

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

CRIMINAL WRIT PETITION NO. 5614 OF 2025

Vishal Kailas Banekar

Age: 26 years,

Residing at: Bhimjyot Mitra Mandal,

Laxmi Nagar, Yerwada, Pune.

(At present Buldhana District Prison)

... Petitioner

V/s.

1. Commissioner of Police, Pune City.

2. The State of Maharashtra

(Through the Secretary Home Department (Spl)

Mantralaya, Mumbai.

3. The Superintendent

Buldhana District Prison, Buldhana

... Respondents

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

Ms. M. M. Deshmukh, Acting P.P. for the Respondent-State.

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

DATE : 15th DECEMBER, 2025.

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

1) By the present Petition, filed under Article 226 of the Constitution of India, the Petitioner, seeks to quash and set aside the Detention Order bearing No. OW. NO.:CRIME/PCB/DET/YERAWADA/BANEKAR/611/2025 dated 25th July 2025, 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). The Petitioner being detained seeks a direction for being released and set at liberty.

2) By Order dated 10th November 2025, this Court had issued Rule in the Petition. The Respondents have filed their Affidavits in reply and opposed the Petition.

3) We have heard Ms. Jayshree Tripathi, learned Advocate for the Petitioner and Ms. Deshmukh, Acting P.P. for the Respondent-State. Perused the record and the Affidavits in Reply filed by the Respondent Authorities.

4) At the outset, learned Advocate appearing for the Petitioner submits that, though she has raised various grounds in paragraph i.e. 5(a) to 5(i) of the Petition for challenging the Detention Order dated 25th July 2025, she is restricting her arguments only to ground 5(e) i.e. delay in passing the Detention Order. Learned Advocate for the Petitioner submits that, the Detaining Authority has for the purposes of passing the Detention Order relied upon solitary C.R. being C.R. No.244 of 2025, registered on 6th April 2025 with the Yerwada Police Station and two in-camera statements of witness 'A' and 'B' recorded on 15th May 2025 and 16th May 2025 respectively.

4.1) Learned Advocate appearing for the Petitioner would submit that, the in-camera statement of witness 'A' pertains to incident of 5th April 2025 and that of witness 'B' pertains to incident of 8th April 2025. She submits that, the Authorities had issued notice to the Petitioner under Section 35(1)(a) of

the BNSS, Act on 7th April 2025. She further submits that, the in-camera statements have been recorded only to fill in the gap, cover up the period/ delay and pass the Detention Order. That, the last in-camera statement of witness 'B' was recorded on 16th May 2025 and the Detention Order is passed on 25th July 2025 i.e. after period of 69 days. That, there is no satisfactory explanation given by the authorities for the said delay. That, the authorities have only offered the standard explanation of the movement of the proposal and in any event have not given any explanation for the period of 4th June to 2nd July 2025 i.e. 27 days.

5) Smt. M.M. Deshmukh, the learned Acting Public Prosecutor for the State in reply submits that, there is no delay and prompt action has been taken by the Sponsoring and Detaining Authorities. That, the Respondent No.1 has explained in detail the procedure and steps taken to process the proposal of detention. That, after the in-camera statements were recorded and verified, the proposal was submitted through proper channel on 24th May 2025. That, the said detention proposal was considered and carefully scrutinized by various authorities at various levels and eventually placed before the Detaining Authority who carefully examined the entire proposal along with all the supporting documents to pass the Detention Order dated 25th July 2025. That, on 24th May 2025, the proposal was submitted to the ACP, Yerwada Division, Pune City, who after scrutinizing the proposal, endorsed it and forwarded the proposal to the Deputy Commissioner of Police,

Zone IV, Pune City on 28th May 2025. The Deputy Commissioner of Police Zone IV, Pune City perused the proposal, endorsed it on 30th May 2025 and forwarded the proposal to the Additional Commissioner of Police, East Region, Pune City. That, on 31st May 2025, the Additional Commissioner of Police, East Region, Pune City, went through the proposal and after endorsing it forwarded the same to PCB, Crime Branch. The PCB, Crime Branch, on scrutinizing the proposal, found some defects therein and therefore on 4th June 2025, returned the proposal to the Sponsoring Authority for rectification. That, the Sponsoring Authority, carried out the required corrections/rectifications and on 2nd July 2025 resend the proposal, to the PCB Crime Branch. The Senior Police Inspector, PCB, Crime prepared a note-sheet, endorsed it and on 2nd July 2025 forwarded the same to ACP, Crime I, Pune, who on 4th July 2025 forwarded the proposal with his remarks to the Deputy Commissioner of Police, Crime Pune City. The Deputy Commissioner of Police, Crime, Pune City, perused the proposal and along with his remarks forwarded the same on 9th July 2025 to the Additional Commissioner of Police, Crime, Pune City, who gave his endorsement on 14th July 2025 and submitted the proposal to the Joint Commissioner of Police, Pune City. The Joint Commissioner of Police, Pune City gave his endorsement on 17th July 2025 and placed the proposal before the Detaining Authority. The Detaining Authority once again considered the proposal and gave approval to the said proposal on 21st July 2025. That, the entire proposal was then again

forwarded to the Sponsoring Authority, for the purposes of fair typing, preparing translation of documents in the language known to the Petitioner and preparing necessary sets of the proposal. The proposal was placed before the Detaining Authority, who after approval issued the Order of Detention on 25th July 2025. That, the authorities have acted in an urgent and swift manner and with the most sincerity. She submits that, in view of the aforesaid facts, there is no delay much less any unexplained delay in processing the proposal and passing the Detention Order.

