

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3849 OF 2025

Atish Hansraj Mane	]	
Age : 22 years, Occ.:- Private Service	]	
R/at.: Survey No. 25,	]	
Janta Vasahat Pune	]	
(Nashik Central Prison)	]	... 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 Nashik	]	
Central Prison, Nashik	]	
(Presently detained at Nashik	]	
Central Prison, Nashik)	]	... Respondents

Ms. Varsha Bhosale i/b Ms. Shubhangi Parulekar for Petitioner.
 Mr. J.P. Yagnik, A.P.P for Respondent-State.
 Mr. Ismail Shaikh, PSI, Parvati Police Station, Pune City, present.

**CORAM : A. S. GADKARI AND
 RANJITSINHA RAJA BHONSALE, JJ.**
DATE : 4th November 2025

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

1) Petitioner has invoked jurisdiction of this Court under Article 226 of the Constitution of India, impugning the Detention Order dated 28th March 2025, bearing OW. NO./CRIME PCB/DET/PARVATI/MANE/253/2025, issued by

the Respondent No.1, the Commissioner of Police, Pune City, 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.IV of 1981) (Amendment-1996, 2009, 2015) (*for short "MPDA Act"*) and the Committal Order of even date, thereby directing the Petitioner to be detained in the Nashik Central Prison, Nashik.

2) Heard Ms. Bhosale, learned Advocate for Petitioner and Mr. Yagnik, learned APP for Respondent, State. Perused entire record and the Affidavits in reply of the Respondent Authorities.

3) Though the Petitioner has taken various grounds in the pleadings for assailing the Detention Order, learned Advocate for Petitioner restricted her arguments to Ground No.(s) of the Petition. She submitted that, there was inordinate delay in considering the representation of the Petitioner filed with the Competent Authority. That, it took almost three months for the the Detaining Authority to submit its remarks with the Home Department, Mantralaya, Mumbai and therefore the Detention Order cannot be sustained on the said ground alone.

3.1) In support of her contention, learned Advocate for Petitioner relied on a decision of the Hon'ble Supreme Court in the Case of *Rashid Kapadia Vs. Medha Gadgil And Others*, reported in (2012) 11 SCC 745.

4) Perusal of record reveals that, the Detention Order dated 28th

March 2025, along with Committal Order and the Grounds of Detention of even date were served upon the Petitioner on 22nd April 2025, when the Petitioner was behind bars in C.R. No. 366 of 2024, registered with Parvati Police Station, Pune City. The Petitioner thereafter made a representation dated 23rd May 2025 through jail i.e. through the Respondent No.3 to the Respondent No.2 The Superintendent of the concerned jail forwarded the said representation dated 23rd May 2025 to the competent Authority of Respondent No.2 i.e. the Home Department, Mantralaya, Mumbai, on 26th May 2025. The Home Department received the said representation on 28th May 2025 and immediately called for detailed remarks on it from the Detaining Authority i.e. Respondent No.1. The Home Department, Mantralaya, Mumbai, received parawise noting and other remarks from the detaining Authority on 5th August 2025 and thereafter the competent Authority of Respondent No.2 rejected representation of the Petitioner on 6th August 2025. Thus, there is a delay of 68 days in deciding the representation of the Petitioner by the Respondent No.2.

4.1) The detaining Authority has filed an Affidavit dated 3rd October 2025. In response to the Ground No. (s) taken by the Petitioner, the detaining Authority in para No. 8 has stated that, the representation made by the Petitioner was received in the office of detaining Authority on 5th June 2025. However, the concerned official mistakenly forgot to put the representation before the detaining Authority immediately. On 1st August 2025, the concerned official came to know about the representation of the Petitioner and thereafter

the parawise comments were prepared and detailed reply was forwarded to the State Government (Respondent No.2) on 4th August 2025 for consideration of the representation.

4.2) As noted earlier, the State Government i.e. the Respondent No.2 received the parawise remarks from detaining Authority on 5th August 2025. It is thus an admitted fact on record that, there is an inordinate and unexplained delay of 68 days by the concerned Authority in deciding the representation of the Petitioner.

5) The Hon'ble Supreme Court in the case of *Rashid Kapadia (supra)*, in para No. 13 has held as under :

“13. It is well settled that the right of a person, who is preventively detained, to make a representation and have it considered by the authority concerned as expeditiously as possible, is a constitutional right under Article 22(5). Any unreasonable and unexplainable delay in considering the representation is held to be fatal to the continued detention of the detainee. The proposition is too well settled in a long line of decisions of this Court. We do not think it necessary to examine the authorities on this aspect, except to take note of a couple of judgments where the principle is discussed in detail. They are : Mohinuddin v. District Magistrate, Beed (1987) 4 SCC 58 : 1987 SCC (Cri) 674 and Harshala Santosh Patil v. State of Maharashtra (2006)

12 SCC 211 : (2007) 1 SCC (Cri) 680.

6) In view of the facts mentioned hereinabove and after applying the principles of law enumerated by the Hon'ble Supreme Court in the case of *Rashid Kapadia (supra)*, we have no option but to come to the conclusion that, the unreasonable and unexplained delay of 68 days in deciding the representation of the Petitioner is fatal to his continued detention. The Detention Order therefore cannot be sustained on the above mentioned ground alone and it is required to be set aside.

6.1) Hence, the following Order.

- i) Detention Order dated 28th March 2025, bearing OW. NO./CRIME PCB/DET/PARVATI/MANE/253/2025, 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) All the concerned to act on the basis of an authenticated copy of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)