



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

CRIMINAL WRIT PETITION NO.248/2025

Mrs. Imratkour Anmolsingh Bawari,  
(Wife of the Detenu)  
Age 25 Yrs., Occ. Household,  
Indira Nagar, Ward No.15,  
Karanja, Wardha,  
Maharashtra 442 203.

... Petitioner

- Versus -

1. The District Magistrate,  
Wardha.
2. The State of Maharashtra,  
Through Addl. Chief Secretary  
to Government of Maharashtra,  
Mantralaya, Home Department,  
Mantralaya, Mumbai.
3. The Superintendent,  
Nagpur Central Jail, Nagpur.

.... Respondents

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Ms. Jayshree Tripathi, Advocate h/f Mr. R.R. Vyas, Advocate for petitioner.  
Mr. S.M. Ghodeswar, A.P.P. for respondent Nos.1 to 3.  
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CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.  
DATE OF RESERVING THE JUDGMENT: 6.5.2025.  
DATE OF PRONOUNCING THE JUDGMENT: 9.5.2025.

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

**Rule.** Rule made returnable forthwith. Heard finally with the consent of learned Advocates for the parties.

2. This petition has been filed by the petitioner, who is the wife of the detenu. The petitioner seeks to challenge the legality of the detention order passed by respondent No.1 on 18.12.2024 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 (hereinafter referred to as the “M.P.D.A. Act”) which is confirmed by respondent No.2 vide order dated 6.2.2025 declaring the detenu as a ‘bootlegger’ under Section 2(b) of the M.P.D.A. Act.

3. A bare perusal of the detention order would show that the detaining authority has relied upon the following two offences which have been committed within the last six months of the passing of the said order:-

(i) Crime No.505/2024, registered on 14.08.2024, under Sections 65(a)(e), 77(a) and 83 of the Maharashtra Prohibition Act, 1949 r/w. Sections 3(1), 181, 130/177 of the Motor Vehicle Act, 1988.

(ii) Crime No.444/2024, registered on 14.07.2024, under Sections 65(e), 77(a) of the Maharashtra Prohibition Act, 1949.

4. The petitioner being aggrieved by the detention order passed by the detaining authority has raised the following grounds to question the detention order:-

(a) The detaining authority ought not to have invoked the provisions of M.P.D.A. Act as it is a settled principle of law that normal laws of the land are sufficient to take care of such offences as in both the crimes i.e. Crime No.505/2024 and Crime No.444/2024 which have been considered for passing the detention order, the detenu was granted bail thereby not giving effect to his arrest.

(b) The detaining authority has given contradictory opinions throughout the order of detention. Moreover, reliance has also been placed on extraneous material, which has affected the right of the detenu to make an effective representation.

(c) The crimes which have been taken into consideration for passing the order of detention were registered on 14.07.2024 and 14.08.2024 whereas the detention order came to be passed on 18.12.2024 amounting to a delay of more than four months thereby snapping the live link.

5. The learned Advocate for the petitioner submits that a plain reading of the in-camera statements would reveal that the incidents which have been narrated by the confidential witnesses are vague and general in nature. Moreover, they are silent about the date, time and place of the incident. The petitioner submits that such vague statements should not have been taken into consideration for passing the detention order. Hence the petitioner contends that the detention order is bad in law and is liable to be quashed and set aside.

6. It is the stand of the petitioner that the detaining authority has relied upon the opinion of the Medical Officer of Rural Hospital Karanja (Ghadage) to arrive at the subjective satisfaction that the detenu is a bootlegger. Furthermore, it is contended that a bare perusal of the document reveals that it is only a generalized document which talks about the ill effects of ethyl alcohol on human health and it nowhere mentions the opinion of the said authority based on the seized alcohol/liquor, as required. Hence, the petitioner submits that the same cannot be taken into account as it is not based on the contraband seized from the detenu.

7. The petitioner then emphasised on the fact that in both the crimes registered against the detenu, the detenu was not found doing any bootlegging activities like possession, sale or manufacturing of any illicit liquor, the offences only came to be registered on the complaint of the individuals. It is further submitted that the crimes which have been relied upon are still under investigation. Hence, the petitioner submits that this

completely shows non-application of mind on part of the detaining authority.

