

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 4647 OF 2025**

Jitendra @ Tiger Umaji Pawar

Age-27 years,

R/o Rahul Nagar, Pawar Chawl, Tawdadi, Ambernath
(E), Thane, Dist.- Thane.

... Petitioner

Vs.

1. Commissioner of Police, Thane

2. The State of Maharashtra

(Through Addl. Chief Secretary to Government of
Maharashtra), Mantralaya, Home Department,
Mumbai.

3. The Superintendent

Nashik Central Prison, Nashik.

... Respondents

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

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

Mr. Ananda H. Bhilare, PSI, Thane Crime Branch present.

CORAM : A. S. GADKARI AND

RANJITSINHA RAJA BHONSALE , JJ.

DATED : 1st DECEMBER, 2025.

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

1) Petitioner has impugned Detention Order dated 16th July, 2025, bearing No.TC/PD/DO/MPDA/10/2025, issued by Respondent No.1 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 (Maharashtra Act No. 55 LV of 1981) (Amendment-2015) (*for short* 'MPDA') and the Committal Order of the even date, thereby directing his detention in Nashik Road Central Prison, Nashik, by invoking jurisdiction of this Court under Article 226 of the Constitution of India.

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

3) Though in the Petition, the Petitioner has taken various grounds while assailing the Order of Detention dated 16th July, 2025, learned Advocate for the Petitioner restricted her challenge to Ground (e) raised in the Petition. Learned Advocate for the Petitioner submitted that, the complete text of the bail Order dated 17th May, 2025, was not either placed before the Detaining Authority or supplied to the Petitioner along with grounds of detention and therefore at the first instance subjective satisfaction reached by the Detaining Authority stands vitiated and secondly right of the Petitioner to make effective representation as contemplated under Article 22(5) of the Constitution of India is impaired and therefore the Detention Order deserves to be quashed and set aside.

4) Perusal of record indicates that, the impugned Detention

Order is based on one crime and two in-camera statements of the concerned witnesses. The Petitioner is an accused in C. R. No. 320/2025 dated 21st April, 2025 registered with Shivajinagar Police Station, Ambarnath under Sections 109, 351(3), 3(5) of the Bhartiya Nyaya Sanhita Act, r/w Sections 3, 25 of the Arm Act r/w Sections 37(1), 135 of the Maharashtra Police Act. In the said crime, the Petitioner was arrested on 23rd April, 2025 and was granted bail by the Court of competent jurisdiction on 16th May, 2025. After completing necessary formalities, the Petitioner was actually released from jail on 20th May, 2025. In the Index annexed to the Order of Detention, at Serial No.27 mentions the Order dated 17th May, 2025 passed by the learned Additional Sessions Judge, Kalyan granting bail to the Petitioner. Perusal of record indicates that, it is only the operative part of the Order which is supplied to the Petitioner along with documents annexed to the Detention Order and the complete text of it is not supplied to him. Perusal of record further indicates that, the Sponsoring Authority while submitting its proposal to the Detaining Authority had also produced operative part of the Order before it and not the complete text of the Order granting bail to the Petitioner.

The co-ordinate Bench in the case of *Lakhan Rohidas Jagtap Vs. The Commissioner of Police, Pune & Ors. reported in 2019 ALL MR (Cri) 5261* in Paragraph No.7 held as under:-

“7. We have appreciated the rival contentions so also perused the original record pertains to the case of the Petitioner and the grounds taken in the Petition and replies filed by Respondents. Admittedly, only the operative part of the bail order granting bail to the Petitioner by the Additional Sessions Judge, Pune on 21.12.2018 was placed before the detaining authority, and not the full text of the order. Therefore, the detaining authority had no occasion to apply his mind to the reasons for granting bail to the Petitioner / Detenu before recording the subjective satisfaction for passing the order of detention. It was incumbent on the part of the sponsoring authority to place full text of the order granting bail to the Petitioner / Detenu before the detaining authority before passing the detention order. It is true that there is a casual reference in the grounds supplied to detenu while passing the order of detention to the extend that the detenu filed the application for bail in connection with the aforesaid crime and bail was granted to him however, it is an admitted position that the reasoning part of the order of granting bail was not placed before the said authority and copy of the said order was not furnished to the detenu. Therefore, we find considerable force in the submissions of the learned counsel appearing for the Petitioner / Detenu that the concern authority has no occasion to apply his mind to the reasons assigned by the Sessions Court while granting bail and therefore, subjective satisfaction of the detaining authority is vitiated and in absence of full text of the bail order since not supplied to detenu, he is deprived of making an effective representation against the order of detention.”

5) Sub paragraph 1 of Paragraph No.11 of the Affidavit filed by the Detaining Authority mentions that, the said Order having outward No. 2287/2025 is annexed at page No.99 to the proposal. The Affidavits filed by the Sponsoring Authority and Detaining Authority are silent on the fact that, whether the complete text of the Bail Order was produced before the Detaining Authority or not. With the assistance of Mr. Gavand, learned APP, we have perused the entire original record and found that the complete text of Bail Order dated 17th May, 2025 was not produced before the Detaining Authority for arriving at his subjective satisfaction for terming the Petitioner as a dangerous person as contemplated under Section 2(b-1) of the MPDA.

6) It is thus clear from the record that, the Detaining Authority had no occasion to apply its mind to the reasons recorded by the learned Additional Sessions Judge, Kalyan in Bail Application No. 1083 of 2025 filed in C. R. 320/2025 registered with Shivajinagar Police Station, Ambernath while granting bail to the detainee and therefore subjective satisfaction of the Detaining Authority is vitiated. That, in the absence of full text of Bail Order being not supplied to the Petitioner, he is deprived of making effective representation against the Order of Detention. The right of the Petitioner to make an effective representation contemplated under Article 22(5) of the Constitution of India is also impaired due to non-

supply of the said reasoned Order.

7) In view of the above, a safe conclusion has to be drawn that, the Order of Detention cannot be legally sustained and therefore it is liable to be quashed and set aside.

7.1) Hence, the following Order:-

(a) Detention Order dated 16th July, 2025 bearing No. TC/PD/DO/MPDA/10/2025 issued by the Respondent No.1, is quashed and set aside.

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

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

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

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

(RANJITSINHA RAJA BHONSALE, J.)

(A. S. GADKARI, J.)