



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

CRIMINAL WRIT PETITION NO.814 OF 2024

Chirag S/o, Namod Gajbhiye,
Aged about 27 years, Occupation:
Business, R/o. Ambedkar Ward,
Ganeshpur, Bhandara, District
Bhandara. (In jail)

Petitioner

-Versus-

1. State of Maharashtra,
Through its Secretary, Home Department
(Special), Government of Maharashtra,
Ministry, Mumbai – 400032
(Maharashtra)
2. District Magistrate/Collector, Bhandara,
Office of Collector, Bhandara, Tq. & District
Bhandara.

Respondents

Adv. A.M. Chandekar, counsel for the Petitioner.
Adv. S.S. Doifode, A.P.P. for R-1 and 2 for Respondents.

**CORAM : NITIN W. SAMBRE AND
MRS. VRUSHALI V. JOSHI, JJ.
DATE :12/02/2025.**

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

1) Heard.

2) **Rule.** Rule made returnable forthwith. The Criminal

Writ Petition is heard finally with the consent of the learned
counsel appearing for the parties.

3) The petitioner is raising challenge to the impugned order dated 08.08.2024 passed by District Magistrate/Collector, Bhandara, under Section 3(1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Person Engaged in Black Marketing of Essential Commodities Act, 1981, ('MPDA Act' for short), thereby ordering his detention as a dangerous person.

4) Proposal no. 05/2024 dated 06.08.2024 was sent to the Respondent no.2 from the Police Inspector, Police Station, Bhandara, with a thorough explanation of the involvement of petitioner in criminal activities along with his associates and the number of offences which shall be proposed on their account for passing the detention order. It comprised of in-camera statements of confidential witnesses "A" and "B". The criminal activities of the detenu included habit of extorting money by threatening people, attempting murder, damaging property, possession of dangerous weapons and committing such acts regularly.

5) The order of detention is based on two crimes, i.e.,

(i) Crime No.573/2024 registered on 13.06.2024 at Police Station, Bhandara, for the offences punishable u/s 307, 143, 146, 147, 148, 384, 504, 506 of the Indian Penal Code, 1860. (ii) Crime No. 565/2023 registered on 22.08.2023 at Police Station, Bhandara, for the offences punishable u/s 302, 143, 146, 147, 148, 149, 294 of the Indian Penal Code r/w 4/25 of the Arms Act r/w 3(2)(V), 3(2)(va), 3(1)(R) of the Atrocities Act.

6) The grounds raised by the petitioner are as under:

(a) That, though orders granting bail were placed before the detaining authority, they were not considered while passing the detention order.

(b) That, there is a delay of more than a year in passing the detention order from the registration of last crime, i.e., crime no. 565/2023 on 22.08.2023 and the said delay is not explained. Therefore, snapping the live-link between the criminal activities of the petitioner, hence, the subjective satisfaction reached by the detaining authority gets vitiated.

7) Learned counsel for the petitioner, Adv. Chandekar, submitted that, the in-camera statements of witnesses "A" and "B"

were recorded on 05.08.2024. Further, the proposal to detain the petitioner was forwarded by the Police Station, Bhandara, on 06.08.2024 and the order of detention was passed on 08.08.2024 by the Respondent no.2.

8) Learned counsel further submitted that, the detaining authority while passing the detention order did not verify the above mentioned analogy which caused serious prejudice to the petitioner. Further, as the detention order was passed in undue haste, petitioner was not able to make an effective representation.

9) Learned counsel for the petitioner further submitted that, the detaining authority had relied upon two offences i.e., C.R. nos. 565/2023 and 573/2024 registered in the month of August 2023 and June 2024 respectively in which he was granted bail. It was further submitted that, the in-camera statements of witnesses “A” and “B” came to be recorded in August 2024 for the alleged incident of August 2023 and June 2024. It was further stated that the hasty verification of in-camera statements on 05.08.2024, itself creates a doubt.

10) Learned A.P.P. has not filed the affidavit-in-reply.

11) Heard both the learned counsel appearing for the parties. The detention order is based on two offences and two confidential statements. The crime which is considered by the detaining authority is Crime No. 565/2023 registered on 22.08.2023 at Police Station, Bhandara, for the offences punishable u/s 302, 143, 146, 147, 148, 149, 294 of the Indian Penal Code r/w 4/25 of the Arms Act r/w 3(2)(V), 3(2)(va), 3(1)(R) of the Atrocities Act. Though this offence is considered, it is committed before one year and the detenue was on bail. Therefore, the offence, which is not committed within a period of six months, cannot be considered for passing the detention order.

12) Another offence is Crime No.573/2024 registered on 13.06.2024 at Police Station, Bhandara, for the offences punishable u/s 307, 143, 146, 147, 148, 384, 504, 506 of the Indian Penal Code, 1860. The offence is committed on 12.06.2024. In this crime, friend of the petitioner Tejas Ghodichor, called the complainant and stabbed him on stomach. In the said complaint, the complainant has mentioned the role of this applicant that he beat him with fists and blows. Though the offence under Section 307 of the Indian Penal Code is registered, considering his role, the

trial court has released him on bail. One of the ground of the petitioner is that though the petitioner was on bail, the contents in bail order are not considered. If the contents in the bail order would have been considered by the authority, the authority would have not passed the detention order considering the role played by the petitioner. As the offence punishable under Section 302 of the Indian Penal Code is stale, said offence cannot be considered and in another offence the bail application is not considered.

13) Two confidential statements are considered for passing the detention order. The statements are stereotyped. On perusal of the original statements, it appears that the statements are not even verified by the person who has recorded it. Though, it is not verified, the detaining authority has casually signed the statements as seen which have no meaning. The Sub-Divisional Police Officer has signed it as verified, which is not actually verified. Therefore both these statements are of no use.

14) The petitioner has relied on the judgment of this Court in the case of *Shaikh Husain @ Shahrukh Shaikh Fatru Vs. State of Maharashtra reported in 2023 DGLS(Bom).1318 and in the case*

*of Om @ Vinay Laxman Dangoriya Vs. State of Maharashtra reported in 2025 DGLS (Bom.)*¹⁴⁷, in support of his argument that if the statements are not verified by the authority, there is no subjective satisfaction about the truthfulness of the said statements. As the statements are not even verified by the person who has recorded it and the bail order is not considered while passing the detention order by the detaining authority, the order passed by the authority stands vitiated.

15) In view of the above mentioned observations, the impugned order passed by the detaining authority is hereby quashed and set aside. Hence, we pass the following order.

16) The Writ Petition is allowed in terms of it's prayer clause (a) and (b). The petitioner be set at liberty forthwith, if not required in any other crime.

17) Rule is made absolute in above terms.

(MRS.VRUSHALI V. JOSHI, J) (NITIN W. SAMBRE, J)