8. The learned A.P.P appearing on behalf of respondent No.1 has placed his reliance on the detention order and has submitted that in view of the observations made by the detaining authority in the detention order in paragraph No.13, despite taking preventive actions against the detenu, his bootlegging activities could not be curbed. Moreover, the offences as mentioned in paragraph No.6.1 of the order show detenu's habit of continuously indulging in bootlegging activities. Furthermore, the respondent submitted that the detaining authority has not given any contradictory opinion, in fact, paragraph No.5 of the grounds talks about the criminal antecedents and the seizure and the detaining authority has only relied on two recent offences, the other offences mentioned were just mentioned to show the past criminal activities of the detenu.

9. It is the contention of learned A.P.P. that no stale material has been taken into account. Moreover, it is submitted

that if the opinion of Medical Officer is taken on the recent crimes, then there could be a delay in sending the proposal of detention after getting the opinion, that is why the C.A. Reports of the liquor seized from the detenu were sent for gaining opinion of the Medical Officer. Hence, the respondent No.1 prays for dismissal of the instant petition.

10. The detenu is detained as a bootlegger. The petitioner is the wife of the detenu. She has challenged the order stating that the extraneous material is considered for passing the detention order. The opinion on which the detaining authority has relied upon is about the contents of the ethyl alcohol of other crimes. The opinion in recent crimes i.e Crime No.505/2024 and Crime No.444/2024 is not available and by relying on the opinion given in the earlier offences, the detention order was passed.

11. Two offences are considered for passing the detention order. In Crime No.505/2024 offence under Sections 65(a)(e),

77(a) and 83 of the Maharashtra Prohibition Act, 1949 read with Section 3(1), 181, 130/177 of the Motor Vehicles are registered against the detenu. This offence is registered on 14.08.2024. In this crime, the detenu was arrested and released on bail. As per C.A. Report 42.18% ethyl alcohol is found in said sample. Another crime which is considered is Crime No.444/2024 for the offence punishable under Sections 65(e) and 77(a) of the Maharashtra Prohibition Act, 1949. It was committed on 14.07.2024. In this crime, the notice under Section 35(3) of Bhartiya Nagrik Nyaya Sanhita was issued. In this case the ethyl alcohol is found 41.64% and 32.22% in the samples collected in said offence. Two in-camera statements are also considered for passing the detention order.

12. The main contention of the petitioner is that there is a delay in forwarding the representation made by her and no response is given by the authority to the representation made by the detenu.

13. After going through the opinion of the Advisory Board it appears that the representation was considered. The detenu was produced through video conferencing and he was represented through an Advocate. Though various judgments are relied upon by the learned Advocate for the petitioner in support of argument that the representation should be decided by each and every authority, those are not helpful to the petitioner in the facts and circumstances of this case.

14. On perusal of the offences, it appears that though the ethyl alcohol at the higher grade is found in samples, the opinion which is considered by the detaining authority, is not a recent opinion given by the medical authority. Therefore, there is substance in the contention of the learned Advocate for the petitioner that the extraneous material is considered while passing the detention order. Though above two offences are considered by the detaining authority, the criminal background and the Chemical Reports in earlier offences are also considered by the detaining authority while passing the detention order. Therefore,

on this ground alone, the order passed by the detaining authority stands vitiated.

15. If we consider the statements of confidential witnesses “A” and “B” it appears that they are of general nature. When the witness “A” has given understanding to the detenu to stop selling illicit liquor, he has given threats and abused the witness. Both the statements are recorded on 07.12.2024 and verified on 13.12.2024 by S.D.P.O. They are not even ‘seen’ by the authority. The identical statements are considered for passing the detention order. Therefore, these statements cannot be considered for passing the detention order.

15. The learned Advocate for the petitioner has also contended that contrary statement is made by the detaining authority while passing the detention order. On considering the contention of the detention order it appears that though the detaining authority has relied on two statements, has also considered earlier offences and relied on the opinion given by the

medical authority in earlier offence. Considering the submissions made by the learned Advocate for the petitioner, we are of the view that the order passed by the detaining authority stands vitiated.

16. We have considered the judgments relied upon by the petitioner. As the 'public order' is not disturbed by the crimes which are considered by the detaining authority and the statements are not sufficient to pass the detention order, the order passed by the detaining authority needs to be quashed and set aside. Accordingly, the writ petition is allowed in terms of prayer clause (b). The detenue be released forthwith, if not required in any other crime.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)