



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1229 OF 2025

Rahul Ganesh Shinde,
Age : 26 Years, Occu.: Nil,
R/o. Wadarwada, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad

...Petitioner

VERSUS

1. The State of Maharashtra
(Through the Secretary Home
Department (Special)
Mantralaya, Mumbai.
2. District Magistrate,
Chhatrapati Sambhajinagar.
3. The Superintendent
Aurangabad Central Prison,
Chhatrapati Sambhajinagar.

...Respondents

...
Mr. Kunal A. Kale, Advocate for the Petitioner.
Mr. V. M. Jaware, A.P.P. for Respondent Nos. 1 to 3.

...
**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

Reserved on : 26.02.2026

Pronounced on : 06.03.2026

JUDGMENT (PER : ABASAHEB D. SHINDE, J.) :

1. Heard.
2. Rule. Rule is made returnable forthwith. With the consent of the parties Writ Petition is taken up for final hearing at the stage of admission.

3. Challenge in the present Writ Petition is to the order of detention dated 15.11.2024 bearing No.2024/MPDA/DET-07/DC-372, passed by Respondent No. 2-District Magistrate, Chhatrapati Sambhajnagar in exercise of 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 Act**”) and the approval order dated 25.11.2024 as well as confirmation order dated 26.09.2025 bearing No. MPDA-1124/CR-772/Spl-3B, passed by Respondent No. 1-State Government. By these impugned orders, the petitioner has been directed to be detained for a period of 12 months holding him as a “*dangerous person*” within the meaning of Section 2 (b-1) of the MPDA Act, as after having found his activities prejudicial to the maintenance of public order.

4. The ready reference chart of criminal record of petitioner which is not disputed, is scanned and reproduced hereunder :

Sr.No	Police Station	Cr. No.	Under Section	Date of registration	Present Status
1	Vaijapur	08/2021	392, 341, 34 IPC.	04/01/2021	Pending trial
2	Vaijapur	77/2021	326, 323, 504, 34 IPC	06/05/2021	Pending trial
3	Vaijapur	287/2021	326, 324, 323, 504, 506, 34 IPC.	18/07/2021	Pending trial
4	Vaijapur	363/2021	376, 376(2), (f), (n), 504, 506 IPC.	22/09/2021	Pending trial
5	Vaijapur	419/2021	324, 323, 504, 506, 34 IPC.	05/11/2021	Pending trial
6	Vaijapur	83/2023	324, 323, 504, 506 IPC.	27/02/2023	Pending trial
7	Vaijapur	143/2023	341, 394 IPC.	30/03/2023	Pending trial
8	Vaijapur	111/2024	323, 504, 506 IPC, 4/25 Arms Act,	19/02/2024	Pending trial
					
9	Vaijapur	186/2024	1959. 354, 324, 323, 504, IPC.	15/03/2024	Pending trial
10	Vaijapur	187/2024	326, 324, 323, 504, 506 IPC.	15/03/2024	Pending trial

Non- Cognizable Cases

Sr. No.	Police Station	C.R. No	Under Section	Date of Registration	Disposal.
1	Vaijapur	96/2021	323, 504, 506 IPC.	01/02/2021	Complainant was intimated to approach the concerned court
2	Vaijapur	268/2021	504, 506 IPC.	11/03/2021	Complainant was intimated to approach the concerned court
3	Vaijapur	420/2021	427, 323, 504, 506 IPC.	28/04/2021	Complainant was intimated to approach the concerned court
4	Vaijapur	694/2021	504, 506 IPC.	19/06/2021	Complainant was intimated to approach the concerned court
5	Vaijapur	887/2021	504, 506 IPC.	25/07/2021	Complainant was intimated to approach the concerned court
6	Vaijapur	1271/2021	323, 504, 506, 34 IPC.	03/11/2021	Complainant was intimated to approach the concerned court

Preventive Action

	Chapter Case No. & U/s 03/2021 u/s 110 (e)(g) Cr.P.C.	Disposal Final bond of Rs.50000 /- was taken.
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Preventive Detention

Sr. No.	Police Station	Detention Order No.	Under Section & Disposal
1	Vaijapur	No.2021/Home/MPDA/DET-1/WS-174 Office of the District Magistrate, Aurangabad. Date 26/11/2021.	He was detained under section 3(1) of MPDA Act for a year.
2	Vaijapur	No.2023/MPDA/DET-03/DC-132 Office of the District Magistrate, Aurangabad. Date 01/06/2023.	He was detained under section 3(1) of MPDA Act.
3	Vaijapur	No.2024/MPDA/DET-03/DC-156 Office of the District Magistrate, Aurangabad. Date 26/04/2024.	He was detained under section 3(1) of MPDA Act.

