IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 851 OF 2026

Amol S/o Jyotiram Gambhire
Age : 26 years, Occ : Labour,
R/o. Sikandarpur, Tal. Dist. Latur
(Presently detained at Central Jail,
Harsul Road, Chhatrapati Sambhajinagar)
... PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Home Department (Special),
Government of Maharashtra,
Mantralaya, Mumbai-400 032.

2. The District Magistrate,
Collector Office, Latur
Tq. & Dist. Latur - 413 512

3. The Superintendent of Central Jail,
Harsul Road, Chhatrapati
Sambhajinagar
... RESPONDENTS

...
Mr. A. U. Chandel, Advocate for the petitioner
Mr. G.A. Kulkarni, APP for Respondent nos.1 to 3.
...

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

RESERVED ON : 28.10.2026.
PRONOUNCED ON : 04.11.2026

JUDGMENT [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 20.02.2026 bearing No.2026/MAG/MPDA/Desk-2/Pol-1/WS-25, passed by Respondent No. 2- District Magistrate, Latur, 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"), as well as the approval order dated 27.02.2026 and the confirmation order dated 12.05.2026 bearing No. MPDA-0226/CR:123/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 fifteen (15) criminal cases and four preventive actions taken against the petitioner. The reference chart showing the criminal record of the petitioner is reproduced hereunder :

Sr. No	Police Station	Crime No.	Section	Registration Date	Date of arrest	Date of Bail	Court Case no & Date.	Status of case
1.	Latur Rural	204/2015	IPC 341, 324, 323, 504, 506, 34	22.09.2015	02.10.2015	13.10.2015	RCC No.632/2015 dated 30.10.2015	pending before Court
2.	Shivajinagar, Latur	202/2015	IPC 356, 379	28.10.2015	29.01.2016	01.02.2016	RCC No.131/2016 dated 30.03.2016	pending before Court
3.	Latur Rural	266/2015	IPC 394, 341, 34	26.11.2015	26.11.2015	30.11.2015	RCC No.42/2016 dated 28.01.2016	pending before Court
4.	MIDC, Latur	215/2016	IPC 327, 341, 323, 504 and 34	15.06.2016	16.06.2016	27.07.2016	RCC No.150/2017 dated 17.03.2017	pending before Court
5.	Vivekanand Chowk, Latur	163/2016	IPC 324, 363, 341, 435, 427, 323, 504, 506, 34	15.12.2016	02.01.2017	23.03.2017	STCC No.203/2017 dated 13.04.2017	pending before Court
6.	Vivekanand Chowk, Latur	459/2017	IPC 324, 323, 34	08.10.2017	22.06.2018	--	RCC No.839/2017 dated 14.12.2017	pending before Court

7.	Gandhi Chowk, Latur	523/2017	IPC 324, 323, 504, 506, 34	17.11.2017	20.12.2017	--	RCC No.42/2018 dated 22.01.2018	Pending before Court
8.	Gandhi Chowk, Latur	94/2018	IPC 341, 326, 323, 504, 34	21.03.2018	22.03.2018	27.03.2018	RCC No.363/2018 dated 21.07.2018	Pending before Court
9.	Vivekanand Chowk, Latur	159/2018	IPC 341, 323, 504, 506, 34	19.05.2018	22.06.2018	--	RCC no.1554/2018 dated 24.08.2018	Pending before Court
10.	Gandhi Chowk, Latur	78/2019	IPC 394, 34	25.02.2019	25.03.2019	02.07.2019	RCC no.604/2019 dated 27.08.2019	pending before Court
11.	Latur Rural	118/2020	IPC 142	15.06.2020	15.06.2020	15.06.2020	SCC no.884/2020 dated 22.06.2020	pending before Court
12.	Shivajinagar, Latur	45/2021	IPC 307, 384, 452, 141, 147, 148, 149 r/w Sec. 135 of Maharashtra Police Act	18.01.2021	30.03.2021	Anticipatory bail granted	SC no.63/2021 dated 25.05.2021	pending before Court
13.	Latur Rural	259/2021	IPC 307, 323, 506	04.11.2021	04.11.2021	29.04.2022	SCC no.02/2022 dated 01.01.2022	pending before Court
14.	Latur Rural	NC No.320/2024	BNS 115(2), 352, 351(2), 351(3)	17.09.2024	--	--	--	--
15.	Latur Rural	249/2024	BNS 109, 126(2), 351(2), 351(3)	16.11.2024	09.12.2024	11.03.2025	RCC no.84/2025 dated 24.01.2025	pending before Court

