



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.153/2025

Mrs. Rutuja Akash Gaygole

Age 25 Years.

...(Wife of Detenu)

Akash Gaygole, Moha Fata,
Dhamangaon Road, Yavatmal,
PO: Yavatmal, Maharashtra 445 001.

... Petitioner

- Versus -

1. The District Magistrate,
Yavatmal.
2. The State of Maharashtra,
Through Additional Chief Secretary
to Government of Maharashtra,
Mantralaya, Home Department,
Mantralaya, Mumbai.
3. The Superintendent,
District Prison Wardha,
Wardha.

... Respondents

Ms. Jayshree Tripathi, Advocate h/f Mr. R.R. Vyas, Advocate for
the petitioner.

Mr. S.S. Doifode, A.P.P. for respondent Nos.1 to 3.

CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.

DATE: 16.4.2025.

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally with the consent of learned Advocates for the
parties.

2. The petitioner, who is the wife of the detenu, seeks to challenge the legal and constitutional validity of the detention order passed by the respondent No.1 on 18.11.2024 which was confirmed by respondent No.2 on 10.01.2025 under Section 12(1) 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 (hereinafter referred to as the "M.P.D.A. Act") whereby he is termed as a 'dangerous person' under Section 2(b)(1) of the M.P.D.A. Act.

3. The detaining authority has taken the following crimes into consideration in order to pass the detention order:-

(i) Crime No.464/2024 registered at Yavatmal City Police Station on 22.04.2024 under Sections 307, 326, 323, 504 and 506 of the Indian Penal Code.

(ii) Crime No.198/2024 registered at Loni Police Station, District Amravati on 16.07.2024 under Sections 121(1), 132, 221, 351(2) and 352 of the Bhartiya Nyaya Sanhita, 2023.

4. The petitioner has raised the following grounds to challenge the detention order: -

(a) Stale offences have been taken into consideration, as in Crime No.464/2024 the offence was registered against the detenu on 22.04.2024 and the detention order came to be passed on 18.11.2024. Therefore, there is a delay of about seven months in passing the said order.

(b) Upon reading of the in-camera statements of witnesses 'A' and 'B', which have been relied upon by the detaining authority, suggests that they are narrated in a general manner and they are also silent about the date and time of the alleged incident. Hence, subjective satisfaction arrived at by the detaining authority is vitiated.

5. Learned Advocate for the petitioner contended that the detenu had submitted his representation to the Superintendent of Police on 27.12.2024 which was further supposed to be submitted to the State Government for expeditious consideration, however, the State Government failed in considering the representation made by the detenu and has caused a significant delay in communicating the result of the said representation.

6. Learned Advocate for the petitioner submitted that the documents pertaining to two crimes, which have been relied upon by the detaining authority including the medico-legal and judicial documents provided to the detenu are in English language only, and the translation of the same has not been supplied to the detenu in the language which is known to him. It was further submitted that non-furnishing of the translated copies of the required documents to the detenu amounts to violation of

Article 22(5) of the Constitution of India, as it affects the right of the detenu to make an effective representation.

7. The respondents have filed an affidavit-in-reply by relying upon the findings of the detention order. Mr. Doifode, the learned A.P.P, has argued that the secret witnesses have given their statements only on the assurance that their identities would be kept confidential. Hence, they were silent about the name, address, date and time of the alleged incidents. It was further submitted that the detaining authority passed the detention order once it was subjectively satisfied that the activities of the detenu are prejudicial to the maintenance of public order looking into the past criminal activities of the detenu. It is further submitted by the learned A.P.P. that the detenu through his Advocate has made a representation in English before the Advisory Board. Hence, there is no question of the right of detenu getting affected in making an effective representation and non-furnishing of translated copies of the documents such as the injury certificate.

8. The petitioner has challenged the detention order on the ground that the petitioner is shown to be a dangerous person and the order is passed on the basis of two offences and two confidential statements. The offences are Crime No.464/2024 is under Sections 307, 326, 323, 504 and 506 of Indian Penal Code and Crime No.198/2024 is under Sections 121(1), 132, 221, 351(2) and 352 of the Bhartiya Nyaya Sanhita, 2023.

9. The ground on which the petitioner has challenged the detention order is that the translated copies of the documents in mother tongue is not supplied to him by the detaining authority. This is the only ground of challenge to the detention order.