5. It seems that the Police Inspector, Police Station Vaijapur, Chhatrapati Sambhajinagar submitted a proposal before Respondent No.2 - District Magistrate, Chhatrapati Sambhajinagar seeking detention of the petitioner, who in turn found that the petitioner's detention is necessary to prevent him from acting in any manner prejudicial to public order. It is pertinent to note that, though the basis for submission of proposal for detention of petitioner is registration of several offences in the recent past, which resulted into passing of continuous three (3) detention orders under MPDA Act, in the year 2021,2023 and 2024 respectively. However, the

impugned detention order is based on the recent offence bearing Crime No. 576 of 2024 registered under Sections 309(6), 126(2), 324(4), 351(3), 352 of the Bharatiya Nyaya Sanhita, 2023 (for short “BNS”), dated 19.09.2024. In addition to above crime, two in-camera statements of witnesses ‘A’ and ‘B’ are also considered while passing the impugned detention order.



Sr No	Police Station	Cr. No. & Under Section	Date of registration	Present Status
	Vaijapur	576/2024 u/s 309(6), 126(2), 324(4), 351(3), 352 Bharatiya Nyaya Sanhita, 2023.	19/09/2024	Pending Investigation

6. Learned Counsel for the petitioner would submit that, although the petitioner was released on bail in the pending case, copy of bail application and the bail order was admittedly neither placed on record nor has been considered by the Competent Authority, this lacks the basic principle of subjective satisfaction. In support of his submission he placed reliance on the judgment of the Hon’ble Apex Court in the case of *Joyi Kitty Joseph Vs. Union of India & Ors.* reported in (2025) 4 SCC 476, wherein it has been held that, when a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinising the validity of an order of preventive detention which is based on the very same charge which is to be tried by the criminal court.

7. It is further submitted by the learned Counsel for the petitioner that, on the solitary incident which took place on 19.09.2024, the detention could not have been ordered.

8. Learned Counsel for the petitioner also contended that, even taking the allegations of the said crime as it is, the same would not amount to the act prejudicial to the public order but at the most it could be said to be an act disturbing the law and order.

9. Learned Counsel for the petitioner would further urge that so far as in-camera statements of witnesses 'A' and 'B' are concerned, perusal of these statements would show that those are cyclostyled lacking details about dates, places and particulars about the alleged incidents, even otherwise those have been recorded within a span of few days. In short, the contention of the learned Counsel for the petitioner is that the in-camera statements are vague and concocted. It could not have been made basis for passing the impugned order of detention.

10. Per contra, the learned APP supports the impugned order of detention of the petitioner as well as the order of approval and confirmation. According to the learned APP the petitioner is a history sheeter, material placed on record would indicate that he is

habitual offender and undeterred by preventive action also, who creates terror and the residents within the jurisdiction of Vaijapur Police Station and adjoining areas remain in constant fear. It is further submitted that detaining authority has rightly arrived at subjective satisfaction by considering relevant material that, if not prevented, the petitioner is most likely to indulge in further dangerous activities which are prejudicial to the maintenance of public order in the future. It is further submitted that there is no delay either in passing impugned order or securing approval. He would further submit that Respondent No.2-District Magistrate has adhered to all the mandatory provisions contained in MPDA Act before passing the impugned order of detention. He would further submit that considering the statements of the in-camera witnesses 'A' and 'B', it is evident that there was threat and violence in both the incidents which would have directly affected the public order.

11. Learned AGP would further submit that the allegations made in the offences registered against the petitioner coupled with the in-camera statements of witnesses 'A' and 'B' shows that the petitioner used to abuse, threaten, assault and also extort money from the residents of that area. He, therefore, submits that Respondent No.2-District Magistrate has rightly considered the entire material placed

before him and has arrived at a subjective satisfaction, that the preventive detention of the petitioner is very much warranted.