Preventive Action :-

Sr. No.	Police Station	C.R. No.	Under Section
1.	Latur Rural	01/2022	110(e)(g) CrPC
2.	Latur Rural	MAGCR 73/2019	56 (b) Maharashtra Police Act (Externment)
3.	Latur Rural	455/2016	107 CrPC
4.	Latur Rural	01/2025	129 BNSS

4. Learned advocate for the petitioner submits that:

i) The inordinate and unexplained delay in passing the detention order after the alleged prejudicial activities and recording of the in-camera statements shows that there was no pressing urgency or imminent threat warranting the petitioner's preventive detention.

ii) The Detaining Authority has failed to apply its mind to the fact that the petitioner was not arrested and was only served a notice under Section 35 of the BNSS on 26.09.2025 in Crime No. 204/2025, which is the sole crime upon which the impugned detention order is passed.

iii) The in-camera statements of Witnesses "A" and "B" are stereotyped, vague and lack material particulars. Furthermore, the incidents narrated therein are individual in nature and, at the most, amount to a "law and order"

issue, failing to demonstrate any disturbance to "public order" as required under the MPDA.

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:

i) The petitioner is a "Dangerous Person" within the meaning of Section 2(b-1) of the MPDA Act, as he has committed serious offences under Chapter XVI and XVII of the IPC and Chapter VI of the BNS, 2023. His dangerous activities have created constant fear and terror among the citizens in the jurisdiction of Latur Rural Police Station and adjoining areas thereby causing prejudice to the maintenance of public order.

ii) There is no delay in passing the detention order or in completing the mandatory statutory requirements. The entire process from the submission of the proposal to the final confirmation by the State Government was completed strictly within the stipulated timelines.

iii) The Detaining Authority was aware that the petitioner was released on serving a notice under Section 35(3) of the

BNSS. The said notice was placed before the Detaining Authority. Merely because the petitioner was released on notice does not negate the threat to public order, nor does it bar the issuance of a detention order.

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. Ajaysingh U. Chandel for the petitioner and learned APP Mr. G.A. Kulkarni 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 one offence, i.e., C.R. No.204/2025 registered on 12.09.2025 under Sections 118(1), 115(2), 351(2), 351(3), 352 read with Section 3(5) of the BNS, 2023, registered with Latur Rural Police Station, Latur, 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 only crime considered for passing the detention order was registered on 12.09.2025. The confidential statement of witness "A" was recorded on 08.11.2025, and the statement of witness "B" was recorded on 13.11.2025. After completion of the confidential inquiry, on 22.12.2025, the Police Inspector of Police Station Latur Rural, Dist. Latur, submitted the proposal to the Sub-Divisional Police Officer, Latur Rural. The Sub-Divisional Police Officer, Latur Rural forwarded the proposal to the Superintendent of Police, Latur on 02.01.2026. The Sub-Divisional Police Officer verified the statements of witnesses "A" and "B" on 30.01.2026. Thereafter, the Superintendent of Police, Latur forwarded the said proposal to the Detaining Authority on 02.02.2026 and the Detaining Authority passed the detention order on 20.02.2026.

9. As the last offence considered was registered on 12.09.2025 and the detention order was passed on 20.02.2026, i.e., after a delay of more than five (5) months

from the last crime, 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. There is no sentence in the affidavit-in-reply of the Detaining Authority explaining the reasons for the delay caused in passing the detention order from the date of the last registered crime which is considered for passing the detention order.

10. 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.*"

Thus, in our considered view, the inordinate and unexplained delay in the passing of the detention order has

snapped the live link between the prejudicial activities alleged against the petitioner and the rationale of clamping the detention order.

