IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 631 OF 2026

Vaibhav S/o. Raju Hunde,
Age : 22 Years, Occ. : Unemployed,
R/o. Near Datta Mandir, Hudco,P
Nanded, Tq. & Dist. Nanded. **..PETITIONER**

~VERSUS~

1. The State of Maharashtra,
Section Officer (Special),
Home Department, Government of Maharashtra,
Mantralaya, Mumbai-32.

2. The District Magistrate & Collector,
Dist. Nanded.

3. The Superintendent of Police,
Dist. Nanded.

4. The Sub-Divisional Police Officer,
Sub-Division Itwara,
Dist. Nanded.

5. The Police Inspector,
Nanded Rural Police Station,
Dist. Nanded. **...RESPONDENTS**

- Adv. Yogesh G. Birajdar for the Petitioner
- Mr. S. J. Salgare, A.P.P. for Respondent Nos. 1 to 5

CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.

RESERVED ON : OCTOBER 19, 2026

PRONOUNCED ON : NOVEMBER 04, 2026

J U D G M E N T : [PER VAISHALI PATIL-JADHAV, J.]

. Rule. Rule made returnable forthwith. Heard finally at the admission stage with the consent of learned advocates for the parties.

2. By this petition, the petitioner challenges the detention order dated 31.12.2025 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-85, passed by Respondent No. 2-District Magistrate, Nanded, in exercise of the powers under Section 3(1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons, Video Pirates, Sand Smugglers, Persons Engaged in Black-Marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficker Act, 1981 (hereinafter referred to as "MPDA"), and the confirmation order dated 27.02.2026 bearing No. MPDA-0126/CR-06/Spl-3B, passed by Respondent No. 1-State Government, in exercise of the powers under Section 12(1) of the MPDA. By the impugned detention order, the petitioner is directed to be detained for a period of 12 months on the ground that the petitioner is a "dangerous person" within the meaning of Section 2(b-1) of the MPDA.

3. The record reflects registration of seven (07) criminal cases and three preventive actions taken against the petitioner. The reference chart showing the criminal record of the petitioner is reproduced hereunder :

Sr. No.	Police Station	C.R. No.	Under Section	Date of filing	Arrest Date	Bail Date	Court Case No.	Present Status
1	Nanded Rural	680/2022	395, 397, 427 IPC, 4/25, 4/27 Arms Act	19/11/2022	23/11/2022	03/01/2023	S.C. No. 91/2024	Court Pending
2	Nanded Rural	74/2023	394, 397 IPC	09/02/2023	14/02/2023	28/02/2023	S.C. No. 206/2023	Court Pending
3	Nanded Rural	232/2024	4/25 Arms Act	25/03/2024	25/03/2024	25/03/2024	R.C.C. No. 794/2024	Court Pending
4	Mudkhed	176/2024	109, 132, 3(5) BNS, 4/25 Arms Act, Criminal Law (Amendment) Act, 2013, Section 7	18/08/2024	19/08/2024	25/10/2024	On Investigation	On Investigation
5	Nanded Rural	745/2024	311 BNS	19/08/2024	31/08/2024	23/10/2024	On Investigation	On Investigation
6	Nanded Rural	1005/2025	119(1), 352, 351(2), 351(3), 3(5) BNS	19/10/2025	26/12/2025	30/12/2025	On Investigation	On Investigation
7	Nanded Rural	1108/2025	126(2), 115(2), 351(2), 351(3), 3(5) BNS, 4/25 Arms Act	21/11/2025	26/12/2025	26/12/2025	On Investigation	On Investigation

Preventive Action :

Sr. No.	Police Station	Chapter Case No.	Section	Date	Present Status
1	Nanded Rural	429/2024	107 Cr.P.C.	04/06/2024	Closed
2	Nanded Rural	02/2023	110 Cr.P.C.	05/01/2023	Closed
3	Nanded Rural	11/2024	MPDA 3(1)	20/12/2024	Closed

4. Learned advocate for the petitioner submits that there is an inordinate and unexplained delay of more than two months in passing the impugned order of detention. He

submitted that though the proposal for detention was initiated on 28.10.2025, and forwarded to the detaining authority on 05.11.2025, the order of detention was passed only on 31.12.2025. Such long and unexplained delay, after the alleged prejudicial activities and after recording of the in-camera statements has resulted in snapping of the live link. He further submitted that the petitioner was arrested on 26.12.2025 and he was granted bail on 30.12.2025. Before the bail order could reach the prison authorities and formalities could be completed for releasing the petitioner, the detaining authority passed the detention order on 31.12.2025, when the petitioner was already granted bail in C.R. No.1005/2025. This shows that the detention of the petitioner was predetermined by the detaining authority, without there being any substantive satisfaction.

