



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

CRIMINAL WRIT PETITION NO.412 OF 2025

Aman @ Mastan Ashif Khan, aged 22
years, Occup. Labour, R/o. Baba
Mastanshah Ward, Bhandara Tahsil and
District Bhandara.

Petitioner

-Versus-

1. State of Maharashtra,
Through its Secretary, Department of
Home(Special), Mantralaya, Mumbai-32.
2. The Collector and District Magistrate,
Bhandara, District Bhandara.
3. The Police Station Officer, Police Station,
Bhandara, District Bhandara.

Respondents

Mr. K.S.Motwani, Advocate for the Petitioner.
Mr.S.S. Hulke, A.P.P. for respondent Nos.1 to 3.

**CORAM : ANIL S. KILOR AND
MRS. VRUSHALI V. JOSHI, JJ.
DATE : 26/06/2025**

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 19.08.2024 issued by Respondent No.2 Collector, Bhandara 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 order mentioned hereinabove.

4) The said order under challenge has been relied upon a sole offence vide C.R. No. 645/2024 under Sections 311, 351(2) of the Bharatiya Nyaya Sanhita, 2023(for short hereinafter referred to as BNS), dated 04.07.2024 with the in-camera statements of witnesses “A” and “B”. In the said Crime, the complainant one Mangesh Ashok Murkute, while trying to resolve a fight which took place between the drivers of two motor cycles, was injured by the detenu and his other accomplices who were involved in the altercation, by hitting him on his face, nose and neck with knife and iron rods, extorting Rs. 2000/- from his pocket by force. The crime is under investigation.

5) It is the contention of the learned advocate for the petitioner, Mr. K.S.Motwani, that the events recited in the confidential statements of witnesses do not lead to a conclusion that there was any disturbance of public order. Further, it was submitted that while out on bail, the detenu has not breached any of the conditions mentioned in the detention order. The counsel contended that the petitioner has not been supplied with proper translation of documents like injury certificate, MCR order, bail orders. Moreover, he created doubt on the truthfulness and verification of the in-camera statements.

6) Learned A.P.P. Mr. Hulke, strongly opposed the submissions made by the petitioner placing reliance on the affidavit-in-reply filed on behalf of the respondents.

7) He submitted that, it is mentioned in the in-camera statement that after the commission of crime, when there was a crowd of people gathered at the spot, the detenu waived a knife towards them, threatened the people and created panic in their minds. The detaining authority has been subjectively satisfied that all the ingredients of a “Dangerous Person” are attracted. The date of the last offence as well as the date of recording is also mentioned in the confidential statements. The perusal of the statements of secret witnesses shows that injuries

were inflicted on them. It is submitted that the order of detention served on the petitioner along with grounds of detention, its true translation in Marathi language and all other relevant documents have been supplied to the detenu on 20.09.2024, before the jail authority within the stipulated period as per Section 8 of the said Act.

8) The main ground raised by the petitioner is that the petitioner is detained as a dangerous person and crimes are registered against him, he was released on bail in all the crimes, but in the detention order, no bail order is considered and filed on record, therefore, this ground is sufficient to set aside the order passed by the detaining authority.

9) On perusal of the order dated 19/08/2024, it appears that five offences are committed by the petitioner since 2022. For passing the detention order the offence bearing No.645 of 2024 for the offence punishable under Sections 311, 351(2) of the BNS is considered. This crime was registered on the complaint of one Mangesh Murkute. On perusal of order, it appears that it is not mentioned whether he was on bail in the said offence or the other offences, which are mentioned.

10) The learned counsel for the petitioner has stated that the petitioner was on bail. He has not breached any condition mentioned in the order and the respondent has not filed any application for cancellation of bail. Non consideration of bail order is sufficient ground to set aside the order passed by the detaining authority.

11) The petitioner has relied on the judgment of this Court in **Criminal Writ Petition No.374 of 2024 (Shivank Pravinsingh Thakur Vs. State of Maharashtra and ors.)**. In the judgment passed by this Court in **Criminal Writ Petition No.677 of 2020 (Elizabeth Ranibhai Prabhudas Gaikwad..Vs..State of Maharashtra)**, wherein it is observed by this Court that, if the authority does not take into consideration the orders of bail granted to the proposed detenu, it may lead to an anomalous situation whereby one authority of law i.e. Criminal Court thinks it fit to enlarge such a person on bail in criminal offences registered against him and the other authority of law considers it necessary that such person shall be detained in custody because of his criminal activities exhibited due to pendency of criminal cases against him. The law does not expect any mismatch therefore, it is necessary that when one authority has

released a person on bail, the other authority seeking to detain him again for the same criminal activities, considered the impact of non-placing of the bail orders and reached to an appropriate conclusion in the matter. The reliance is placed on the case of *Abdul Sattar Ibrahim Manik Vs. Union of India reported in (1992) 1 SCC 1* wherein it is observed as under:-

“In a case where detenu is released on bail and is at liberty at the time of passing the order of detention, then the Detaining Authority has to necessarily rely upon them as that would be a vital ground for ordering detention. In such a case the bail application and the order granting bail should necessarily be placed before the authority and the copies should be supplied to the detenu.”

12) The order passed by the detaining authority do not consider in any manner the bail orders passed in the crimes considered by the detaining authority, the impugned order cannot be said to be valid in the eyes of law.

13) Considering the nature of the offences, *prima facie*, it shows that it does not create any disturbance of public order. The confidential statements on which the detaining authority has relied

are of general nature and not even verified by a person who has recorded it. Without any verification the statements cannot be considered, hence, the detention order is required to be set aside. For the aforesaid reason, the petition deserves to be allowed.

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

15) 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.

16) Rule is made absolute in above terms.

(MRS.VRUSHALI V. JOSHI, J)

(ANIL S.KILOR, J)