11. Admittedly, the detention order rests upon one crime i.e., C.R. No.204/2025 and two in-camera statements of confidential witnesses “A” and “B”. The facts of C.R. No. 204/2025 disclose that the complainant was sitting with his friend at Hanuman Chowk, Sikandarpur, when the petitioner and one another, in an intoxicated state, demanded him money for liquor and on refusal, the petitioner assaulted him with kicks and fists, while the co-accused hit him with a brick. The said incident is an individual dispute between private persons arising out of a demand for money for liquor. It does not disclose any act which affected the community at large or disturbed the even tempo of public life. At its highest, it may amount to an offence affecting law and order, but the material does not demonstrate that it was an act prejudicial to the maintenance of “public order”.

12. So far as the two in-camera statements are concerned, witness “A” alleges that about two months prior

to the recording of his statement, while he was returning from his agricultural field along with labourers, the petitioner and his associates demanded money for liquor and, on refusal, the petitioner took out a sickle, threatened him and forcibly took ₹800 from his pocket. Witness "B" alleges that about three months prior to the recording of his statement, while he was returning to Sikandarpur from Latur, the petitioner and two unknown persons intercepted his motorcycle, demanded money, and on refusal the petitioner took out a knife, caught hold of his collar and assaulted him with kicks and fists.

Both statements are in general and stereotyped language. They refer to incidents without exact dates, and largely narrate the petitioner's alleged general criminal behaviour. Though the incidents are said to have occurred at or near public places, the statements do not contain material particulars to show that the public at large was affected or that the even tempo of community life was disturbed.

13. As observed by the Hon'ble Supreme Court in ***Ameena Begum Vs. State of Telangana*** reported in ***2023 INSC 788***, the distinction between "law and order" and

"public order" is one of degree and impact. An act may affect law and order and yet not public order; it is only when the act affects the community at large or the even tempo of life of the people that it assumes the character of a public order issue. In the present case, the statements do not establish that the petitioner's activities were prejudicial to the maintenance of public order so as to justify his preventive detention.

14. The record further discloses that on 12.03.2025, the Police Inspector, Latur Rural Police Station, on the report of the Assistant Police Inspector, Latur Rural Police Station, submitted a request letter to the Executive Magistrate, Latur, seeking permission to initiate proceedings under Section 129 of the BNSS, and Chapter Case No.01/2025 under Section 129 of the BNSS came to be initiated against the petitioner. However, neither the detention order nor the affidavit-in-reply discloses the status or outcome of the said proceedings, nor is there any explanation as to why the said less drastic statutory proceeding was not taken to its logical conclusion or why it was considered insufficient in curbing the prejudicial activities of the petitioner.

15. Before passing the order of detention, the Detaining Authority must keep in mind that the recording of subjective satisfaction 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.

16. In our view, in the instant case, there has been an inordinate delay from the last crime registered till the passing of the detention order which has snapped the live link between the prejudicial activities of the petitioner and the rationale of clamping the detention order on him. The sole crime and the two in-camera statements, even if accepted at their face value, disclose incidents individual in nature and, at the highest, affecting law and order, but not public order. The record further shows that Chapter Case No.01/2025 under Section 129 of the BNSS was initiated against the petitioner, but its status or outcome is not placed on record and the Detaining Authority has not explained why the said less drastic proceeding was insufficient. In the sole crime relied upon, the petitioner was not arrested and was only served a notice under Section 35(3) of the BNSS on 26.09.2025, as the authorities did not find it necessary to arrest him. These circumstances clearly show that the Detaining Authority did not apply its mind to the relevant material and recorded subjective satisfaction mechanically. 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.

17. For the foregoing reasons, we pass the following order :-

O R D E R

(i) The Writ Petition stands allowed.

(ii) The detention order dated 20.02.2026 bearing No.2026/MAG/MPDA/Desk-2/WS-25, passed by Respondent No. 2 - District Magistrate, Latur, the approval order dated 27.02.2026 and the confirmation order dated 12.05.2026 bearing No. MPDA-0226/CR:123/Spl-3B, passed by Respondent No. 1- State Government are hereby quashed and set aside.

(iii) The Petitioner- Amol S/o Jyotiram Gambhire 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

DDC