Learned advocate lastly submitted that the detention order is liable to be quashed and set aside and prayed for the release of the petitioner.

5. Per contra, learned APP while supporting the impugned order submitted that the petitioner has an ascending trend of serious criminal offences under the IPC, BNS, and Arms Act, creating an atmosphere of fear in the

jurisdiction of Nanded Rural Police Station. It is submitted that the detaining authority was fully aware of the bail position, as reflected in the grounds of detention, and that bail is no bar to preventive detention. It is also submitted that all mandatory provisions and statutory timelines were strictly complied with, including the timely approval by the State Government and obtaining the opinion of the Advisory Board; thus, the impugned order of detention is justified and the live-link is not snapped.

Learned APP lastly submitted that the detaining authority has passed the detention order after applying its mind to the entire record and recording the requisite subjective satisfaction, and prayed for dismissal of the petition.

6. Heard learned Advocate Mr. Yogesh G. Birajdar for the petitioner and learned APP Mr. S.J. Salgare for the respondents. With the assistance of the learned advocates, we have perused the petition, the affidavit-in-reply, citations and the record.

7. The detaining authority, while passing the impugned detention order, has mainly relied upon two offences, i.e., C.R. No.1005/2025 registered on 19.10.2025

under Sections 119(1), 352, 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023, and C.R. No. 1108/2025 registered on 21.11.2025 under Sections 126(2), 115(2), 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 4/25 of the Arms Act, 1959, both registered with Nanded Rural Police Station, Nanded, along with two in-camera statements of confidential witnesses "A" and "B", to declare the petitioner a “Dangerous Person”.

8. The record shows the following chronology: the crimes considered while passing the detention order were registered on 19.10.2025 and 21.11.2025. The confidential statements of witnesses ‘A’ and ‘B’ were recorded on 27.10.2025. After completion of the confidential inquiry, the proposal was initiated on 28.10.2025 by the Police Inspector, Police Station, Nanded Rural. The P.I. forwarded the proposal to the Sub-Divisional Police Officer, Itwara, Nanded, who verified the statements of the witnesses on 28.10.2025. The Sub-Divisional Police Officer forwarded the proposal to the Superintendent of Police, Nanded, who forwarded the same to the District Magistrate, Nanded, i.e. the detaining authority, on 05.11.2025. Thereafter, the

detention order came to be passed by the detaining authority only on 31.12.2025.

9. The last crime which was considered by the Sponsoring Authority while forwarding the proposal to the detaining authority was registered on 19.10.2025; and the proposal reached the detaining authority on 05.11.2025. The second crime i.e. C.R. No.1108/2025 registered on 21.11.2025 was considered by the detaining authority though the same was not there in the proposal forwarded by the Sponsoring Authority. As the detention proposal had reached the detaining authority on 05.11.2025, still the detention order is passed on 31.12.2025 i.e. after a delay of almost two months. There is an absence of any live link between the material considered by the detaining authority as being prejudicial to the maintenance of public order and the subjective satisfaction reached by the detaining authority that the activities of the petitioner were indeed prejudicial to the maintenance of public order. Moreover, the said delay is unexplained.

10. If the affidavit-in-reply of the detaining authority is perused, there is no explanation as to the delay in passing the detention order. In paragraph no.10 of the

affidavit, it is stated that, *"Deponent further submits that there is no delay in passing the order and no delay in submitting the report to the State Government. All the mandatory provisions have been completed in time as stipulated period mentioned in the said Act. Therefore, the deponent submits that the detention order passed by the respondent No.2 is as per law."* There is no sentence in the affidavit explaining the reasons for the delay caused in passing the detention order from the date of last crime, which is considered for passing the detention order or from the date of receiving the proposal by the detaining authority.