12. We have carefully perused the detention order and grounds assigned therein and find that though the Respondent No. 2 - District Magistrate has observed that the order of detention is based on solitary offence and supporting in-camera statements of two witnesses however he has also referred to criminal record reflecting several offences in the recent past to show that the Petitioner – detenu is history sheeter and has been habitually committing serious offences.

13. The aspect as to whether a solitary act would be sufficient to form the basis of detention, it would be apposite to rely on the judgment of the Hon'ble Apex Court in the case of ***David Patrick Ward and Anr. Vs. Union of India and Ors.*** reported in (1992) 4 SCC 154, the relevant paragraph Nos. 18 to 22 are quoted hereunder :

18. Saraswathi Seshagiri (Mrs) v. State of Kerala [(1982) 2 SCC 310 : 1982 SCC (Cri) 423] is a ruling cited by learned Additional Solicitor General. In that case, the wife of the detenu in a petition presented by her under Article 32 of the Constitution had challenged the validity of the detention order made against her husband. The contention there was that a solitary incident of an attempt on the part of the detenu to export

Indian currency to foreign countries, would hardly be sufficient to warrant an inference that the detenu will repeat such activity in future also and that his detention was necessary to prevent him from doing so in future. This Court negated that contention relying on an observation in Debu Mahato v. State of W.B. [(1974) 4 SCC 135 : 1974 SCC (Cri) 274] by stating thus : (SCC p. 313, para 9)

“From the aforesaid observation, it is evident that an inference in each case will depend on the nature of the act and the attendant circumstances. In the present case, the detenu tried to export Indian currency to the tune of Rs 2,88,900 to a foreign country in a planned and premeditated manner by clever concealment of it in several parts of his baggage. This fully justified the detaining authority in coming to the conclusion that he might repeat his illegal act in future also and that his detention was necessary to preventing him from repeating the same in future. His past act in the circumstances might be an index of his future conduct.”

19. *To similar effect is the ruling in Haradhan Saha v. State of W.B. [(1975) 3 SCC 198 : 1974 SCC (Cri) 816] where the order of detention which was founded on a solitary act was upheld by this Court. In paragraph 37 of the ruling, it is stated thus:*

“37. The ground given in Madan Lal Agarwala's case is that he in collusion with his father had hoarded 8 quintals 84 kg. of rice, 2 quintals 88 kg. of flour and 1 quintal 96 kg. of suji and further that he had no licence as required by Section 4 of the West Bengal Essential Foodstuffs Anti-Hoarding Order, 1966. The detaining authority said in the ground:

‘It is apparent in the aforesaid facts that you in collusion with your father are likely to withhold or impede supply of foodstuffs or rationed articles essential to the community.’

The future behaviour of Madan Lal Agarwala based on his past conduct in the light of surrounding circumstances is the real ground of detention. It is needless to stress the obvious that Madan Lal Agarwala's acts are gravely prejudicial to the maintenance of supplies essential to the community.”

20. *Therefore, it cannot be contended that as a rule a solitary act can never form the basis of an order of detention.*

21. *Even in the ruling of Saraswathi Seshagiri (Mrs) [(1982) 2 SCC 310 : 1982 SCC (Cri) 423] relied on by learned counsel for the*

petitioners the following observation made by this Court in Debu Mahato v. State of W.B. [(1974) 4 SCC 135 : 1974 SCC (Cri) 274] is excerpted : (SCC p. 138, para 2)

“... We must, of course, make it clear that it is not our view that in no case can a single solitary act attributed to a person form the basis for reaching a satisfaction that he might repeat such acts in future and in order to prevent him from doing so, it is necessary to detain him. The nature of the act and the attendant circumstances may, in a given case be such as to reasonably justify an inference that the person concerned, if not detained, would be likely to indulge in commission of such acts in future. The order of detention is essentially a precautionary measure and it is based on a reasonable prognosis of the future behaviour of a person based on his past conduct judged in the light of the surrounding circumstances. Such past conduct may consist of one single act of a series of acts. But whatever it be, it must be of such a nature that an inference can reasonably be drawn from it that a person concerned would be likely to repeat such acts so as to warrant his detention....”

