

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5257 OF 2025

Ganesh Suresh Rane
Age- 31 Years, Occ. - Driver,
Santosh Nagar, Beside Shivsena Shakha,
O.T. Section, Ulhasnagar -4,
Thane – 421004.

... Petitioner

V/s.

1. State of Maharashtra
(Through the Addl. Chief Secretary,
Home Department, having office
at Mantralaya, Mumbai)

2. Commissioner of Police, Thane
(Office of the Commissioner of Police,
Near Kalawa Bridge, Kharkar Alley,
Thane West, Maharashtra 400601)

3. The Superintendent
Nashik, Central Prison,
Nashik - 422101

... Respondents

Mr. Saurabh Ghag a/w Ms. Dakshata Sawant, Mr. Sidhant Raul, Mr. Amit Dwivedi, Ms. Monali Gadhave Advocates for the Petitioner.
Mr. J. P. Yagnik, APP for the State.
Mr. A. H. Bhilare, PSI, Thane Crime Branch is present.

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

DATE : 23rd DECEMBER, 2025.

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

1) Rule. Rule made returnable forthwith and heard finally with the

consent of the parties herein.

2) By the present Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks to quash and set aside the Detention Order No. TC/PD/DO/MPDA/12/2025, dated 30th July, 2025, issued by the Respondent No. 2 i.e. Commissioner of Police, Thane 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 Committal Order of even date, whereby, the Petitioner has been detained in the Nashik Road Central Prison, Nashik. The Petitioner prays that, he be released and set at liberty.

3) Heard Mr. Saurabh Ghag learned Advocate for the Petitioner and Mr. J. P. Yagnik, learned APP for the Respondent-State. Perused record and the Affidavit in Reply filed by the Respondent.

4) Learned Advocate for Petitioner submitted that last relied upon offence was registered on 21st May, 2025, wherein the Petitioner was released on bail 20th June, 2025. He submits that, the two in-camera statements i.e. of witness 'A' is recorded on 26th June 2025 and the in-camera statement of witness 'B' has been recorded on 28th June, 2025. He submits that, the Detention Order has been passed on 30th July, 2025 and therefore there is a delay in passing the Detention Order.

4.1) Learned Advocate for the Petitioner submits that, the delay has

not been explained properly. That, recording of the in-camera statements is an attempt to fill in the gaps between the last C.R. No. 369 of 2025, registered on 21st May, 2025, and the passing of the Detention Order on 30th July 2025. Learned Advocate for the Petitioner further submits that, the period between recording the last in-camera statement on 28th June, 2025, and passing the Detention Order on 30th July, 2025, i.e., a period of 33 days, has not been explained properly. There is no explanation for the period between 17th July, 2025, and 30th July, 2025.

4.2) Learned Advocate for the Petitioner submits that, the Petitioner was granted bail on 20th June, 2025 in respect of C.R. No. 369 of 2025. A perusal of the Order granting bail indicates that the Investigating Agency in spite of being granting sufficient time did not even file a say. Nor was time sought for filing a reply or say to oppose the bail application. The said conduct of the Investigating Authorities speaks volumes. That, the Investigating Officer did not have any objection to the Petitioner being released on bail. In view of the aforementioned submission and on the ground, learned Advocate for the Petitioner submits that, the Detention Order ought to be quashed and set aside.

5) Mr. J. P. Yagnik, learned APP in reply referred to the Affidavit of the Detaining Authority and submits that, there is no delay in passing the Detention Order. That, the Authorities have acted in swift and diligent manner. He further submits that, the verification of the last in-camera

statement was done on 4th July, 2025 and the Detention Order has been immediately passed on 30th July, 2025. That, considering the two in-camera statements, a case is made out to detain the Petitioner under the preventive detention laws.

6) Perusal of the Affidavit would clearly indicate that, the period between 17th July, 2025 to 30th July, 2025 has not been explained nor has any attempt been made to put forward any explanation for justification for the said period. Perusal of the Affidavit also indicates that, the Detaining Authority has given the same routine and vague explanation in respect of the recording of the in-camera statements and the movement of the proposal. Apart from the movement of files there is no explanation for the period between 5th July, 2025 to 17th July, 2025. The perusal of the Affidavit indicates that, after the verification of in-camera statement on 3rd July, 2025 and 4th July, 2025, the Assistant Commissioner Police Ulhasnagar Division, sent proposals on 5th July, 2025 to the DCP, Zone-IV, Ulhasnagar. The said proposals was sent to the Additional C.P. East Region, Kalyan on 10th July, 2025. It is further stated that the Additional C.P. East Region, Kalyan sent the said proposal to C.P. Office, Thane on 14th July, 2025 and that the proposal was received by the MPDA Cell, Thane on 17th July, 2025 and the Order has been passed on 30th July, 2025. Apart from giving the moment of the files and dates there is no explanation for the aforesaid periods.

7) The Hon'ble Supreme Court in the case of *T.A Abdul Rahman Vs.*

State of Kerala And Others, reported in (1989) 4 SCC 741, in para Nos. 10 and 11, has held as under :

“10. The conspectus of the above decisions can be summarised thus: 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 case. 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.

11. Similarly when there is unsatisfactory and unexplained delay between the date of order of detention and the date of securing the arrest of the detenu, such a delay would throw considerable doubt on the genuineness of the subjective satisfaction of the detaining authority leading to a legitimate inference that the detaining authority was not really and genuinely satisfied as regards the necessity for detaining the detenu with a view to preventing him from acting in a prejudicial manner.”

8) The Hon’ble Supreme Court in the case of *Pradeep Nilkanth*

Paturkar Vs. S. Ramamurthi and Others, reported in 1993 AIR SCW 4066, has followed the dictum enunciated by it in *A. Abdul Rahman (supra)*. In the case of *Pradeep Nilkanth Paturkar (supra)*, the Hon'ble Supreme Court has expressed its anguish about the fact that, the statements of witnesses were recorded only after the detenue became successful in getting bail from the concerned Court. It is further held that, the unexplained delay, whether short or long, especially when the detenue has taken a specific plea of delay has to be explained properly. Unexplained delay is fatal to a Detention Order and vitiates the detention. Delay in matter of preventive detention is unacceptable and as in fact contrary to the very object and purpose of the preventive detention. In preventive detention matters the Authorities ought to act in a prompt and swift manner.

9) As noted above, in the case at hand also there is unexplained delay of 33 days in processing the Order of Detention of the Petitioner. In view of the above discussion and under the above circumstances, we set aside the impugned Detention Order dated 30th July, 2025, issued by the Respondent No. 2.

10) Hence the following Order.

(a) Detention Order dated 30th July, 2025 bearing No. TC/PD/DO/MPDA/12/2025 issued by the Respondent No. 2 is quashed and set aside.

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

(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.)