6) On perusal of the record so also Affidavit in reply filed by the Respondent No.1, we find that, the explanation offered by the authorities is routine, lacks in the required details and does not refer to or state what was the exact nature of scrutiny or checking, which was carried out by the various authorities, for which the said period/time was consumed. In the present case, the explanation offered and the sequence of events, leads us to believe that the in-camera statements have been recorded only to fill in some portion of the period/gap or put forth some sort of an explanation for the time consumed/delay in issuing the Order of Detention dated 25th July 2025. We say this for more than one reason. The explanation, put forth by the Authorities only indicates the movement of the proposal from one authority to another, without any details of work or nature of scrutiny which was carried out. The Detention Order dated 25th July 2025, places reliance on a solitary C.R. No. 244 of 2025 registered on 6th April 2025 and two in-camera

statements of witness 'A' and 'B' recorded on 15th May 2025 and 16th May 2025, which surprisingly refer to incidents of 5th April 2025 and 8th April 2025. We also find that, on 7th April 2025, a notice under Section 35(1)(a) of the BNSS was issued to the Petitioner. That, the Detention Order is passed on 25th July 2025. We find that there is no objectionable act or conduct attributed to the Petitioner after 8th April 2025. Further, we find that there is no explanation for the period from 4th June 2025 to 2nd July 2025 i.e when the proposal was resend to the Sponsoring Authority to rectify the defects/errors. There is no explanation for a period of 27 days. It appears that, the in-camera statements of witnesses recorded on 15th May 2025 and 16th May 2025 have been recorded to fill in and explain the gaps or at least reduce it.

7) Perusal of the Affidavit in reply makes it clear that, there is a gap of 69 days in between recording of the last in-camera statement of witness 'B' on 16th May 2025 and passing the Detention Order on 25th July 2025. Apart from the routine explanations, there is no plausible or satisfactory explanation offered for the said period. We do not find the explanation satisfactory. We also note that, there is no offence registered against the Petitioner from 6th April 2025. A minute perusal of the explanation given by the Sponsoring-Detaining Authorities would indicate that, from 4th June 2025 to 2nd July 2025, the Detaining Authority has not given any explanation as to why the proposal was lying with the Sponsoring Authority for a period of 27 days when no action or steps are taken by the Sponsoring Authority. Even

otherwise the explanation of the Detaining Authority from when the proposal was initially moved from the Sponsoring Authority on 24th May 2025 till passing of the Detention Order of 25th July 2025 is only routine, lacks details and particulars of the nature of scrutiny or checking. In order to cover up the gaps and to explain some part/period of the delay, it appears that the in-camera statements had been recorded. We have noted above that, there is no plausible explanation much less any satisfactory explanation in respect of the delay of 69 days in between the recording of the last in-camera statement and passing of the Detention Order dated 25th July 2025.

8) This Court, in the case of *Ajay Arun Gaikwad Vs. Commissioner of Police, Pimpri Chinchwad*, in Writ Petition No.3892 of 2025 in para 7 has observed as under:-

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.

9) In the case of *Sunil Anand Kole Vs. Commissioner of Police, Mira Bhayandar, Vasai-Virar*, Writ Petition No.3124 of 2025 this Court in para Nos. 8 and 11 has observed as under:-

8) We have perused the record and given our considered thought to the arguments of the parties on the ground of delay. It is well settled that on the ground of unexplained delay, the 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 detenue 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 case 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 v. State of Maharashtra and Anr reported in 2013 ALL MR (Cri) 3870 at Paragraph No.12; and (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.

11) 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 there is unexplained delay on all the counts i.e. (i) between recording of the in-camera statements and the registered crime which is relied upon, (ii) between the proposal being received to the C.P office and the proposal being scrutinized and submitted with remarks by the A.C.P crime, (iii) between recording the last in-camera statement and passing the Detention Order and (iv) between registering the last relied upon crime and passing the Detention Order. For all the occasions, we find that there is no explanation for the delay. There is a complete silence.

10) This Court in the case of *Deepak Govind Murudkar Vs. Mr. R. H. Mendonca and ors* reported in *2001 ALL MR (Cri) 357* has held that, for the purposes of computing delay in issuing detention order, the period of delay has to be computed from the date of the last in-camera statement. In the case in hand, we find that there is a delay of 69 days from recording the in-camera statement of witness 'B' on 16th May 2025 and passing of the Detention Order dated 25th July 2025. The said delay of 69 days has not been explained. Perusal of the affidavits indicate that a general and vague explanation is given in respect of the procedure and process adopted by the Sponsoring and Detaining Authorities. According to us, unexplained delay vitiates a Detention Order.

11) In the aforesaid facts and circumstances, we find that there is an unexplained delay in passing the Detention Order and therefore the impugned Detention Order stands vitiated and the continued detention of the Petitioner is impermissible under the law and deserves to be quashed and set aside.

- 12) Hence, by making the Rule absolute, we pass the following order:
- i) Detention Order dated 25th July 2025, bearing No. OW.NO.:CRIME/PCB/DET/YERAWADA/BANEKAR/611/2025, 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.)