



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

Criminal Writ Petition No872 of 2025

Sheikh Salim Alias Babu Jamadar Sheikh Rahullah

vs.

*State of Maharashtra, through the Chief Secretary, Home Department, Mumbai and
others*

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

Court's or Judge's Orders

*Mr. Syed Ateeb, Advocate for the Petitioner.
Mr. S.S. Doifode, A.P.P. for the Respondents/State.*

CORAM : ANIL L. PANSARE & RAJ D. WAKODE, JJ.
DATE : 5th DECEMBER, 2025.

The learned A.P.P. has tendered across the Bar a pursis submitting therewith copies of the orders of conferment of powers as also approval of detention order passed under Section 3 of the Maharashtra Prevention of Dangerous Activities Act, 1981, so also order of confirmation passed under Section 12 of the Act of 1981. The same are taken on record.

02. Heard.

03. In an identical set of facts presented before this Court in the case of *Akshay Bhaskar Sahare Vs. State of Maharashtra & Anr. [Writ Petition No. 223/2025]* with connected petitions, this Court (Coram : Anil L. Pansare and Siddheshwar S. Thombre, JJ.), after going through the orders passed under Sections 3(2), 3(3) and 12 of the Maharashtra Prevention of Dangerous Activities Act, 1981 (for short "MPDA Act"), in each case, found that the State Government has exercised these powers without providing sufficient reasons, wherein, circumstances prevailing in entire State of Maharashtra were treated identical. The Court took a view that such approach depict lack of application of mind resulting into violation of right to personal liberty guaranteed under Article 21 of the Constitution of India. The Court further held that detention order under Section 3(2) of the MPDA Act and the subsequent approval under Section 3(3) were not properly

grounded and that power to issue order of conferment, which is vested with the State Government, only comes into play for a defined area and period and only if circumstances prevailing or likely to prevail are such that detention of a person would be justified. The Court also opined that such an order, if is to be made, it must be made while explicitly describing specific circumstances prevailing or likely to prevail during the time period, which should be tied to those circumstances.

04. With regard to approval orders, the Court noted that they were passed without recording grounds or reasoning and were issued by an official below the required rank. The confirmation orders, passed under Section 12 of the MPDA Act, were also passed as routine and were non-reasoned determinations that did not show why detention needed to continue for twelve months. The process, by which Section 12 confirmation was conveyed to the detenu, was also found improper. The Court also explained the vitality of the Advisory Board as a constitutional safeguard and noted that in these cases, the Board's role did not rectify the procedural deficiencies at other stages. The Court also held that once order of conferment of powers under Section 3 by the State Government to its officers is found to be illegal, the order of detention would be void *ab initio*.

05. That being so, we need not go through the orders of detention in each case presented before us to render a finding on merit. It is a different matter that on merit as well, the issue of public order, as defined under Section 2(a) of the MPDA Act, is not taken into consideration while passing detention order, in the cases under question. The orders of approval are also passed in a mechanical manner. Similar is the status of orders that are passed under Section 12, most importantly, orders under Section 12, conveyed to the petitioner, are passed by Section Officer and not by competent authority.

06. Accordingly and since the issue involved is covered, for the reasons set out in order dated 30/9/2025 passed by this Court in Writ Petition No. 223/2025 with connected petitions, we allow the petition. The

orders of detention under Section 3(2), as also, the orders of confirmation under Section 12 of the MPDA Act passed by the respondents, stands quashed and set aside. The petitioner shall be released forthwith, if not required in any other case.

(Raj D. Wakode, J.)

(Anil L. Pansare, J.)

**sandesh*