



N THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 1035 OF 2024

Shri Manish s/o. Nandkishor Hatwar,
Aged about – 24 Years, Occ.- Labour,
R/o. Sahakar Nagar, Bhandara,
District – Bhandara.

... PETITIONER

...VERSUS...

1. State of Maharashtra,
Through Home Department (Special),
Mantralaya, Mumbai - 40032.
2. The Office of Collector & District Magistrate,
Bhandara.
3. Superintendent, District Prison, Wardha.
4. Police Inspector, Police Station, Bhandara.

... RESPONDENTS

Mr. S. A. Shrivastava and Mr. M. P. Ladhe, 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 : 07.02.2025
JUDGMENT PRONOUNCED ON : 27.02.2025

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 detention order dated 28.11.2024, passed 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, (hereinafter referred to as “MPDA Act”) by the District Magistrate, Bhandara.

3. Heard the learned Counsel for the petitioner and the learned A.P.P. for the respondents.

4. The learned Counsel for the petitioner challenges the impugned order dated 28.11.2024 on the ground that the Detaining Authority has not applied its mind and that the order was passed without adhering to the statutory procedure. The grounds of detention appear to have been based on one offence namely, Crime No.655/2024 registered with Bhandara Police Station for the offences punishable under Sections 395, 364-A and 365 of the Indian Penal Code. The Detaining Authority has also considered the in-camera statements of two witnesses. It is submitted that the Detaining Authority had not considered that in the said offence, which is still pending before the Trial Court, the petitioner has been released on bail. Additionally, the contents in the bail orders were also not considered by the detaining authority. The contents of the case would show that the law and order situation was disturbed and not public order which required the detention of the petitioner. Further, there was no proper verification of the in-camera statements by the Detaining Authority and only on the basis of the general statements made by the witnesses, an order cannot be passed.

5. The learned A.P.P. has filed reply and by supporting the order passed by the authority, opposed the petition.

6. It appears that though the order was passed considering one crime, the respondent has stated that two crimes are considered while passing the detention order. Crime No.631/2024 is also considered by the respondent No.2 while replying to the petition, which shows the casual approach of the respondent No.2 while submitting reply to the petition.

7. It is to be noted from the detention order that the crime which is taken into consideration is for the offences punishable under Section 395, 364-A and 365 of the Indian Penal Code. The present case is for extortion and ransom. The allegations which are made are that the complainant, when he was going with his friend to return the money, the petitioner came there along with his friend and beat the complainant and forcibly took Rs.50,000/- from his pocket and demanded Rs.10,00,000/- and again took Rs.2,50,000/- from him. The said crime was under investigation when the order was passed. In this case, the main contention of the petitioner is that though the petitioner was on bail, the reason for releasing him on bail is not considered. On perusal of bail order, it appears that he was released on bail as though the incident took place on 27.06.2024, the First Information Report came to be lodged on 05.07.2024. There is delay in lodging the First Information Report. In the meanwhile, the complainant paid Rs.2,50,000/- to the petitioner and after eight to nine days, the report was lodged and

therefore, he was released on bail. Had the authority gone through the reason given in the bail application, he would not have passed the detention order. Only one offence is considered. Out of other four offences which are registered against the petitioner, in one of the offences, which the authority has shown the same to be pending in Court, the petitioner was acquitted in that offence. Therefore, there is no application of mind or subjective satisfaction.

8. Two statements on which the authority has relied are again about extortion. The witness has stated about extortion of Rs.500/- for consuming liquor and witness B has stated that when there was a dispute between the petitioner and his companions, he asked him not to quarrel there and at that time, he showed the knife and asked him to mind his own business otherwise he would make his game. On perusal of both the statements, it appears that it does not create any disturbance of public order situation.

9. In view of the abovesaid observations, there is no subjective satisfaction while passing the detention order. Hence, the order passed by the detaining authority is required to be set aside.

10. The petition deserves to be allowed.

11. We hereby quash and set aside the detention order dated 28.11.2024 passed by the respondent No.2.

12. The petitioner be set at liberty forthwith, if not required in any other crime.

13. Rule is made absolute in aforesaid terms.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)