11. A profitable reference can be made to the judgment of the Hon'ble Apex Court in the case of ***Smt. Hemlata Kantilal Shah Vs. State of Maharashtra and another,*** reported in ***(1981) 4 SCC 647,*** wherein it is held that, *"delay ipso facto in passing an order of detention after an incident is not fatal to the detention of a person, for in certain cases delay may be unavoidable and reasonable. What is required by law is that the delay must be satisfactorily explained by the Detaining Authority."*

12. In the facts of the present case, there is no explanation as to the delay caused from the date of initiation of detention proceeding by recording the statements of confidential witnesses on 27.10.2025, the detaining authority receiving the proposal on 05.11.2025 and the passing of detention order on 31.12.2025. The detaining authority has failed to satisfactorily explain the delay in passing the detention order. Therefore, the judgment in the case of ***Hemlata Shah (supra)*** is squarely applicable to the facts and circumstances of the present case.

13. Out of the two crimes considered for passing the detention order, in C.R. No.1108/2025, the petitioner was only served with a notice under Section 35(3) of the BNSS, 2023 as the police authorities did not find it necessary to arrest the petitioner. In Crime No.1005/2025, the petitioner was arrested on 26.12.2025 and was released on bail on 30.12.2025. Before the bail order could reach the prison authorities and they could complete the formalities for releasing him on bail, the detaining authority passed the detention order on 31.12.2025. It is merely mentioned in paragraph 10 of the detention order that the petitioner

has been released on bail on 30.12.2025 and that he is on bail in other offences. However, there is no discussion in the grounds of detention as to the sufficiency or insufficiency of the bail conditions. The detaining authority has thus mechanically applied its mind without examining the actual gravity and impact of the incidents or the efficacy of the bail conditions, which clearly demonstrates non-application of mind while arriving at the subjective satisfaction or rather the detaining authority was predetermined to see that the petitioner does not come out of the jail. Hence, the detention order was passed only after passing bail order by the Competent Court. This clearly indicates that the detaining authority had already made up its mind to detain the petitioner and merely waited for bail orders of the Competent Court. Such course of action reflects complete non-application of mind. In view of this, the detention order cannot sustain.

14. Before passing the order of detention, the Detaining Authority must keep in mind that the recording of subjective satifaction by the Detaining Authority in an order of preventive detention is a *sine qua non* for passing a valid order of preventive detention. This Court is well aware

of the position of law that, while deciding the validity of an order of preventive detention, this Court cannot decide whether there was adequacy of material before the Detaining Authority. This Court can only examine whether there was material before the Detaining Authority and whether the Detaining Authority has recorded subjective satisfaction that the grounds provided in the statute for passing an order of detention exist. The order of preventive detention is an order of a very drastic nature. The result of passing an order of preventive detention is to deprive the detenu of his liberty without trial. Therefore, an order of preventive detention cannot be passed in a casual manner. Passing of an order of preventive detention involves careful application of mind and recording of subjective satisfaction on the basis of the material on record that the grounds of detention provided by the statute exist.

15. In our view, there has been an inordinate delay from receiving the proposal by the detaining authority till the passing of the detention order. The explanation furnished in the affidavit-in-reply is not satisfactory and plausible. In fact, no explanation is given in the affidavit-in-reply as to the delay of approximately 2 months caused in

passing the detention order. The delay caused in passing the detention order has snapped the live link between the prejudicial activities of the petitioner and the rationale of clamping the detention order on the petitioner. From the detention order, it can also be gathered that the detaining authority had already made up its mind to detain the petitioner and merely waited for the bail orders of the Competent Court as the detention order is passed only after the bail orders were passed by the Competent Court. This shows that there was no actual subjective satisfaction on the part of the detaining authority. As such, it can be inferred that there was no ground as required for detention under Section 3(1) of the MPDA as to the subjective satisfaction of the detaining authority. As a result, the detention order has ceased to be preventive, as it should be in law, and has instead become punitive and must therefore be struck down. Accordingly, we pass the following order :-

O R D E R

(i) The Writ Petition is allowed.

(ii) The detention order dated 31.12.2025 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-85, passed by Respondent No. 2- District Magistrate, Nanded and the

confirmation order dated 27.02.2026 bearing No. MPDA-0126/CR-06/Spl-3B, passed by Respondent No. 1- State Government, are hereby quashed and set aside.

(iii) The Petitioner- Vaibhav S/o Raju Hunde shall be released forthwith, if not required in any other offence.

(iv) Rule is made absolute in the above terms.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE