



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

CRIMINAL WRIT PETITION NO. 1269 OF 2025

Tarekh Khan Musa Khan
Age : 28 Years, Occ. Labour,
R/o. Fulenagar, Majalgaon
District Beed

Petitioner

VERSUS

1. The State of Maharashtra
Through its Additional Secretary,
Home Department, Mantralaya,
Mumbai-32.
2. District Magistrate, Beed
3. The Superintendent of Police,
Beed.
4. Sub Divisional Police Officer,
Majalgaon Division, Majalgaon.
5. The Police Inspector,
Majalgaon City Police Station,
Dist Beed.
6. The Jail Superintendent,
Harsul Central Prison,
Chhatrapati Sambhajinagar

Respondents

...
Mr. Abhinay Khot, Advocate for the petitioner (appointed).
Mr. S.P. Sonpawale, A.P.P. for respondent Nos.1 to 6.
...

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

RESERVED ON : 17.01.2026

PRONOUNCED ON: 18.02.2026

Final Order (Per Sandipkumar C. Mire, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the petitioner and learned A.P.P.

2. The petitioner has challenged the order of detention dated 11.05.2025 bearing No. 2025/RB-Desk-1/Pol-1/MPDA-08 passed by respondent No.2/The District Magistrate, Beedin 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 confirmation order of the Respondent No.1/State Government dated 07.07.2025 bearing No. MPDA-0525/CR-235/Spl-3B, by invoking the power of this Court under Article 226 of the Constitution of India.

4. Learned counsel for the petitioner submits that, the following offences are registered against the petitioner and two preventive actions are also taken against the petitioner.

Sr. No	Police Station	C.R. No. & Under Section	Date of Registration	Charge-sheet No.	Court case No.	Present status
1.	Majalga on City	109/2018, u/s 326,324, 143,147,148,149,323, 506 of IPC	08.04.2018	52/2018 Dt. 20.07.2018	Sessions Case No.33/2018	Pending trial

2.	Majalgaon City	20/2021, u/s 380 IPC	18.01.2021	57/2021 Dt. 20.04.2021	RCC No. 185/2021	Pending trial
3.	Majalgaon City	314/2021, u/s 326,324, 506 of IPC	23.09.2021	44/2022 Dt. 21.06.2022	RCC No. 119/2022	Pending trial
4.	Majalgaon City	135/2022, u/s 324, 323, 504, 506 of IPC	09.06.2022	115/2022 Dt. 23.12.2022	RCC No. 278/2022	Pending trial
5.	Majalgaon City	274/2023, 326, 324, 341 of IPC	11.08.2023	124/2023 Dt. 17.10.2023	RCC No. 280/2023	Pending trial
6.	Majalgaon City	142/2024, u/s 142 M.P. Act	16.04.2024	78/2024, Dt. 30.10.2024	SCC No. 1215/2024	Pending trial
7.	Majalgaon City	7/2025, u/s 109, 352, 3(5) of BNS 2023, Sec 135 of M.P.A.		--	--	On investigation
8	Majalgaon City	89/2025, u/s 126(2), 115(2), 351(2), 352 of BNS 2023	09.03.2025	--	--	On investigation

Preventive Action

Sr. No	Police Station	Chapter Case No. and under Section.	Date of Registration	Remark
01.	Majalgaon City	1/2023, un/s 56 (1) (A) of M.P. Act	15.12.2023	In said matter, S.D.M. Majalgaon deported the opponent for 6 months.
02.	Majalgaon City	75/2025, u/s 126 of BNS	05.03.2025	Final Bond.

However, the detaining authority has considered mainly two offences viz; C.R. No. 7 of 2025 under Sections 109, 352, 3 (5) of B.N.S. Act and C.R. No. 89 of 2025 under Section 126 (2), 115 (2), 351 (2) and 352 of B.N.S. Act, both registered with Majalgaon City Police Station on 05.01.2025 and 09.03.2025 respectively, to declare the petitioner as a “Dangerous Person”.

