



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

CRIMINAL WRIT PETITION NO.983 OF 2024

Kunal Pramod Chunne, Aged about 29 years,
Occup.Labour, R/o Rajendra Ward,
Shukrawari, Bhandara. **Petitioner**

-Versus-

1. The State of Maharashtra,
Through its Secretary, Home
Department (Special) Mantralaya, Mumbai-
2. The Collector/District Magistrate, Bhandara. **Respondents**
Amravati, District - Amravati

Adv. Mir Nagman Ali, counsel for the Petitioner.
Mr. S.S.Doifode, AGP for respondent Nos. 1 to 3.

**CORAM : NITIN W. SAMBRE AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 12/03/2025

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

- 1) **Rule.** Rule made returnable forthwith. The Criminal Writ
Petition is heard finally with the consent of the learned counsel
appearing for the parties.
- 2) The petitioner came to be detained vide order dated
23.10.2024 passed by the District Magistrate, Bhandara, in exercise of
powers under Section 3(2) 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) to prevent him from doing dangerous activities in maintenance of public order.

3) The detention order is challenged on the ground that the order is passed without application of mind. The crime, which is considered for passing the detention order, does not show any disturbance to public at large. Only one crime is considered and the bail granted in the said crime is not considered by the detaining authority. Two statements of the confidential witnesses are identical in nature and the statements are not verified by the detaining authority. Hence, the satisfaction recorded by the detaining authority that the detenu is a dangerous person is not based on any cogent material available on the record and suffers from non application of mind. The order of detention has to be based upon subjective satisfaction of the detaining authority with a view to prevent the detenu from acting in any manner prejudicial to the maintenance of public order. The statements of in-camera witnesses have not been verified by detaining authority and the same would reflect that the contents are related to an isolated

incident and it does not have any nexus with the maintenance of the public order. In that view, the satisfaction recorded by the detaining authority is not subjective and there is no ground made out for passing the detention order under Section 3 of the Act.

4) The learned APP relying on the order passed by the detaining authority has stated that after considering the crime, which is registered against the detenu for the offence punishable under Sections 395, 364-A and 365 of the Indian Penal Code and considering the two statements of confidential witnesses, the authority has rightly passed the order. Hence, he has prayed for dismissing the writ petition.

5) The learned counsel appearing for the petitioner has took us through the record. On perusal of the record, it appears that Crime No. 655 of 2024 is registered for the offence punishable under Sections 395, 364(A) and 365 of the Indian Penal Code. When the complainant was going to repay the amount borrowed from his friend, at that time, the petitioner along with his friends pushed the complainant from his vehicle and beat him with fists and blows and extorted Rs. 50,000/- from his pocket and demanded ransom amount of Rs.10,00,000/-. Thereafter, Rs.2,50,000/- were taken from the petitioner. In view of

above, the complainant has lodged the complaint and the crime was registered against the petitioner.

6) After going through the record, it appears that one of the accused Manish Nandkishor Hatwar in Criminal Writ Petition No.1035 of 2024, has challenged the detention order which was passed by considering the same crime and the detention order is set aside by this Court on 27/02/2025. It appears that though the bail order is placed on record, the contents in bail order are not considered by the detaining authority. The petitioner was released on the ground that there was delay in lodging the First Information Report. Incident took place on 27.06.2024 and the report was lodged on 05.07.2024. After the first incident of taking Rs.50,000/- from the informant for setting him free, he had allegedly again paid Rs.2,50,000/- to the petitioner and for eight to nine days the informant had not lodged any complaint. Though the friends of the complainant were with him, they also have not lodged the complaint and therefore, the petitioner was released on bail. If the said contents would have been considered by the detaining authority, the authority would have not passed the detention order. Considering the only crime, which was registered after a delay of eight to nine days, creates doubt about the genuineness of the order. On the

basis of this crime, no detention order can be passed.

7) Two statements of confidential witnesses are also considered for passing the detention order. On perusal of both the statements, it appears that the statements are not even verified by the person who has recorded it and the detaining authority has mechanically signed it as 'verified'. The contents in the order also does not reflect the disturbance of public order. Identical statements are recorded which creates a doubt about the genuineness of statements of the confidential witnesses.

8) In the recent judgment in the case of *Arjun Ratan Gaikwad Vs. The State of Maharashtra and ors.* reported in *Criminal Appeal arising out of SLP (Cri.) No.12516 of 2024* the Hon'ble Apex Court has observed that identical statements of the witnesses are of no use for passing the detention order. In paragraph No.17, it is 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.

9) As the detention order against the co-accused in the offence bearing No. 655 of 2024 is already set aside by this Court and no public order is affected, the order passed by the authority stands vitiated.

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

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

12) Rule is made absolute in above terms.

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