



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

**CRIMINAL WRIT PETITION NO.165 OF 2025**

Suraj s/o Prakash Bariyekar,  
(Detained in Central Prison, Amravati),  
Aged about 36 years,  
R/o. : Sant Ravidas Ward, Tiroda,  
Tah. Tiroda, District- Gondia.

**... PETITIONER**

**...VERSUS...**

1. State of Maharashtra  
Through its Secretary, Department of Home,  
Madam Cama Road, Hutatma Rajguru  
Chowk, Mantralaya, Mumbai-32.
2. District Magistrate,  
Gondia, Tah. & District- Gondia.
3. Superintendent (Jail),  
Central Prison, Amravati,  
District- Amravati.
4. Police Station Officer,  
Police Station, Tirora,  
Tah. Tirora, District- Gondia.

**... RESPONDENTS**

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Mr. I. S. Charlewar, Advocate for the Petitioner.  
Mr. S. S. Doifode, A.P.P. for Respondents/State.  
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**CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.**  
**JUDGMENT RESERVED ON : 16.04.2025**  
**JUDGMENT PRONOUNCED ON : 29.04.2025**

**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. Through this writ petition, the petitioner is seeking to question the legality of the detention order passed by respondent No.2 on 12.09.2024 and confirmation order passed by respondent No.1 on 10.01.2025 under the provisions 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”).

3. A total of fourteen offences along with two in-camera statements of confidential witnesses have been taken into account in order to term the petitioner as a ‘bootlegger’ within the provisions of the MPDA Act.

4. The learned Counsel for the petitioner has pressed onto the following grounds to challenge the detention order:

(i) The respondent No.2 mechanically passed the impugned detention order based on the proposal submitted by respondent No.4 without conducting any enquiry. Furthermore, respondent No.1 has also confirmed the impugned detention order without conducting any independent enquiry.

(ii) The detaining authority did not grant the detenu any opportunity of hearing. Moreover, the in-camera statements of the

confidential witnesses 'A' and 'B' are stereotypical. Hence, the subjective satisfaction reached at by the detaining authority stands vitiated.

5. The learned Counsel for the petitioner, Mr. I. S. Charlewar submits that the detention order passed by respondent No.2 is based on the proposal submitted by respondent No.4, which mentions that there are fourteen pending criminal cases against the petitioner, out of which he was already discharged under seven of the offences. It is further submitted that the respondent No.2, while detaining the detenu, failed to take into consideration that he had already been discharged in the above mentioned offences, hence, the detaining authority has acted mechanically while passing the order of detention.

6. It was further submitted by the learned Counsel for the petitioner that as per Section 3(3) of the MPDA Act, after passing the detention order, the respondent No.1 is under an obligation to decide whether to grant approval to the detention order passed by the respondent No.2 within twelve days from the date of receipt of the report. It was further submitted that a bare perusal of Section 3(3) of the MPDA Act would reveal that the detention order shall not remain in force for more than twelve days unless in the meantime it has been approved by the State Government. The learned Counsel for the petitioner submits that the order of detention came to be passed on 12.09.2024, whereas the confirmation order came to be passed on 10.01.2025, which is way

beyond the stipulated time period. Hence, the legality of the order of detention is questioned.

7. Learned A.P.P. Mr. S.S. Doifode, has filed an affidavit-in-reply and has vehemently opposed the arguments of the petitioner and has supported the contents of the detention order. The learned A.P.P has submitted that the detenu was given the opportunity of representing himself through his Counsel before the Advisory Board and after considering all the facts of proposal and representation made by the detenu, the order of detention came to be confirmed on 10.01.2024. It is further submitted that after taking into consideration the two in-camera statements and the detenu's crime report, the detaining authority has subjectively satisfied himself about the criminal activities of the detenu, hence, he was detained as a 'bootlegger'.

8. Heard both the learned Counsel for the parties.

9. On perusal of the detention order it appears that the detenu is detained as a bootlegger and a dangerous person. The offences under the Indian Penal Code along with the Maharashtra Prohibition Act are registered against the petitioner. Fourteen offences are considered for passing the detention order along with two confidential statements. For passing the detention order, the offences which are registered under the Maharashtra Prohibition Act are considered and it appears that no

Chemical Analyser's Report (C.A. Report) is filed in any of the offences. Serious allegations are made in Crime No.125/2024 wherein on information received about the illegal liquor, the lady police officer entered the house of the petitioner to conduct an enquiry, at that time, accused/petitioner removed all the clothes and become naked in front of the lady police officer. The offences under Sections 353, 506, 509 read with Section 34 of the Indian Penal Code and Sections 65 (b) to (d),(e) (f) of the Maharashtra Prohibition Act were registered. He had also used filthy language against the lady police officer. Though these allegations are made and the offences are registered against the petitioner, stale offences are considered for passing the detention order. The C.A. reports are not made available for declaring the detenu as a bootlegger.

10. On perusal of the statements of witnesses, it appears that the statements are not properly verified by the Sub-Divisional Police Officer and it is only seen by the District Magistrate. Therefore, the statements are also not helpful to pass the detention order.

11. One of the grounds raised by the petitioner is that the period of detention is not mentioned as per the requirement of Section 3(3) of the MPDA Act.

12. The learned A.P.P. has relied on the judgment of the Hon'ble Apex Court in the case of *T. Devaki Vs. Government of Tamil Nadu and*

**Ors.** reported in **(1990) 2 SCC 456**, wherein it is observed by the Hon'ble Apex Court that the order is not rendered illegal on account of detaining authority's failure to specify period of detention in the order.

13. This Court in the matter of ***Dinesh s/o. Nimba Gaikwad Vs. State of Maharashtra*** reported in ***2018 LawSuit (Bom) 1313*** by relying on the judgment of the Hon'ble Apex Court has observed that the order of detention not specifying period of detention, does not make the order invalid.

14. In support of his argument he has also placed reliance on the judgment of the Hon'ble Apex Court in the case of ***State of Maharashtra and Ors. Vs. Balu s/o. Waman Potole*** reported in ***(2021) 13 SCC 454***.

15. On perusal of the order it appears that in the committal order dated 12.09.2024 specific period of 12 months is not mentioned, however, it reveals that in the order passed by the respondent No.1 on 10.01.2025, 12 months detention period is specifically mentioned. Therefore, this ground is not available to the petitioner.

16. The ground of not giving opportunity of hearing is also raised by the petitioner. On perusal of the detention order it appears that the petitioner was not heard before passing the detention order. In reply it is mentioned by the respondent that the representation was considered

by the Advisory Board. The opportunity of personal hearing was not given to the petitioner before passing the detention order.

17. In view of the above said reasons, the petition is allowed.

18. The detention order dated 12.09.2024 passed by the respondent No.2 and the approval order dated 10.01.2025 passed by the respondent No.1 is hereby quashed and set aside.

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

20. Rule is made absolute in aforesaid terms.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)