10. The learned Advocate for the petitioner has contended that though the offence under Section 307 of I.P.C. is registered against the petitioner still the translation of injury certificate is not supplied to the petitioner. The petitioner has

relied on the judgments of the Hon'ble Apex Court and this Court in support of the argument that, if the translation of the documents is not supplied as the detenu is not knowing the English language then on that ground only the detention order is vitiated.

11. On perusal of the detention order it appears that the documents of which the petitioner is claiming that the translated copies are not provided to him is not fatal, as the detenu has signed in English. He has filed a reply through his Advocate in English. In reply also he has not mentioned that his right to represent is infringed because of non-supply of such translation of documents.

12. On perusal of the judgments on which the petitioner has relied it appears that in those judgments the grounds of the detention were in English and Marathi or Hindi version was not supplied to the petitioner.

13. The petitioner has relied on the following judgments:-

(i) *Hadibandhu Das V/s. District Magistrate Cuttak and another, AIR 1969 SC 43,*

(ii) *Nainmal Pertap Mal Shah V/s. Union of India and others, AIR 1980 SC 2129,*

(iii) *Powanammal V/s. State of T.N. and another, (1999) 2 SCC 413,*

(iv) *Ibrahim Ahmad Batti alias Mohd. Akhtar Hussain alias Kandar Ahmed Wagher alias Iqbal alias Gulam V/s. State of Maharashtra, (1982) 3 SCC 440,*

(v) *Mrs. Satwinder Kaur Maan V/s. District Magistrate & Anr., 2002 ALL MR (CRI) 1123,*

(vi) *Ketan Gorakh Darekar V/s. Commissioner of Police, Pune City and others (Writ Petition Stamp No.16438/2023) delivered on 19.10.2023,*

(vii) *Ramchandra A. Kamat V/s. Union of India and others, (1980) 2 SCC 270,*

(viii) *Mrs. Nafisa Khalifa Ghanem V/s. Union of India and others, (1982) 1 SCC 422,*

(ix) *Rupesh Ram Thakur V/s. The Commissioner of Police, Thane & Ors., 2018 ALL MR (Cri) 2264,*

(x) *Mehrunissa V/s. State of Maharashtra, (1981) 2 SCC 709 and*

(xi) *Kamla Kanyalal Khushalani V/s. State of Maharashtra and another, (1981) 1 SCC 748.*

14. The basis for claiming that the translated documents not supplied is fatal to the passing of detention order is that it interferes with the right of the detenu to make an effective representation. In the present case, we are unable to appreciate how the non-supply of translated copies of the medical documents in mother tongue i.e. Marathi adversely affects the right of petitioner to make an effective representation. In the judgments on which the petitioner has relied it was found on facts that in the said judgments, grounds of the detention were not supplied in the mother tongue to the petitioner which indeed adversely affected the right of detenu in that case in making an effective representation.

15. This Court in Writ Petition No.2825/20215 (Abhishek Pradip Tarkase V/s. The Commissioner of Police, Nagpur City and others) has categorically laid down that the

Court must reach to a conclusion that without translation of a document the same has prejudicially affected or frustrated the right of the detenu to make an effective representation. In the case in hand the translation of medical papers *prima facie* will not be fatal but the detenu will have to demonstrate how such non-supply of translated copies adversely affected his right to make a purposeful and effective representation.

16. On perusal of the opinion of the Advisory Board it appears that it has also considered this ground while giving the opinion. It is mentioned by the Advisory Board that apart from the medical certificate and statements of witnesses relied upon, the crimes are only referred to and they are not documents which are relied upon by the detaining authority to arrive at the subjective satisfaction. The documents according to it are registration of the F.I.R., statement of the first informant, medical documents and the statements of witnesses would be the documents which are relevant during the trial. The fact of registration of the offence based on the F.I.R. of the informant is

alone germane for arriving at the conclusion of subjective satisfaction by the detaining authority. Considering the opinion given by the Advisory Board and as the non-supply of translated copies of the said documents cannot be said to be a ground to set aside the detention order as the same has not adversely affected the right of the detenu to make an effective representation, we find that the ground of non-application of mind raised on behalf of the petitioner cannot be sustained.

17. In view of the above, since we find that the grounds of challenge specifically raised on behalf of the petitioner are without any substance, the writ petition deserves to be dismissed. Accordingly, it is dismissed. Rule discharged.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)