

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3878 OF 2025**

Sunil Vitthal Khandagale
Age: 41 years, Occ:- -
Residing at: 1329,
Vitthal Rukmini Society,
Morewasti, Chikhali, Pune, Maharashtra

... Petitioner

V/s.

1. The State of Maharashtra
(Through the Additional Chief Secretary,
Home Department)
2. Commissioner of Police, Pimpri Chinchwad, Pune
Premlok Park, Chinchawad, Pimpri – Chinchwad.

... Respondents

Mr Satyavrat Joshi (Through V.C) i/b Shivani S Kondekar, Advocate for the
Petitioner.

Smt. M. M. Deshmukh, Acting Public Prosecutor for the State.

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

RESERVED ON : 27th DECEMBER 2025.

PRONOUNCED ON : 3rd DECEMBER 2025.

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

1) Petitioner, is the brother of the detenué i.e. Anil Vitthal Khandagale and has filed the present petition for and on behalf of the detenué Anil Vitthal Khandagale. Petitioner, by the present Petition under Article 226

of the Constitution of India, seeks to challenge the Detention Order, bearing No. CRIME/PCB/DET/125/2025, dated 10th June 2025 (the Detention Order), passed by the Respondent No.2 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, whereby the Petitioner brother/detenué is detained in the Kolhapur Central Prison, Kolhapur. The Petitioner, prays that his brother/detenué being detained, be released and set at liberty.

2) By Order dated 23rd July 2025, this Court issued notice to the Respondents. The Respondents have filed their respective Affidavits in reply dealing with the contentions/grounds raised by the Petitioner and opposed the Petition.

3) We have heard Mr Satyavrat Joshi, learned Advocate for the Petitioner/Detenué and Smt. M. M. Deshmukh, Acting Public Prosecutor for the Respondent–State. Perused the record and the Affidavits in reply.

4) At the outset, it would be important to make a mention of the fact that, though the learned Advocate for the Petitioner/Detenué has raised various grounds in paragraph No.3 (A) to 3 (T) of the Petition for challenging the Detention Order dated 10th June 2025, however, learned Advocate restricted his arguments only to ground 3(F) of the Petition. The learned Advocate for the Petitioner/Detenué would submit that, the CR No. 111 of

2025 on which reliance is placed by the Detaining Authority is registered on 3rd March 2025, and whereas the Detention Order is issued on 10th June 2025 i.e after a period/delay of 99 days of registering the last relied upon crime. That, due to the said delay in issuing the Detention Order the live link between the prejudicial activities is snapped. Learned Advocate for the Petitioner/Detenué would further submit that, the last in-camera statement on which reliance is placed was recorded on 7th April 2025 and the Detention Order is passed on 10th June 2025 i.e after a delay of 64 days. That, on the ground of delay and the resultant snapping of the live link, the Detention Order dated 10th June 2025 ought to be quashed and set aside.

5) Smt. M. M. Deshmukh, Acting Public Prosecutor for the State, in reply submits that, the said delay has been explained by the Respondent No.2 in the Affidavit in reply. That, there is no delay and the live link has not snapped. That the Authorities have acted swiftly and diligently. That, there were intervening holidays and therefore it has taken some time to process the Detention Proposal. That, the entire process and procedure which was followed has been explained in the Affidavit of the Respondent No.2.

6) On a perusal of the Affidavit of the Respondent No.2, we find that there is no explanation given for the said delay. The Respondent No.2 in its Affidavit in reply has stated the process and movement of the Detention proposal and the procedure followed. We find no explanation, much less a satisfactory explanation for the delay which has taken place in issuing

Detention Order. There is absolutely no explanation for the delay of 64 days which has taken place between the recording of the last in camera statement dated 7th April 2025 and passing of the Detention Order on 10th June 2025. Even if one, considers the intervening holidays of 14 days as stated in the reply, there is still an unexplained delay of 50 days. It is well settled that on the ground of unexplained delay, a detention order can be set aside. The Supreme Court in the matter of *Pradeep Nilkanth Paturkar V/s. S. Ramamurthi & Ors*, reported in 1993 Supp (2) Supreme Court Cases 61, in paragraph 14 has observed that, unexplained delay whether short or long especially when the detainee has taken a specific plea of delay, has to be explained. The Supreme Court quashed and set aside the order of detention on the ground of unexplained delay. This Court has, followed the ratio laid down by the decision of the Supreme Court in the matter of Pradeep Nilkanth Paturkar (Supra) in the cases of (i) *Mr. Austin William Luis Pinto Vs. Commissioner of Police, Greater Mumbai And Others* reported in 2005 ALL MR (Cri) 28 at paragraph 8; (ii) *Niyazuddin @ Sonu Sirajuddin Ansari Vs. State of Maharashtra and Anr* reported in 2013 ALL MR (Cri) 3870 at Paragraph No. 12 (iii) *Shri. Sanjeev @ Sanjay @Tatyasaheb Nagnath Upade Vs. The Commissioner of Police, Solapur and others* passed in Criminal Writ Petition No.3035 of 2021 at paragraph no.9.

