



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1259 OF 2025

Santosh Raghunath Dhotre,
Age : 27 Years, Occ. Labour,
R/o. Dawal Malik Chowk Nagpur,
Dist. Ahilyanagar

..PETITIONER

VERSUS

1. The State of Maharashtra
Through : Section Officer,
Home Department (Special)
2nd Floor, Mantralay, Mumbai-32
2. The District Magistrate,
Office of District Magistrate,
Ahilyanagar, Tq. Ahilyanagar,
District : Ahilyanagar
3. The Superintendent,
Central Prison, Harsool,
Aurangabad

..RESPONDENTS

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Advocate for the Petitioner : Ms. Sunita G. Sonawane
A.P.P. for Respondent Nos. 1 to 3/State : M. A. Aher

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

RESERVED ON : JANUARY 13, 2026

PRONOUNCED ON: FEBRUARY 13, 2026

JUDGMENT (PER SANDIPKUMAR C. MORE) :-

1. Rule. Rule made returnable forthwith. Heard finally at
the admission stage with the consent of the learned counsel

for the petitioner as well as the learned APP for the respondents–State.

2. The petitioner has challenged the order of detention dated 22/07/2025 bearing No. D.C./Karya.9 C.1/774/2025 passed by respondent No.2- The District Magistrate, Ahilyanagar in exercise of powers under Section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Priates, Sand Smugglers and Persons Engaged in Black Marketing of Essential Commodities Act, 1981 (hereinafter referred to as “MPDA Act”) as well as the approval order of the State Government dated 01/08/2025 and the confirmation order dated 11/09/2025 passed by respondent No.1, by invoking the power of this Court under Article 226 of the Constitution of India.

3. The learned counsel for the petitioner submits that, the following offences are registered against the petitioner and four preventive actions are also taken against the petitioner. Page

Sr. No.	Police Station	Crime register No. and section	Reg. Date	Current position
01.	MIDC	613/2019 u/s 395,201, 412 of IPC	01.11.2019	Court Pending R.C.C. No. 186/2020

02.	MIDC	I 697/2020 U/s 326,324,323,504, 506 read with Section 34 of IPC	06.09.2020	Court Pending R.C.C. No. 142/2021
03.	Topkhana	I 7613/2020 u/s 392, 34 of IPC	16/11/2020	Court Pending R.C.C. 41/2021
04.	Topkhana	I 7616/2020 u/s 393, 34 of IPC	17.11.2020	Court Pending R.C.C. No. 47/2021
05.	MIDC	I 258/2021 u/s 307, 341, 143, 148, 149, 323, 504, 506 of IPC r/w 37(1)(3), 135 of Maharashtra Police Act	27.04.2021	Court Pending R.C.C. No. 115/2022
06.	MIDC	I 178/2022 u/s 307, 143, 147,148, 149, 504, 506, 120(B) of the IPC r/w 4/25 of Arms Act, 37(1)(3)/135 of Bombay Police Act and 3(1)(ii)& 3(2), 3(4) MCOC Act 1999	18.03.2022	Court pending Special case No.181/2022
07.	MIDC	I 206/2022 u/s 394, 387, 450, 386 r/w 34 of IPC	30.03.2022	Court Pending RCC 1653/22
08.	Topkhana	I 1623/2023 u/s 307, 324, 323 143, 147, 148, 149, 504, 506, 427, 201 of IPC	14.11.2023	Court Pending Session Case No. 49/2024
09.	M.I.D.C.	I 1160/2023 u/s 307, 504, 506 r/w	16.12.2023	Court Pending

		34 along with 3/25, 4/25 of Indian Arms Act		RCC 386/2024
10.	MIDC	I 800/2024 u/s 162, 166, 167, 168, 118(1), 115, 352, 351(2) of B.N.S. Act 2023	06.11.2024	Investigation in progress (The MPDA proposal is based on a specific offence)
11.	MIDC	I 864/2024 u/s 118(1), 119(1), 352, 351(2), 324(4) of B.N.S. Act 2023	21.11.2024	Investigation in progress (The MPDA proposal is based on a specific offence)
12.	MIDC	I 137/2025 u/s 109, 118(1), 115(2), 352, 351(2), 119(1), 326(g), 189(2), 191(2), 191(3), 190, 324(4) of IPC along with Arms Act 4/25 Maharashtra Police Act 37(1)(3) 135 and Section 7 of the Criminal Law Amendment Act	02.03.2025	Investigation in progress (The MPDA proposal is based on a specific offence)

Preventive action

Sr.	Police Station	Preventive Action	Section	Current position
1.	MIDC	440/2019	C.R.P.C. 107 Date 23.09.2019	The final bond has expired

2.	MIDC	03/2020	C.R.P.C. 110 (a)(g) Dt. 07.02.2020	The final bond has expired
3.	MIDC	32/2022	C.R.P.C. 110(a)(g) Dt. 24.08.2022	The said proposal was rejected
4.	MIDC	02/2020	56(1)(a)(b) of Bombay Police Act	Sub Divisional Magistrate Ahilyanagar rejected this proposal

However, the detaining authority has considered mainly last three offences i.e. i) I-800/2024 u/s 162, 166, 167, 168, 118(1), 115, 352, 351(2) of B.N.S. Act 2023, ii) I-864/2024 u/s 118(1), 119(1), 352, 351(2), 324(4) of B.N.S. Act 2023 and iii) I-137/2025 u/s 109, 118(1), 115(2), 352, 351(2), 119(1), 326(g), 189(2), 191(2), 191(3), 190, 324(4) of IPC along with Arms Act 4/25 Maharashtra Police Act 37(1)(3) 135 and Section 7 of the Criminal Law Amendment Act, all registered with MIDC Police Station on 06/11/2024, 21/11/2024 and 02/03/2025 respectively to declare the petitioner as a “Dangerous Person”. According to the learned counsel for the petitioner, there is no live link between the impugned order of detention and the earlier nine crimes registered during the period from 2019 to 2024 against the petitioner. According to

her, the petitioner has also been released on bail in at least two crimes, but no consideration for the said fact finds place in the impugned order. Thus, there is no application of mind in passing the impugned order. She further submitted that, there is delay in passing the detention order since the last crime appears to be of 02/03/2025. Even the proposal was sent after three months of the last crime. She pointed out that the statements of secret witnesses are stereotype in nature and at the most it can give rise to law and order situation, but not breach of public order. She placed reliance on following judgments delivered by this court.

