austin William Luis Pinto Vs. Commissioner of Police, Greater Mumbai

& Ors., reported in 2005 ALL MR (Cri) 28 and Daksh Juber Ghelani V. The Commissioner of Police, Pune City & Ors (Writ Petition No. 3994/2023 decided on 4th April 2024) has also granted benefit of unexplained delay, to the detenus therein.

8) As noted earlier, in the present case, the Petitioner was released on bail on 15th January 2025 and the in-camera statements of the two witnesses 'A' and 'B' have been recorded on 28th February 2025 and 1st March 2025. There is a delay of about 44 days and more in recording the in-camera statements of the said two witnesses. The Detaining Authority has failed to offer any explanation for the said delay. In view of the ratio laid down by Supreme Court in the case of *Pradeep Nilkanth Paturkar (supra)* and the decision of this Court in the case of *Sameer @ Panna Mehboob Shaikh Vs. State of Maharashtra and ors (supra)* the Detention Order dated 28th March 2025 deserves to be quashed and set aside on the ground of unexplained delay of about 44 days i.e. from 15th January 2025 to 28th April 2025. In our view, if the Authorities were of the opinion that the Petitioner is a dangerous person within the meaning of Section 2(b-1) of the MPDA Act, the Authorities for preventing the Petitioner from acting in any manner prejudicial to the maintenance of public order ought to have taken effective steps in a swift and prompt manner to detain the Petitioner under the provisions of the MPDA Act. The unexplained delay of more than 44 days in the present case according to us, defeats the very purpose and object of the MPDA Act. We find that the explanation offered by the Respondents in the Affidavits is a routine

explanation and we do not find it reasonable or even satisfactory.

8.1) In effect, the Detention Order is vitiated on account of delay and deserves to be quashed and set aside.

9) Hence, the following order:

i) Detention Order dated 28th March 2025, bearing No. TC/PD/DO/MPDA/04/2025, issued by the Respondent No.1, is quashed and set aside.

ii) Petition is allowed in terms of prayer clause (b).

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) Rule is accordingly made absolute in the aforesaid terms.

v) All the concerned to act on the basis of an authenticated copy of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)