22. *Tested in the light of the above decisions, certainly, the acts in which the petitioners indulged would form the basis of detention. The detaining authority can base its order of detention even on a solitary act provided that the conduct of the person concerned with the act in the circumstances in which it was committed, is of such a nature as would enable the formation of requisite satisfaction that the person, if not prevented by an order of detention, is likely to indulge in repetition of similar acts in future. That is certainly so in the present case, having regard to the various circumstances from the beginning, viz. the concealment of the purpose of visit, the entry without permit in the prohibited area up to the time of arrest of the petitioners. Therefore, the grounds of detention relating to what occurred on the night between January 30 and 31, 1992 sufficed for making the detention orders under challenge. Debu Mahato [(1974) 4 SCC 135 : 1974 SCC (Cri) 274] and M. Mohamed Sulthan [(1991) 1 SCC 144 : 1991 SCC (Cri) 104] the decisions of this Court on which reliance is placed to support the point under examination, indeed go against the point. Hence, the point cannot succeed.*

14. So far another aspect whether the act of petitioner affects the public order is concerned, the grounds of detention elaborately described the acts which created dangerous and terrorized situations in the area and frequently disturbed public peace and order because of the acts of violence and danger caused to the public. The fact that the petitioner is involved in almost 17 criminal cases of serious nature including offences against women as can be seen from the above chart as well as having suffered three (3) preventive detention orders previously reveals that the petitioner created terror in the said area and also disturbed public order & peace. The witnesses from the said area have given in-camera statements & these statements were duly verified. The gist of the statements of witness no. 'A' and witness no.'B' has also been considered in the grounds of detention. The authority arrived at the subjective satisfaction that due to ill-acts of petitioner people residing in said vicinity got scared and due to apprehension witnesses were not coming forward to make report / complaint against the petitioner.

15. It is specifically mentioned by the detaining authority in the order of detention having subjectively satisfied that petitioner is a "*dangerous person*" as defined in Section 2(b-1) of the said Act. It

would be apt to rely on the judgment of this court in the case of ***Harish Patil Vs. State of Maharashtra and Ors.*** reported in (2016) 4 Bom CR (Cri) 499 and more particularly para. 22 and the same reads thus :

“ 22. What is necessary is that the Detaining Authority should be subjectively satisfied that the in-camera statements are true and genuine. It is not necessary that the subjective satisfaction to the said effect has to be reflected in the grounds of detention itself. Even if there is a contemporaneous document which shows that the Detaining Authority was subjectively satisfied that the in-camera statements were true and genuine, that will be sufficient. The term “subjective satisfaction” relates to “thinking”. In the present case, we are concerned with the subjective satisfaction of the Detaining Authority. The term ‘subjective satisfaction’ has a reference to the mental element of the subject i.e., the desires, feelings or perception of the Detaining Authority. The subjective satisfaction should be a reasonable one and not illusory or fanciful. On going through the grounds of detention and the documents relied upon by the Detaining Authority, it cannot be said that the subjective satisfaction is illusory or fanciful. In fact, we find that the subjective satisfaction is real and rational. In the present case, as stated earlier, there is material and contemporaneous documents before the Detaining Authority to show that the in-camera statements were true and genuine and copies of these documents have been furnished to the detenu. Thus, this ground too fails.

16. Upon careful perusal of the grounds of detention, as observed above, number of offences are registered against the petitioner in the past which goes to show that the detenu is a history-sheeter having criminal antecedents so as to discredit him as a law abiding citizen and that he is a habitual offender.

17. In view of the above, we are satisfied that none of the grounds raised in the writ petition is worth consideration so as to cause interference in the order of detention. We have carefully gone through original record produced by the Respondents, which has been made available by the learned APP, in peculiar facts of the present case and keeping in view the past record of the Petitioner / Detenu, that he is a habitual offender, we are of the considered view that there is no substance in the present Writ Petition, and the same deserves to be dismissed. Hence the Writ Petition is accordingly dismissed. Rule stands discharged accordingly.

(ABASAHEB D. SHINDE, J.)

habeeb/

(SANDIPKUMAR C. MORE , J.)