



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

CRIMINAL WRIT PETITION NO.239 OF 2025

1 Amjad Khan s/o Sardar Khan
Age about 32 years, Occ- Business,
r/o Arun Layout, Vasant Nagar,
Pusad, Dist. Yavatmal. **Petitioner**
(At Present in Nagpur Central Prison)

-Versus-

1. State of Maharashtra
District Magistrate,
Dist. Yavatmal. **Respondents**

2. State of Maharashtra,
Through Under Secretary
Home Department (Special)
Mantralaya, Mumbai.

Mr Tiwari Rajesh Kantaprasad, counsel for the Petitioner.
Mr. N.S. Rao, A.P.P. for R-1 and 2.

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

DATE : 08/05/2025

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) The petitioner, being aggrieved by the detention order dated

18.07.2024 issued by Respondent No.1 and confirmation order dated 29.07.2024 issued by Respondent No.2 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”), is filing the instant writ petition in order to challenge the legality of the orders mentioned hereinabove.

4) It appears from the detention order that a total of two crimes and two in-camera statements have been taken into account to detain the petitioner as a ‘dangerous person’. The crimes which have been considered, have been committed within the last six months as under:

(i) Crime No. 03/2024, filed at Vasantnagar Police Station under Section 3 and Section 25 of the Arms Act.

(ii) Crime No. 78/2024, filed at Umarkhed Police Station under Section 3 and Section 25 of the Arms Act.

5) The petitioner stands against the order of detention by emphasizing on the following grounds –

(a) That, the offences taken into consideration by Respondent No.1 are purely characterized by individuality and they nowhere point towards affecting the even tempo of life of public at large, hence, the detaining authority lost sight of the fact that there has been no breach of public order.

(b) That, there is no evidence to show the involvement of the petitioner in the crimes taken into consideration by the detaining authority.

- 6) The counsel for the petitioner, Adv. Kantaprasad submits that, the in-camera statements are bereft of the details with regards to the time, date, place of the incidents. Furthermore, it has been submitted that the in-camera statements have not been properly verified by the concerned authority. Moreover, it is submitted that the statements came to be recorded a few months prior to the passing of the detention order, and, the Police Officer did not record his satisfaction regarding the truthfulness of the in-camera statements. Hence, the subjective satisfaction reached at by the detaining authority is questioned.
- 7) The petitioner further submitted that there has been a significant delay in passing the detention order, as, Crime No. 03/2024 and Crime No. 78/2024 came to be registered on 04.01.2024 and 13.02.2024 respectively and the in-camera statements were recorded on 09.03.2023 and 14.03.2023 whereas the detention order came to be passed on 18.07.2024 which snaps the live-link between the crimes committed, recording of the statements and the detention order. Hence, the detention order is vitiated on this ground.
- 8) On the other hand, the Learned A.P.P has filed an affidavit-in-reply on behalf of Respondent No.1 vehemently denying the contentions made by the petitioner.

- 9) The respondent submits that since the year 2019, the petitioner has been engaging in committing crimes such as attempt to murder, causing bodily injury and carrying a dangerous weapon, gun (desi katta) around and threatening to kill people which has been mentioned in the grounds of detention. It is the contention of the respondent that such activities of the petitioner has caused great harm to the public and is prejudicial to the maintenance of public order. Hence, the detaining authority has rightly detained the petitioner as a dangerous person.
- 10) It is the stance of the Respondent No.1 that, the confidential witnesses 'A' and 'B' gave their statements on 09.03.2023 and 14.03.2023 respectively before the Police Inspector, Police Station, Vasantnagar Pusad, after which the Sub-Divisional Police Officer, Sub-Division, Umarkhed, Dist. Yavatmal, personally verified these statements on 21.03.2024. Thereafter, the detaining authority personally consulted with the Police Officer, who recorded the statements and the Sub-Divisional Police Officer regarding the proposal and passed the detention order on 18.07.2024. Hence, it is submitted by the Respondent No.1 that the detaining authority, after being subjectively satisfied about the truthfulness of the statements made by the confidential witnesses, along with the criminal activities of the petitioner, passed the detention order, hence, the detention order is appropriate in the eyes of law.
- 11) On perusal of the record it appears that the offences which are considered for passing of the detention order are under

Section 3 and 25 of the Arms Act. Notices under Section 41-A of the Act were issued. Offence bearing Crime No.3 of 2024 is committed on 03/01/2024 and 78 of 2024 is registered on 18/02/2024. The order of detention is passed on 18/07/2024. The ground of delay in passing the detention order is raised by the petitioner. There is no explanation why there is delay from last offence, which is committed on 13/02/2024 and the order of detention is passed on 18/07/2024.

- 12) No doubt, the time starts to run from recording of the statement and its verification. Two statements which are considered for passing the detention order are recorded before one year i.e. on 09/03/2023 and 14/03/2023. It appears that it is signed by the witnesses in Police Station on 21.03.2024 i.e. after more than a year. The statements are even verified after recording the statements. The statements are recorded on 09/03/2023 and 14/03/2023 by P.I.Vasant Nagar Police Station. It is verified by the detaining authority on 21/03/2024. There is delay in recording and verification of statements of confidential witness A. Statement of confidential witness B is recorded on 14/03/2023 and it was verified on 21/03/2024. The contents in both the statements are of general nature. The general character of the petitioner is mentioned by both these witnesses. Identical statements are made by both the witnesses and there is delay. About consideration of identical statements, the Hon'ble Apex Court in the recent judgment in the case of *Arjun Ratan Gaikwad Vs. The State of Maharashtra and ors arising out of SLP (Cri.) No.12516 of 2024* in paragraph No.17 of the said judgment has

observed as under:-

17. "Insofar as the statement of the two unnamed witnesses are concerned, the allegations are as vague as it could be. In any case the statements which are 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 villages which would create a perception in the mind of the villagers that the appellant herein is a threat to the public order".

13) Considering the above said observations, the statements are not reliable and the detention order cannot be passed considering said statements. The delay is not explained by the respondents, as there is no live-link in statements and in the order of passing of detention order. Considering the nature of the offence, no law and order situation is there. Therefore, the detention order passed by the detaining authority is required to be quashed and set aside.

14) Hence, we pass the following order.

15) The Writ Petition is allowed in terms of its prayer clauses (a) and (b). The petitioner be set at liberty forthwith, if not required in any other crime.

16) Rule is made absolute in above terms.

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