



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

Criminal Application [APPW] No.101 of 2025

in

Criminal Writ Petition No.334 of 2025

Jay Sunil Kadu

vs.

*State of Maharashtra, through Secretary, Preventive Detention,
Home Department (SPL), Mumbai and another*

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. J.B. Kasat, Advocate for the Applicant/Petitioner.

Mr. S.S. Doifode, A.P.P. for the Non-Applicants/Respondents.

CORAM : ANIL L. PANSARE & M.M. NERLIKAR, JJ.

DATE : 23rd JULY, 2025.

The application is filed to dispense with filing of typed copy of faint, hand written and shabby pages of detention order dated 23/08/2024.

02. The learned Counsel for the petitioner submits that these documents, which are said to be faint, are the documents supplied by the respondents to the petitioner and on supplying such faint documents, the petitioner has raised a ground of not giving him an opportunity to submit effective representation.

03. Thus, it is a case of the petitioner that legible copy of documents, on the basis of which the order of detention is passed, was not supplied to him. This means that the petitioner himself did not get the legible copy. In the circumstances, one cannot expect him to place on record the legible copy, particularly in the light of the fact that it is his ground of challenge to the order impugned.

04. In view of above and for the reasons set out in the application, the application is allowed in terms of prayer clause (A).

Writ Petition No.334 of 2025 :

Heard.

02. The petitioner is not pressing ground of illegible copy as referred to above. The order of the preventive detention has been challenged by the petitioner *inter alia* on the ground that respondent No.2 has not considered the conditions of bail, which the trial Court has imposed while releasing the petitioner on bail vide order dated 19/08/2024.

03. The impugned order indicates that the authority was aware of the said bail order, because the authority has referred to the said order saying that the Court has granted bail to the petitioner on certain terms and conditions.

04. The order, however, does not show that these terms and conditions were taken note of by respondent No.2 to record a satisfaction that these conditions are not sufficient to deter the petitioner from indulging into illegal activities. On this point, the Hon'ble Supreme Court in the case of **Joyi Kitty Joseph vs. Union of India and others – (2025) 4 SCC 476** has held in paragraph 32 as under:

“32. Likewise, in the present case, we are not concerned as to whether the conditions imposed by the magistrate would have taken care of the apprehension expressed by the detaining authority; of the detenu indulging in further smuggling activities. We are more concerned with the aspect that the detaining authority did not consider the efficacy of the conditions and enter any satisfactions, however, subjective it is, as to the conditions not being sufficient to restrain the detenu from indulging in such activities.”

05. Thus, the Supreme Court has highlighted the importance of detaining authority to record satisfaction as to how the conditions imposed upon the persons, like the petitioner, while releasing them on bail are not sufficient to restrain them from indulging into illegal

activities and further that the only option is to detain the petitioner.

06. The Coordinate Bench in an identical matter being Criminal Writ Petition No.189/2025 in its recent judgment has also frowned upon the approach of the detaining authority in not considering the conditions of bail. The Coordinate Bench has held in paragraph 14 as under:

“14. It appears from the record that though the petitioner was released on bail in all the offences, the conditions in bail order are not considered which were imposed by the Trial Court to record satisfaction as to whether those conditions are sufficient or not to restrain the detenu from indulging into any further like activities. From the nature of the crime, it appears that the ordinary law of the land is sufficient to deal with such situations. The statements which are recorded by the authority are also not sufficient to pass the detention order. Considering the law laid down by the Hon’ble Apex Court about consideration of contents of the bail orders, the subjective satisfaction is not arrived at by the detaining authority. Hence, the petition is allowed.”

07. Thus, the detaining authority has to satisfy itself as to how the conditions of bail are not sufficient to restrain the detenu from indulging into any illegal activities. In the present case, respondent No.2 has not considered this vital element, nor has respondent No.1 given any consideration to it. That being so, the order impugned is unsustainable.

09. Accordingly, the petition is allowed. The impugned order dated 23/08/2024 passed by respondent No.2 and confirmed by respondent No.1 is quashed and set aside. The petitioner be set at liberty forthwith, if not required in any other offence.

(M.M. Nerlikar, J.)

(Anil L. Pansare, J.)