



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

CRIMINAL WRIT PETITION NO.844/2024

Dinesh @ Dalya S/o Madhukar
Meshram, Aged 49 years, Occu. Labour
R/o. Ambedkar Nagar, Tumsar, Tah.
Tumsar, District - Bhandara.

... Petitioner

- Versus -

1. State of Maharashtra,
Through its Secretary,
Department of Home (Special),
Mantralaya, Mumbai-32.

2. The Collector and District Magistrate,
Bhandara, District-Bhandara.

3. The Police Station Officer,
Police Station, Tumsar,
District-Bhandara.

... Respondents

Mr. K.S. Motwani, 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.
DATED: 12.2.2025.

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

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

2. By this petition, the petitioner is seeking to challenge order dated 5.4.2024 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 “M.P.D.A. Act”) by the District Magistrate, Bhandara. The petitioner was heard before the Advisory Board on 10.9.2024. The State Government, after receiving the opinion of the Advisory Board, issued the order of confirmation under Section 12 of the M.P.D.A. Act on 30.9.2024. Representation was submitted on 4.9.2024 by the petitioner.

3. Though, four criminal cases have been registered at Police Station, Tumsar, against the detenu, the most recent offence i.e. Crime No.918/2023 has been relied upon along with

two in-camera statements of confidential witnesses “A” and “B” while passing the order of detention.

(a) Crime No.918/2023 for the offence punishable under Sections 307, 353, 143, 147, 148 and 149 of the Indian Penal Code read with Section 3/25 of the Arms Act and Section 135 of the Maharashtra Prohibition Act is registered on 26.12.2023.

4. The proposal for sanction of detention comprised of other three crimes as under:-

(i) Crime No.528/2023 for the offences punishable under Section 399 of the Indian Penal Code, registered on 18.10.2023.

(ii) Crime No.274/2022 for the offence punishable under Sections 294 and 506 of the Indian Penal Code, registered on 1.8.2022.

(iii) Crime No.011/2021 for the offence punishable under Sections 307, 143, 147, 148, 149 and 120(b) of the Indian Penal Code read with Section 3/25 of the Arms Act and under Sections

3(1), (i) (ii), 3(2), 3(4) of the Maharashtra Control of Organised Crimes Act, registered on 19.1.2021.

5. Grounds raised by the petitioner are as under:-

(a) Detenu released on bail in Crime No.528/2023 and Crime No.918/2023 while released on bail in Crime No.274/2022 and the matter pursuant to Crime No.011/2021 is pending before the competent Court.

(b) Stale offences accounted by the detaining authority.

6. Learned Advocate for the petitioner, Mr. Motwani, submitted that on perusal of Crime No.918/2023 it is clear that the allegations were against the co-accused and there is nothing to show that the detenu was spreading terror with gun. Further it was stated that in Crime No.011/2021 there was no situation of 'disturbance of public order' as it was a fight between two groups. The learned Advocate for the petitioner further submitted that the offences which were taken into consideration were stale and did not have nexus with passing of the detention order. He added

that bail orders with respect to all crimes were placed before the detaining authority but they were not taken into consideration.

7. Learned A.P.P. Doifode strongly relied upon the affidavit-in-reply on behalf of the respondents. He submitted that it is not true that the copies of in-camera statements were not provided to the petitioner. The in-camera statement was last recorded on 14.2.2024. The Police Station, Tumsar initiated proposal for detention on 28.2.2024 which was further submitted to the Sub-Divisional Police Officer, Bhandara who verified the in-camera statements on 4.3.2024 and recommended the proposal to the detaining authority on the same day. Learned A.P.P. further argued that it is mentioned in the confidential statements of the anonymous witnesses that when people gathered at the spot, the petitioner waved a knife towards them and threatened them and, therefore, created panic in their minds. He further submitted that the grounds of detention, its true translation in Marathi language and other relevant documents

were supplied to the detenu on the next day i.e. on 6.4.2024. It was further submitted that the truthfulness of the in-camera statements had been verified and recorded by a Police Officer of the rank of Sub-Divisional Police Officer, Tumsar who is also a Special Executive Magistrate. The detaining authority has carefully gone through the verification report of the Sub-Divisional Police Officer and then put the remarks as “seen and verified”, endorsed the statements as true and genuine.

8. On perusal of order it appears that only one crime i.e. Crime No.918/2023 and two confidential statements are considered for passing the detention order.

9. One of the co-accused Shivank Thakur was detained considering the same offence. He had challenged the detention order before this Court and this Court has passed the judgment and order on 4.2.2025 and set aside the order passed by the respondents authority. Similar offence is considered by the authority for passing the detention order. As the role of the co-accused whose detention order has been set aside by this Court

had main role in the said offence as he had shown the firearm to the police officer. The offence is registered against this petitioner along with other co-accused Shivak Thakur, the complainant who is the police officer came to Gobarwahi along with one accused in M.C.O.C. case for investigation. The petitioner along with other co-accused had restrained the complainant while he was going back after investigation and one of the co-accused Shivank has put the pistol and tried to kill him, therefore, the offence is registered. Said offence is considered and the person who has shown the pistol, his detention order is set aside by this Court wherein one of us is a party to the said judgment (Mrs. Vrushali V. Joshi, J.).

10. Two confidential statements are considered by the detaining authority while passing the detention order. The stereotype statements are considered which was not even verified by the detaining authority. The Hon'ble Apex Court in the recent judgment observed about stereotype statements in case of Arjun S/o Ratan Gaikwad V/s. The State of Maharashtra and others in Criminal Appeal No.5204/2024 (Arising out of SLP (Cri.)

No.12516/2024) decided on 11.12.2024 in para 17 has observed as under:-

“17. Insofar as statements of the two unnamed witnesses are concerned, the allegations are as vague as it could be. In any case the statements which were stereotype even if taken on its face value would show that the threat given to the said witnesses is between the appellant and the said witnesses. The statements also do not show that the said witnesses were threatened by the appellant in the presence of the villagers which would create a perception in the mind of the villagers that the appellant herein is a threat to the public order.”

11. As this Court has already released the co-accused Shivank Thakur and admittedly the detaining authority has considered the same crime for passing the detention order, considering the judgment regarding stereotype statements of the witnesses as per the guidelines of the Apex Court in the case of Arjun S/o Ratan Gaikwad (cited supra) it cannot be said that the detaining authority has rightly arrived at subjective satisfaction for passing the detention order against the petitioner.

12. For the aforesaid reasons, the detention order passed by respondent No.2 is set aside.

The petitioner be set at liberty forthwith, if not required in any other crime.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)