

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3538 OF 2025

Vijay Parbati Sashte	]	
(Father of the detenue)	]	
Age :- 42 years,	]	
R/o. Ramnagar, Dattanagar,	]	
Warje Malwadi, Pune City	]	
Warje, Pune, Maharashtra – 411 058	]	... Petitioner

V/s.

- | | | | |
|----|-------------------------------------|---|-----------------|
| 1. | Commissioner of Police, Pune |] | |
| 2. | The State of Maharashtra |] | |
| | (Through the Secretary Home |] | |
| | Department (Spl) Mantralaya, Mumbai |] | |
| 3. | The Superintendent, |] | |
| | Wardha Prison, Wardha |] | ... Respondents |

Mr. Jayshree Tripathi a/w Ms. Anjali Raut for Petitioner.
Smt. Madhavi H. Mhatre, A.P.P. for Respondent-State.

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

DATE : 1st October 2025

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

- 1) Petitioner i.e. father of Detenue namely Yash Vijay Sashte has

invoked jurisdiction of this Court under Article 226 of the Constitution of India, impugning the Detention Order dated 4th April 2025, bearing OW. NO./CRIME PCB/DET/WARJE MALWADI/SASHTTE/282/2025, issued by the Respondent No.1, the Commissioner of Police, Pune, 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 Essential Commodities Act, 1981 (Maha.Act No.LV of 1981) (Amendment-1996) (Amendment-2009) (Amendment-2015) (*for short "MPDA Act"*). The Petitioner has also impugned the Committal Order dated 4th April 2025, by which his son i.e. Yash Sashte has been detained in Wardha Prison, Dist. Wardha.

2) Heard Ms. Tripathi, learned Advocate for Petitioner and Smt. Mhatre, learned APP for Respondent, State. Perused entire record produced before us and the Affidavits of the Respondents/Authorities.

3) Learned Advocate for the Detunue in the Petition has taken a specific ground No. (c) while assailing the Order of Detention. It is stated that, there is a gross delay of more than two months in deciding the representation dated 5th May 2025, made by the Detenue through his Advocate, by the Respondent No.2 and the said representation is decided on 23rd July 2025.

4) Perusal of record discloses that, the Detention Order dated 4th April 2025, along with Committal Order of even date and the Grounds of

Detention were served upon the Petitioner on 4th April 2025, when Detenue was already in judicial custody in C.R. No. 516 of 2024, registered with Warje Malwadi Police Station, Dist. Pune, dated 25th December 2024, under Sections 109, 115(2), 352, 189(2), 189(4), 191(2), 191(3), 190 of the BNS & Section 4(25) of the Arms Act & Sections 37(1)(3)/135 of the MPA and Section 7 of the Criminal Law Amendment Act. Petitioner was thereafter immediately transferred to judicial custody at Pune Central Prison, Pune in C.R. No. 516 of 2024, registered with Warje Malwadi Police Station. The Detention Order was served upon the Petitioner at Pune Central Prison, Dist. Pune. In pursuance of the Committal Order dated 4th April 2025, he was immediately transferred to Wardha Prison, Dist. Wardha.

The Detenue thereafter through his Advocate made a detailed representation to the Respondent No.2 i.e. competent Authority of the State. The said representation was sent to the Superintendent of Wardha Prison, Dist. Wardha on 7th May 2025 by speed post. A photocopy of acknowledgment issued by the Indian Post is at page No. 147 of the Petition. Though, no Authority in their replies have stated about the receipt of the said representation by the Jail Authority at Wardha, the learned APP Smt. Mhatre on instructions fairly stated that, the said representation was received by the Jail Authority at Wardha on 10th May 2025.

4.1) The Superintendent Wardha Prison, thereafter forwarded the said representation to the State Government by e-mail on 15th July 2025 and

thereafter the competent Authority i.e. Respondent No.2 decided and rejected the representation of the Detenue on 23rd July 2025 and the said fact was accordingly communicated to the Detenue.

4.2) Shri Sanjay Gulhane, Superintendent, Wardha District Prison, in his Affidavit dated 19th September 2025, in para No.4 has admitted the fact that, the representation made by the Detenue dated 5th May 2025 was sent to the State Government by e-mail on 15th July 2025.

The Detaining Authority being oblivious of the said fact could not offer any comments upon the said delay caused at the end of the Superintendent of Wardha Prison Dist. Wardha i.e. Respondent No.3.