- A) Pappu Kachru Ghorpade vs. State of Maharashtra and others (Criminal Writ Petition No. 1107 of 2024), delivered on 04/09/2024 &***
- B) Rushikesh @ Bhavadya Ashok Bade vs. The State of Maharashtra (Criminal Writ Petition No.46 of 2025), delivered on 07/03/2025.***

4. Per contra, the learned A.P.P. strongly opposed the submissions made on behalf of the petitioner by filing affidavit-in-reply of respondent No.2. According to him, the petitioner is definitely a “Dangerous Person” within the meaning of Section 2(b-1) of the M.P.D.A. Act. He pointed out

that there is no delay in passing the impugned orders and the same was passed after subjective satisfaction. According to him, there are 12 offences registered against the petitioner and aspect of bail is also considered by the respondent No.2 while passing the impugned order. He also relied on following judgments.

- (i) ***Phulwari Jagdambaprasad Pathak Vs. R.H. Mendonca and others [(2000) 6 Supreme Court Cases 751]***
- (ii) ***Iqbal Munna Sayyed vs Commissioner of Police, Pune and others [2017 (3) ABR (Cri) 923]***

5. Admittedly, three offences of MIDC Police Station have been considered for passing the detention order. However, from CR No.800 of 2024 it is evident that the dispute was on account of getting separate meter by the petitioner. Thus, it appears that it is dispute between two persons and the crime therefore, does not involve public at large. Moreover, the crime No.864 of 2024 also involves personal dispute. Same is the case with last crime i.e. CR No.137 of 2025 wherein breach of provisions of Arms Act is involved. However, nothing is there to show that there was notification issued under the said Act, of which the petitioner had committed breach. As such, it is clearly evident that the criminal activities as alleged against the petitioner are of individual nature or arising out of

personal disputes without involving the public at large. Further, it is significant to note that the petitioner has already been released on bail in two of the aforesaid crimes and in CR No.800 of 2024 the prosecution did not find it necessary to arrest him and only notice was given to him. Thus, it was for the police machinery to file applications for cancellation of bail granted to the petitioner in two cases, if they were of the opinion that activities of the petitioner were dangerous to the public at large instead of taking steps for passing detention order, which affects the fundamental rights of the petitioner. However, the detaining authority did not bother to go through the conditions of bail and did not take any effort for filing the application for cancellation of bail.

6. In the case of **Joyi kitty Josef Vs. Union of India & Others** reported in **2025 AIR (SC) 1702** the Hon'ble Apex Court has already held that, when a bail is granted with conditions to the detainee, then the detaining authority must apply its mind to those conditions and record its subjective satisfaction as to why they are insufficient to prevent prejudicial activities. No such application of mind or subjective satisfaction is apparent from the impugned order.

7. Further, it is evident that though there were 12 crimes

mentioned in the detention order, but the first nine crimes were in fact committed during the period from 2019 to 2024, wherein the petitioner is already on bail. Thus, considering the period of aforesaid crimes, there is absolutely no proximate connection between those crimes and the detention order. As such, live link is also missing in this case.

8. So far as statements of secret witnesses are concerned, they are in respect of giving threats or snatching of certain amount from those witnesses by the petitioner. However, those incidents had taken long back and in the year 2024. Moreover, the same were of individualistic in nature, for which, at the most, law and order situation may arise. It cannot be said that those incidents are sufficient to hold that due to criminal activities of the petitioner, there is breach of public order. In the case of ***Dr. Ram Manohar Lohia Vs. State of Bihar, (AIR 1966 SC 740)*** the Hon'ble Apex Court has differentiated breach of law and order and breach of public order. Breach of public order involves disturbance affecting the even tempo of life of community, whereas law and order involves individual crimes, not disrupting the broader public tranquility. Thus, it appears that the detaining authority has not applied his mind while passing the impugned order.

9. Though the learned A.P.P. relied on the judgments (supra), but much water has flown thereafter and considering the fact that the preventive detention is not to punish for the past acts, but to prevent further conduct, it must be supported by cogent, proximate and relevant material and when such material is absent, the very foundation of the order falls. In the instant case, as discussed above, there is no sufficient material on record to categorize the petitioner as “Dangerous Person” within the meaning of provisions of the M.P.D.A Act, 1981, and therefore, even though the Advisory Board has confirmed the order, but in the light of the aforesaid discussion, we do not find the impugned order and its confirmation, as sustainable. In the result, we pass the following order.

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 22/07/2025 bearing No. D.C./Karya.9 C.1/774/2025 passed by respondent No.2-The District Magistrate, Ahilyanagar in exercise of powers under Section 3(2) of the M.P.D.A. Act, 1981 as well as the approval order of the State Government dated 01/08/2025 and the confirmation order dated 11/09/2025 passed by respondent No.1, are

hereby quashed and set aside.

(iii) Petitioner- Santosh Raghunath Dhotre shall be released forthwith, if no required in any other offence.

(iv) Rule is made absolute in aforesaid terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

VSM/