



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

CRIMINAL WRIT PETITION NO.1005 OF 2024

Suraj alias Lalla Kalicharan  
Thakur, Aged about 29 years,  
R/o. Ravi nagar, Paratwada,  
Tq. Achalpur, District Amravti.  
(Presently at Central Prison Thane.)

**Petitioner**

--vs--

1. The State of Maharashtra,  
Through its Secretary, Home  
Department, Mantralaya, Mumbai  
– 32.
2. District Magistrate, Amravati.
3. The Superintendent,  
Central Prison, Thane.

**Respondents**

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Mr. R.M. Daga, Advocate for the Petitioner.  
Mr. S.S. Hulke, A.P.P. for Respondent Nos.1 to 3.  
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**CORAM : NITIN W. SAMBRE AND  
MRS. VRUSHALI V. JOSHI, JJ.**

**DATE : 21/03/2025.**

**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) By way of this writ petition, the petitioner is seeking to quash and set aside the detention order dated 02.07.2024 passed by Respondent No.2 and confirmed by the Respondent No.1 on 08.08.2024 under Section 3(1) 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 the “MPDA Act”).

4) The detaining authority has relied upon two offences and two in-camera statements of confidential witnesses for passing the detention order. The offences which have been relied upon by the detaining authority are as under:

(i) Crime No. 915/23 registered at Paratwada Police Station, registered under sections 399, 402 of the Indian Penal Code r/w section 142 of Maharashtra Police Act r/w sections 4, 25 of the Arms Act.

(ii) Crime No. 1092/23 registered at Frejarpura Police Station, registered under sections 307, 324, 353, 333, 143, 147, 148, 149, 120B of the Indian Penal Code.

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

(a) The allegations made against the detenu in the in-camera statements nowhere mention that there has been a breach of public order. Moreover, the in-camera statements pertain to alleged incidences committed in the month of January, whereas, the said statements came to be recorded after a delay of almost three months.

(b) The proposal forwarded by the Police Inspector, Police Station, Paratwada to the Respondent No.2 in order to detain the petitioner does not bear the date on which it was sent.

6) Learned counsel for the petitioner contended that there was a delay in passing the detention order from the date of the last crime which was taken into account for passing the detention order i.e; Crime No.915/23 and Crime No.1092/23 came to be registered on 26.10.2023 and 27.12.2023 respectively and the detention order came to be passed on 02.07.2024. Further, the in-camera statements pertaining to the alleged incidences were recorded in the second week of January and the detention order came to be passed in the month of July, amounting to an inordinate delay of more than six months, hence, stale offences have been taken into account for passing of the order of detention.

7) Learned counsel for the petitioner further contended that on perusal of Crime No.1092/2023, no overt-act has been attributed to the

petitioner, whereas, the F.I.R shows that the petitioner was himself being assaulted as a result of which he was also injured. Hence, there arises no question of breach of public order.

8) Learned A.P.P has filed the affidavit-in-reply and supported the order passed by the detaining authority.

9) Two crimes and two confidential statements are considered for passing the detention order. Crime No. 915 of 2023 is for the offence punishable under Sections 399,402 of the Indian Penal Code r/w142 of Maharashtra Police Act r/w 4, 25 of the Arms Act. The petitioner along with other co-accused were arrested, while preparing for committing *Dakaiti*. The police arrested him. He was released on bail. It is mentioned in the order that, his bail application was rejected by the Sessions Court on 22/11/2023 and said bail order is considered by the detaining authority.

10) The learned counsel appearing for the petitioner has taken us through the record and brought to our notice that the petitioner was released on 06/01/2024. Said release order is not considered by the detaining authority. Another offence is Crime No.1092 of 2023 for the offence punishable under Sections 307,

324, 353, 333, 143, 147, 148, 149, 120(B) of the Indian Penal Code. When he was arrested for the offence in Crime No.915 of 2023. It was committed on 27/12/2023. The said offence was committed in jail. The group of prisoners assaulted one accused and thereafter, there was a fight between two groups from Pune and Amravati. When Senior Jail Officer Mr.S.A.Gite along with other employees tried to control the prisoners, they assaulted him with wooden sticks, buckets, pots and other things. The Senior Jail Officer Mr.S.A.Gite, Gopal Kachre and Mangesh Prajapati had sustained injuries on their hands and nose. Thereafter, the complaint was lodged by the detained accused Matin Hakim Syed and his other accomplices and the offence came to be registered against the petitioner along with other co-accused. The first offence is committed on 26/10/2023 and the second offence, which is considered for passing the detention order is committed on 27/12/2023 and the order of detention is passed on 02/07/2024 i.e after the period of seven months after last crime.

11) It is specifically mentioned in the detention order that the statements of confidential witnesses are verified by SDPO on 13/12/2023. Perusal of original statements, reveals that the

statements were recorded on 08/04/2024 and 10/04/2024 respectively. In both the statements incident of January 2024 is narrated. SDPO has verified it on 15/04/2024 and on the date of detention, it is verified by detaining authority which creates a doubt about the verification of statements. Even if we consider, that it was verified on 15.04.2024, the order of detention came to be passed on 02/07/2024. There is unexplained delay even from the date of verification of statements.

12) The respondent No.2 has not taken any efforts to explain the delay. There is no live-link and nexus between the last crime registered against the petitioner and the detention order passed on 02/07/2024.

13) The learned counsel appearing for the petitioner has placed reliance on the judgment passed by this Court in Criminal *Writ Petition No. 575 of 2024 (Shubham Pancham Salame and the State of Maharashtra and anr.)* decided on 14/12/2024, wherein this Court has relied on the judgment in the case of *Kailesh Pancham Salame Vs. State of Maharashtra and anr in Writ Petition No. 834 of 2023, dated 27/02/2024* about absence of live link between the last crime registered against the petitioner and the

detention order. The statements are also verified by the SDPO in the month of December i.e. seven months prior to the date of the order of detention. It is not considered by the detaining authority as to whether the petitioner accused was on bail, at the time of passing the detention order.

14) It appears from the record that in crime No.1092 of 2023, detaining authority has considered bail order passed on 30/10/2023, which was rejected. On perusal of the Marathi order, the bail order dated 06/01/2014, which was allowed by the Court is considered. There is difference in the contents in the Marathi order and English order. The Hon'ble Apex Court in the case of *Jyoti Kitty Joseph .Vs. Union of India in Special Leave Petition (Cri.)No.16893 of 2024* by relying on the judgment of *Ameena Begum V. State of Telangana and ors. , reported in (2023) 9 SCC 587*, has observed that :-

*“21. When bail was granted by the jurisdictional Court, that too on conditions, the detaining authority ought to have examined whether they were sufficient to curb the evil of further indulgence in identical activities; which is the very basis of the preventive detention ordered. The detention order being silent on that aspect, we interfere with the*

*detention order only on the ground of the detaining authority having not looked into the conditions imposed by the Magistrate”.*

15) The petitioner was on bail. Said orders are not properly considered by the detaining authority.

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

17) 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.

18) Rule is made absolute in above terms.

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