5) The Hon'ble Supreme Court in the case of *Vijay Kumar v/s. State of Jammu and Kashmir and Others*, reported in (1982) 2 SCC 43, in para No.12, has held as under :

“.....The jail authority is merely a communicating channel because the representation has to reach the Government which enjoys the power of revoking the detention order. The intermediary authorities who are communicating authorities have also to move with an amount of promptitude so that the statutory guarantee of affording earliest opportunity of making the representation and the same reaching the Government is translated into action. The corresponding obligation of the State to consider the representation cannot be whittled down by merely saying that much time was lost in the transit. If the Government enacts a

law like the present Act empowering certain authorities to make the detention order and also simultaneously makes a statutory provision of affording the earliest opportunity to the detenu to make his representation against his detention, to the Government and not the detaining authority, of necessity the State Government must gear up its own machinery to see that in these cases the representation reaches the Government as quick as possible and it is considered by the authorities with equal promptitude. Any slackness in this behalf not properly explained would be denial of the protection conferred by the statute and would result in invalidation of the order.”

5.1) In the case of *Aslam Ahmed Zahire Ahmed Shaik Vs. Union of India And Others*, reported in (1989) 3 SCC 277, while after following the dictum in the case of *Vijay Kumar (supra)*, the Hon’ble Supreme Court in para Nos. 9, 11 and 12, has held as under :

“9. Thus when it is emphasised and re-emphasised by a series of decisions of this Court that a representation should be considered with reasonable expedition, it is imperative on the part of every authority, whether in merely transmitting or dealing with it, to discharge that obligation with all reasonable promptness and diligence without giving room for any complaint of remissness, indifference or avoidable delay because the delay, caused by slackness on the part of any authority, will ultimately result in the delay of the disposal of the representation which in turn may invalidate the order of detention as having infringed the mandate of Article 22(5) of

the Constitution.

11. *Reverting to the instant case, we hold that the above observation in Vijay Kumar case (1982) 2 SCC 43 : 1982 SCC (Cri) 348 will squarely be applicable to the facts herein. Indisputably the Superintendent of Central Prison of Bombay to whom the representation was handed over by the detainee on June 16, 1988 for mere onward transmission to the Central Government has callously ignored and kept it in cold storage unattended for a period of seven days, and as a result of that, the representation reached the government eleven days after it was handed over to the Jail Superintendent. Why the representation was retained by the Jail Superintendent has not at all been explained in spite of the fact that this Court has permitted the respondent to explain the delay in this appeal, if not before the High Court.*
12. *In our view, the supine indifference, slackness and callous attitude on the part of the Jail Superintendent who had unreasonably delayed in transmitting the representation as an intermediary, had ultimately caused undue delay in the disposal of the appellant's representation by the government which received the representation eleven days after it was handed over to the Jail Superintendent by the detainee. This avoidable and unexplained delay has resulted in rendering the continued detention of the appellant illegal and constitutionally impermissible."*

- 6) As noted earlier, in the present case, the representation dated 5th May 2025, sent by the Advocate of the Detenue through speed post on 7th May 2025, though was received by the Jail Authority on 10th May 2025, the

Respondent No.3, did not forward it to the State Government immediately and sent it only on 15th July 2025 through e-mail. The Superintendent Wardha Prison Dist. Wardha, has thus callously ignored and kept the representation in cold storage unattended for a period of more than two months.

7) In the case of *Aslam Ahmed Zahire Ahmed Shaik (supra)*, the unexplained delay in forwarding the representation by the Jail Authority has been held to be illegal and constitutionally impermissible. The reason for retaining the said representation for more than two months by the Jail Superintendent has not at all been explained in its Affidavit dated 19th September 2025. As noted above, the Jail Superintendent of Wardha Prison Dist. Wardha, has in fact admitted the said fact of sending the representation by e-mail to the State Government belatedly on 15th July 2025.

8) The observations made by the Hon'ble Supreme Court in para No. 12 in the case of *Aslam Ahmed Zahire Ahmed Shaik (supra)*, are squarely applicable to the case in hand.

9) For the aforementioned reasons, we set aside the impugned Detention Order dated 4th April 2025.

9.1) Hence, the following Order :-

i) Detention Order dated 4th April 2025, bearing OW. NO./CRIME PCB/DET/WARJE MALWADI/SASHTTE/282/2025, 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 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.)