



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

CRIMINAL WRIT PETITION NO.927 OF 2024

Arjun Rajendra Tihale,
Aged about 23 years, Occ. - Labour,
R/o. Jaybhim Chouk, Patipura, Yavatmal. ... **PETITIONER**

...VERSUS...

1. State of Maharashtra,
Through its Secretary, Home Department
(Special), Mantralaya, Mumbai.
2. The Collector/ District Magistrate, Yavatmal. ... **RESPONDENTS**

Mr. M. N. Ali, Advocate for the Petitioner.
Mr. S. S. Hulke, A.P.P. for Respondents/State.

CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.
JUDGMENT RESERVED ON : 12.03.2025
JUDGMENT PRONOUNCED ON : 20.03.2025

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.):-

1. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned Counsel appearing for the parties.
2. By this writ petition, the petitioner has challenged the order dated 18.07.2024 passed under Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons and Video Pirates Act, 1981 (for short the "MPDA Act") by respondent No.2 and confirmed by respondent No.1 vide order dated 30.08.2024, whereby the petitioner has been detained for a period of one year.

3. Though a reference is made to as many as six offences in the crime chart, the detaining authority has relied on two offences committed within last six months for the issuance of detention order, which are as under;

(i) Crime No.249/2024, registered for offences punishable under Sections 324, 504, 506 read with Section 34 of the Indian Penal Code at Police Station, Yavatmal City.

(ii) Crime No.194/2024, registered for offences punishable under Sections 143, 336, 427, 504 and 506 of the Indian Penal Code at Police Station, Kalamb.

4. Perusal of facts that led to the registration of Crime No.249/2024 would show that the detenu along with his two companions beat the complainant causing injury to his nose with a stick and further threatened to kill him by brandishing a knife. In another crime, i.e., Crime No.194/2024, the petitioner with his associates took the son of complainant Rishikesh Shankar Jondale to Kalamb Mantha from the bus stand, Kalamb and slapped and beat him with kicks and blows. The petitioner was also under the influence of alcohol. When the said complaint was lodged at the police station, he got information that seven to eight goons arrived at Matang Pura, Kalamb and started pelting stones at people and damaging vehicles parked outside the houses of the people.

5. Although there are various grounds of challenge raised in the present writ petition, the learned Counsel appearing for the petitioner highlighted that perusal of impugned detention order would show that;

(a) The detaining authority has endorsed the in-camera statements by merely stating that, “I have perused the statement”, which creates doubt about the verification of the in-camera statements.

(b) The statement of the witness supplied to the detenu does not bear signature of the witness who has allegedly given the in-camera statement.

(c) The last offence registered against the detenu is on 27.04.2024 and the detention order came to be passed on 18.07.2024. Thus, there is no live link between the last crime committed and passing of the order of detention.

(d) In Crime No.194/2024, though it is alleged that the petitioner and his companions were creating terror at a public place, there was no material to justify that there was a breach of public order.

6. Mr. M. N. Ali, learned Counsel for the petitioner submitted that there has been no breach of public order as the alleged incident is nothing but an individual incident. He further stated that the in-camera statements were only remarked as “Perused the statement” and does not state the date of the same.

7. Mr. Ali, learned Counsel submitted that the bail orders were not placed before the detaining authority which is an important aspect

while ordering detention of an individual.

8. Learned A.P.P. has filed affidavit-in-reply. He denied the contents in the petition by supporting the order passed by the detaining authority and prayed to dismiss the petition.

9. It is to be noted from the impugned detention order that two offences and two confidential statements are considered for passing the detention order. The crimes which are considered for passing the detention orders are Crime No.249/2024 registered with Police Station, Yavatmal City for the offences punishable under Sections 324, 504, 506 read with Section 34 of the Indian Penal Code committed on 21.02.2024 and another Crime No.194/2024 registered with Police Station, Kalamb for the offences punishable under Sections 143, 336, 427, 504 and 506 of the Indian Penal Code committed on 27.04.2024.

10. In the first offence i.e. Crime No.249/2024, the learned Counsel for the petitioner has taken a stand that it is against the individual and no public order can be said to be disturbed by this offence.

11. On a perusal of the complaint, it appears that one Bhushan Santosh Chachane has lodged the complaint that the petitioner and his friends assaulted him for the reason that when he went to Sejal Residency asking for some work, the petitioner and his friends standing outside the residency were looking at him. The petitioner along with other two persons

stopped him near Ambedkar Chowk and asked him why he came to Sejal Residency and why was he looking at them angrily and whether he wants to kill them. Thereafter, they took him near toilet and beat him with fist blows, stick and bracelet. The offence was registered. As the offence registered was punishable for less than seven years, notice under Section 41A(1) of the Criminal Procedure Code was issued. The charge-sheet is filed and the case is pending before the Trial Court.

12. In another offence i.e. Crime No.194/2024, the victim is minor. The petitioner and his friends took him from bus stand, Kalamb and beat him without any reason. Thereafter, they gave threat that they would create disturbance. In the afternoon, the petitioner along with other persons came to Matang Pura with deadly weapons in their hands, pelted stones at the people and created terror in the locality. As such, the complaint was lodged. Notice under Section 41A(1) of the Criminal Procedure Code was issued to the petitioner.

13. On a perusal of both the offences, though the petitioner has stated that it is against the individual, in both the offences, the complainants were not known to the petitioner. The petitioner tried to give threat without any reason. In the second offence, they used weapons and pelted stones. It occurred at a public place and no doubt disturbed the public order. On a perusal of both the crimes, it appears that it would not only disturb public order but also law and order situation.

14. On a perusal of the in-camera statements of both the witnesses, confidential witness 'A' has stated that when the petitioner came on the bike with his friends and slashed the witness, the witness asked him reason for slashing him. Thereupon, the petitioner threatened him by stating that he is the Don of the said area. When the witness questioned him, he took out knife and put it on his neck and gave threat that he had already committed one murder. When people gathered there, he ran away. The petitioner is roaming with a knife and the offence is committed in public place. Therefore, these incidents and facts would certainly show that it is the public order that was disturbed. The petitioner has relied on the judgment of *Arjun S/o. Ratan Gaikwad Vs. The State of Maharashtra and Ors.* decided on 11.12.2024, wherein the Hon'ble Apex Court has placed reliance on *Ram Manohar Lohia Vs. State of Bihar and Anr.* reported in (1966) 1 SCR 709, wherein, the phrases 'public order' and 'law and order' are distinguished.

15. On considering the guidelines of the above said judgment, it appears that, in this case, the petitioner along with his friends went to the locality where the victim was staying and gave threats, pelted stones and damaged the vehicle which amount to disturbance of 'public order' and it is not against any individual but against the entire public staying in the said area.

16. Both the statements were verified by the Sub-Divisional Police

Officer and seen by the detaining authority. As both these statements about verification are confirmed by the Sub-Divisional Police Officer, the subjective satisfaction has been arrived at on the basis of the two offences as well as two in-camera statements. Thus, we do not find that this is a fit case where we should exercise writ jurisdiction to set aside the detention order. We may also refer to the opinion that has been given by the Advisory Board. The detention order has been confirmed taking into consideration the opinion of the Advisory Board as contemplated under law and, therefore, we pass the following order :

- I] The Criminal Writ Petition is dismissed.
- II] Rule stands discharged.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)