According to him, there is no live link in the impugned order of detention and the earlier six crimes registered during the period from 2018 to 2024 against the petitioner. According to him, the petitioner has also been released on bail in Crime No.7 of 2025 on 05.01.2025, but nothing is mentioned in the detention order about his release on bail. Thus, there is no application of mind in passing the impugned order. He further submitted that, the statements of secret witnesses are without any particulars and the for that purpose a question of law and order may arise, but by any stretch of imagination it cannot be held that the criminal activities of the petitioner are sufficient for breach of public order. Further, according to him, both the offences considered for passing the impugned order are registered on the report of one and the same person. As such, it definitely indicates that those offences are arising out of personal dispute and there cannot be any threat to the public order. Thus, he prayed for setting-aside the impugned order of detention. The learned counsel for the petitioner, in addition to submissions, also placed reliance on the judgment delivered by Division Bench of this Court at Principal Seat in the case of ***Nilofer Ramjan Shaikh vs Commissioner of Police, Pune City and others*** in ***Writ Petition No. 3471 of 2025***

5. 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. According to him, the petitioner is habitual offender and has committed crimes at public places. The incidents in respect of secret witnesses had in fact taken place in public place, which is definitely indicative of breach of public order. He submitted that the impugned order has been passed after subjective satisfaction and accordingly approval is also there. The learned A.P.P. also submitted that earlier crimes committed by the petitioner also need to be taken into consideration and for that purpose he placed reliance on following judgments :

- (i) Ankush Vaman Pawar vs Commissioner of Police, Pune and others; (2018) 3 AIR Bom R (Cri) 843**
- (ii) Iqbal Munna Sayyed vs Commissioner of Police & others; (2017) 3 AIR Bom R (Cri) 923**

6. Admittedly, two offences of Majalgaon City Police Station are considered for passing the detention order of the petitioner. In Crime No. 7 of 2025 it is alleged that the petitioner hit the complainant with iron axe on account of old dispute, whereas in the second Crime, it is alleged that the petitioner slapped and abused the complainant. However, it is extremely

important to note that in both these crimes, the complainant is one and the same i.e. one Jaid Nasir Pathan. Thus, it appears that both these crimes must have arisen out of old rivalry and public at large is not involved in the same. Further, it is significant to note that the petitioner has already been released on bail in first Crime i.e. C.R. No. 7 of 2025 by the concerned Court and as per the observation of Hon'ble Apex Court in the case of **Joyi kitty Josef Vs. Union of India & Others** reported in **2025 AIR (SC) 1702**, the detaining authority must examine bail conditions to assess if it suffices to prevent further offences. Moreover, it is also observed that ignoring the bail orders certainly vitiates the subjective satisfaction. However, the detaining authority, in this matter, did not even care to consider the bail order and also failed to take any effort for cancelling the bail of the petitioner.

7. Further, it is evident that though there were eight crimes mentioned in the detention order, but the first six crimes were in fact committed during the period from 2018 to 2024, wherein the court cases are already pending. Thus, considering the period of aforesaid crimes, there is absolutely no proximity in those crimes and the detention order. As such, live link is also missing in this case.

8. So far as the statements of secret witnesses are concerned, they are in respect of snatching of certain amount and giving threats by showing deadly weapons by the petitioner. However, those incidents are in respect of individual persons for which at the most question of law and order may arise, but certainly not breach of public order. In the case of ***Sattar Masoom Pinjari vs District Magistrate, Dhule (Criminal Writ Petition No. 865 of 2025)***, this Court has observed that in-camera statements if found vague, did not show public-wide terror. Same is the case in this matter where the aforesaid statements appear stereotype and individual in nature without disturbing the public order as explained in the case ***Dr. Ram Manohar Lohia Vs. State of Bihar, (AIR 1966 SC 740)***, wherein 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. The aforesaid observation squarely applies to the instant matter also. Therefore, for that reason also, the detention order appears to be passed without application of mind.

9. Though the learned A.P.P. relied on the judgments of this

Court at Principal Seat (supra), but much water has flown thereafter and now in the light of latest judgments of Hon'ble Apex Court, strict compliance needs to be done before passing the detention order considering the aspects such as, live link, subjective satisfaction, application of mind, etc.

10. 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 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 11.05.2025, bearing No.2025/RB-Desk-1/Pol-1/MPDA-08 passed by respondent No.2 The District Magistrate, Beed under Section 3(2) of the M.P.D.A. Act, 1981 as well as the order of Home Department (Special), State Government dated 07.07.2025 bearing No.MPDA-0525/CR-235/Spl-3B, are hereby quashed and set aside.

- (iii) Petitioner Tarekh Khan Musa Khan shall be released forthwith, if not required in any other offence.
- (iv) The fees of the appointed advocate for the petitioner is quantified as Rs. 5,000/- and be paid to him by High Court Legal Services Sub-Committee, Aurangabad expeditiously.
- (v) Rule is made absolute in aforesaid terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE