

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

WRIT PETITION NO. 3892 OF 2025

Ajay Arun Gaikwad

Age-25 years,

R/o. Bhosale Vasti, Mahalunge (Ingale),

Tal-Khed, Dist.-Pune.

(At present Kolhapur Central Prison)

... Petitioner

V/s.

1. Commissioner of Police,
Pimpri Chinchwad

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

3. The Superintendent
Kolhapur Central Prison
Kolhapur.

... Respondents

Ms. Jayshree Tripathi a/w. Ms. Anjali Raut for the Petitioner.

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

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE , JJ.
DATED : 30th SEPTEMBER, 2025.**

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

1) Petitioner by invoking jurisdiction of this Court under Article 226 of the Constitution of India, has impugned the Detention Order dated 4th June, 2025, bearing No. Conf. OW. No./PCB/DET/121, passed by the Respondent No.1, under section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug-offenders,

Dangerous Persons, Video Pirates, Sand Smugglers and Persons engaged in Black-marketing of Essential Commodities Act, 1981 (for short 'MPDA Act') and the Committal Order of even date, thereby directing the Petitioner to be detained in the Kolhapur Central Prison, Kolhapur.

2) Heard Ms. Tripathi, learned Advocate for the Petitioner and Mr. Gavand, learned APP for the State. Perused entire record produced before us and the Affidavits of the Respondent-Authorities.

3) Learned Advocate for Petitioner has assailed the Detention Order mainly on the ground that, there is an inordinate and unexplained delay of about 35 days in processing the proposal of the Petitioner by two Authorities, namely, the Assistant Commissioner of Police (Preventive) and the Deputy Commissioner of Police (Crimes), who are the subordinate Authorities of Respondent No.1 i.e. the Commissioner of Police, Pimpri-Chinchwad Police Commissionerate, District-Pune.

4) Shorn of unnecessary details leading to issuance of Detention Order dated 4th June, 2025, can briefly be stated as under: -

4.1) As per the Affidavit of Respondent No.1 and the grounds of Detention served upon the Petitioner, the Petitioner is history-sheeter within the jurisdiction of Pimpri-Chinchwad Police Commissionerate and various crimes are registered against him. A preventive action under Section 129(g) of Bharatiya Nagarik Suraksha Sanhita (BNSS) was

initiated against the Petitioner on 7th January, 2025. The Petitioner instead of improving, increased his propensity towards criminality and again indulged into commission of a crime bearing C. R. No. 153 of 2025, dated 10th March, 2025, registered with Mahalunge MIDC Police Station, Pimpri-Chinchwad. In the said crime, the Petitioner was arrested on 20th March, 2025 by the Police. When the Petitioner was in custody, two in-camera statements of witnesses 'A' and 'B' dated 22nd March, 2025 and 25th March, 2025 for the incidents dated 5th March, 2025 and 18th March, 2025 respectively, were recorded. Petitioner was thereafter released on bail by the learned 2nd Judicial Magistrate First Class, Khed Rajgurunagar, District Pune, on 11th April, 2025 by imposing certain conditions.

4.2) The sponsoring Authority i.e. the Mahalunge MIDC Police Station, after perusing the record of the Petitioner reached to the conclusion that, the Petitioner is a dangerous person as contemplated under Section 2(b-1) of MPDA Act and therefore forwarded its proposal to the Detaining Authority, to detain the Petitioner, with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, as contemplated under Section 3 of the said Act. The said proposal was processed at different stages by various subordinate Authorities of the Respondent No.1 and the Respondent No.1 thereafter issued the impugned Detention Order dated 4th June, 2025.

4.3) The aforementioned chronology of events is deciphered from the record produced before us.

5) It is thus apparent that, while issuing the order of detention against the Petitioner the Detaining Authority has taken into consideration the said C. R. No. 153 of 2025 and the two in-camera statements dated 22nd March, 2025 and 25th March, 2025 of witnesses 'A' and 'B' respectively. The Detaining Authority in Para No. 4 of the Grounds of Detention has recorded a finding that, the Petitioner's involvement is found in the said offence which is serious in nature and indicates that, he has desperate tendency and inclinations to perpetuate criminal activities. The Detaining Authority has come to the conclusion that, there is an ascending trend in the criminal activities of the Petitioner and the same is prejudicial to the maintenance of public order. Perusal of the F.I.R. and the in-camera statements of the said two witnesses indicates that, the Petitioner is habitually indulging into the act of extortion by threatening the gullible residents with the aid illicit weapon (koyata). The Detaining Authority therefore after reaching to its subjective satisfaction has passed the impugned Detention Order dated 4th June, 2025.

6) A minute perusal of record indicates that the Petitioner was released on bail in the said crime i.e. C. R. No. 153 of 2025 on 11th April, 2025 and the impugned Detention Order was passed on 4th June, 2025.

Thus, within a period of approximately 54 days the Detention Order was passed to control or prevent the Petitioner from indulging into activities in any manner prejudicial to the maintenance of public order. In its Affidavit dated 16th September, 2025 the Detaining Authority, in detail has narrated the chronology of events and the facts while reaching to its subjective satisfaction for issuance of the impugned Detention Order. In sub para of para No.14 it is stated that, due to continuous and dangerous criminal activities of the Petitioner, the sponsoring Authority i.e. the Senior Police Inspector of Mahalunge MIDC Police Station, forwarded its proposal on 4th April, 2025 under the MPDA Act to the Assistant Commissioner of Police, Chakan Division. The Assistant Commissioner of Police, Chakan Division, carefully went through all the papers and completed the procedure of verification of in-camera statements of witnesses 'A' and 'B' and then forwarded its proposal to the D.C.P Zone III on 9th April, 2025. The D.C.P Zone-III gave his endorsement on 11th April, 2025 and forwarded the said proposal to D.C.P (Crime) on 14th April, 2025. The proposal and all attached documents were scrutinized by Senior Police Inspector, Preventive Crime Branch, Crime Office and noting was submitted to the A.C.P (Preventive) on 20th April, 2025. The A.C.P (Crime-2) and Deputy Commissioner of Police (Crime) perused and gave their respective endorsements on 15th May, 2025 and 23rd May, 2025 respectively and

thereafter the noting along with all the papers were forwarded to the Additional Commissioner of Police. The Additional Commissioner of Police, scrutinized the proposal and papers attached with it and gave his endorsement on 27th May, 2025.

6.1) Thus, initially there is a delay at the end of Assistant Commissioner of Police (Crime-2) and Deputy Commissioner of Police (Crime) of about 25 days i.e. between 20th April, 2025 to 15th May, 2025 and subsequently there is a delay at the behest of the Additional Commissioner of Police of about 12 days i.e. between 15th May, 2025 to 27th May, 2025 in processing the proposal for detention of Petitioner. Out of the said 37 days of delay, the delay of only 2 days has been explained in the said Affidavit and the delay of 35 days is not at all explained. As noted earlier the delay is at two places with the said two Authorities i.e. of 25 days and 12 days respectively.

7) The Supreme Court in the case of *T.A. Abdul Rahman vs. State of Kerala*, reported in (1989) 4 SCC 741, after considering various decisions on this point laid down the following dictum in Para No.10, which reads as under :-

“The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each. No hard and fast rule can be precisely formulated that would be applicable under all

circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the court has to scrutinise whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the court has to investigate whether the causal connection has been broken in the circumstances of each case.”

7.1) In the case of *Pradeep Nilkanth Paturkar vs. S. Ramamurthi and others*, reported 1993 Supp (2) SCC 61, the Hon'ble Supreme Court after following the dictum in the case of *T.A. Abdul Rahman* (supra) has held that, the unexplained delay whether short or long especially when the Appellant has taken a specific plea of delay, the detention order stands vitiated.

8) It be noted here that, upon a query by the Court, learned APP on instructions from the concerned Police Officer informed this Court that, the distance between the office of Assistant Commissioner of Police (Preventive) and the Deputy Commissioner of Police (Crime), Pimpri-Chinchwad is approximately 2 kms and not more than it. In view of the said admitted fact, we are unable to comprehend the situation that it took 25 days to reach the file from the office of Assistant Commissioner of Police to the office of Deputy Commissioner of Police (Crime) for processing it. We are also unable to accept the contention of the prosecution that, it took

about 12 days for the Additional Commissioner of Police to scrutinise the proposal submitted by the Deputy Commissioner of Police and gave his endorsement on it.

8.1) If the Police Authorities were of the view that the Petitioner is a dangerous person as contemplated under Section 2(b-1) of the MPDA Act and preventive measures as contemplated under Section 3 of the said Act were to be initiated against him, all the Authorities ought to have moved and processed the proposal of detention swiftly without any delay in that behalf on the part of the concerned Authorities. The law relating to delay in issuing the Detention Orders and its ultimate effect is by now well crystallized by a catena of decisions of the Hon'ble Supreme Court and this Court. The question remains unanswered as to why it took approximately 25 days to scrutinise and process the file of Petitioner by the said two Authorities, whose offices are situated within the periphery of 2 kms and not more. According to us the said delay at the end of Assistant Commissioner of Police, Deputy Commissioner of Police and Additional Commissioner of Police i.e. the subordinate Authorities of the Respondent No.1-Detaining Authority was easily avoidable, if the said Authorities would have followed the dictum of law in its proper perspective.

9) The conspectus of the aforesaid discussion is that, there is unexplained delay of initially 25 days and subsequently 12 days as noted

above at the end of the said three Authorities and therefore the impugned Detention Order stands vitiated and the continued detention of the Petitioner is impermissible under the law. The detention Order of the Petitioner is therefore liable to be quashed.

9.1) Hence, the following order :-

(a) The Detention Order dated 4th June, 2025 bearing No. Conf. OW. No./PCB/DET/121, Pimpri-Chinchwad issued by the Respondent No.1, is quashed and set aside.

(b) Petitioner/Detenue be released from Jail forthwith, if not required in any other case/cases, on production of an authenticated copy of the Operative part of present Judgment.

(c) Petition is allowed in terms of prayer Clause (b).

(d) Rule is made absolute in the aforesaid terms.

(RANJITSINHA RAJA BHONSALE, J.)

(A. S. GADKARI, J.)