7) Perusal of the record and the Affidavit-in reply in the present matter indicates that, the delay has not been explained. We note that, the two

in-camera statements of witnesses 'A' and 'B' are recorded on 4th April 2025 and 7th April 2025 respectively. The Detention Order is passed on 10th June 2025. There is a delay of 64 days. We find that, there is no explanation for the same delay.

8) We have also noted that, the Detaining Authority has taken into consideration and relied upon one crime i.e. C. R. No. 111 of 2025 under Section 65 (e) of Maharashtra Prohibition Act, registered on 3rd March 2025 and two in-camera statements, for issuing the Detention Order. We note that, the relied upon last crime is dated 3rd March 2025 and the Detention Order was passed only on 10th June 2025 i.e after more than 3 months (99 days) of registering the last relied upon crime. Once more, the delay is not explained.

9) It is well settled that, unexplained delay in a detention proceeding is fatal and on that ground alone, a Detention Order can be quashed and set aside. We find that, in the present matter the delay for the following period is not explained: (i) between registration of the last relied upon crime and the passing of the Detention Order and (ii) between recording the last in-camera statement and passing the Detention Order. For both the instances, we find that, there is no explanation for the delay. Considering the unexplained delay, the live and proximate link is also broken and snapped.

10) The Respondent No.2 in its Affidavit in reply, has once again made a feeble attempt to explain the long drawn procedure and process which is undertaken by the Sponsoring Authority when the Detention proposal is

moved, the various authorities which process and check the proposal etc. Thus, we feel is only a general explanation sought to be given at a belated stage. It is devoid of details and reasons. In our opinion, only giving dates of the movement of the files/detention proposal is of no avail. No purpose is served. We are of the opinion that, the explanation for the delay apart from being plausible and reasonable should also be satisfactory. There need to be details and reasons for the delay. We are of the opinion that, the delay can be condoned when explained and the explanation is found to be plausible, reasonably just, sufficient and most importantly capable of counter balancing and justifying an action of preventive detention in the larger interest and the well being of the society as against the curtailing of the personal liberty of an individual, individual rights and the right to life and personal liberty. In our opinion, in serious matters including matters under the preventive detention laws, the Authorities are required to and are obligated to explain the delay with details and reasons. The Detaining Authorities need to act swiftly, promptly and with a extremely high degree and sense of responsibility. One cannot loose sight of the fact that, preventive detention curtails the liberty of an individual on strong suspicion and it is a punishment without a trial. Such belated explanation for delay cannot be accepted. In the present matter, we find no plausible and/or specific explanation for the delay. According to us, there is an undue, unreasonable and unexplained delay in processing and passing the Detention Order. The delay, being unexplained, vitiates the

impugned detention order.

11) As we have repeatedly called out the unexplained delay in the matters of preventive detention, the same being fatal, cannot be accepted. Unexplained delay vitiates the very urgency and the object with which action of preventive detention is initiated. The Detaining Authorities, cannot be permitted to deal with the personal liberty of an individual, in such a casual manner. Procedural urgency is integral to and the essence of the action under the preventive detention laws. Swift and prompt action is the essence of preventive detention, which needs to be implemented in the letter and spirit and in the most strict form and manner.

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

12.1) Hence, the following order;

- (a) The impugned Detention Order dated 10th June 2025 bearing No. CRIME / PCB/ DET/125/2025, passed by Respondent No. 2, is quashed and set aside.
- (b) Petition is allowed in terms of prayer clause (b).
- (c) Detenue be released from Jail forthwith, if not required in any other case/cases, on production of an authenticated copy of this Judgment.
- (d) Rule is made absolute in the aforesaid terms.

- (e) All the concerned to act on the basis of an authenticated copy of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)