



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

CRIMINAL WRIT PETITION NO. 1310 OF 2025

1. Vishwas S/o Parmeshwar Shinde,
Age : 22 Years, Occ. Labourer,
R/o. Village Vاتفالي, Taluka Hadgaon,
District Nanded (At present under
detention in Central Prison, A'bad.) **..PETITIONER**

VERSUS

1. The State of Maharashtra,
through its Section Officer,
Home Department (Special),
Mantralaya, Mumbai- 400 032
2. The District Magistrate,
Nanded.
3. The Superintendent of Jail,
Central prison, Aurangabad. **..RESPONDENTS**

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Advocate for the Petitioner : Senior Advocate Mr. Rajendra
Deshmukh i/by Adv. Vishal
Chavan

A.P.P. for respondent Nos. 1 to 3 : Mr. N. B. Patil

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

RESERVED ON : JANUARY 14, 2026

PRONOUNCED ON: FEBRUARY 17, 2026

JUDGMENT (PER SANDIPKUMAR C. MORE) :-

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 14.07.2025 passed by respondent No.2/The District Magistrate, Nanded in exercise of powers under Section 3(1) 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 23.07.2025 and the confirmation order dated 23.08.2025 passed by respondent No.3, by invoking the powers 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 and two preventive actions are also taken against the petitioner.

Sr. No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1	Shivaji Nagar	169/2020 u/s 379, 34 of IPC	20/04/2020	Pending trial
2	Vimantal	365/2021 u/s 326, 504, 506 34 of IPC	03.12.2021	Pending trial
3	Vimantal	49/2022 u/s 379,	06/02/2022	Pending

		34 of IPC		trial
4	Bhagyanagar	207/2022 u/s 379, 426, 34 of IPC	16.06.2022	Pending trial
5	Vimantal	260/2022 u/s 379, 34 of IPC	26/07/2022	Pending trial
6	Bhagyanagar	290/2022 us/ 392, 34 of IPC	16/08/2022	Pending trial
7	Shivajinagar	311/2022 u/s 379, 34 of IPC	24/08/2022	Pending trial
8	Vimantal	230/2023 u/s 4/25 Arms Act, 1959, 34 of IPC	08/07/2023	Pending trial

Preventive Action

Sr. No.	Police Station	Chapter Case No.	Date of Registration	Disposal
01.	Vimantal	37/2024 u/s 129 of BNSS, 2023.	04.10.2025	The case was closed
02.	Vimantal	08/2025 u/s 56(1) (b) of Maharashtra Police Act, 1951	16/05/2025	The case was closed.

However, the detaining authority has considered mainly only one offence i.e. C.R. No. 65 of 2025 under Sections 118(1), 352, 351(2), 351(3) of the Bharatiya Nyaya Sanhita, 2023 (for short, “B.N.S.”) registered with Vimantal Police Station, Nanded on 23.02.2025 to declare the petitioner as a “Dangerous Person”. According to the learned Senior counsel

Mr. Deshmukh, there is no live link in the impugned order of detention and the earlier eleven crimes registered during the period from 2022 to 2023 against the petitioner. According to him, the petitioner has also been released on bail in C.R. 65 of 2025 on 27.02.2025, but nothing is mentioned in the detention order about he being released on bail. Thus, there is no application of mind in passing the impugned order. He further submitted that, the nature of criminal act as alleged, is not against public order, but it is individual in nature. Further, according to him, the statements of secret witnesses are stereotype in nature and without reference of any particular incident. Those can give rise to disturbance of law and order and not deterrence to the public order. Thus, he prayed for setting-aside the impugned order of detention. The learned counsel for the petitioner, in addition to his submissions, also placed reliance on the judgment delivered by Hon'ble Apex Court in the case of **Ameena Begum Vs. State of Telangana and Others reported in (2023) 9 Supreme Court Cases 587**

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 the letter issued to the detainee contains reasons for his detention and due to his fear, the public at large is facing difficulty. There are as many as 12 offences registered against him and despite being released on bail, the petitioner has continued his dangerous activities by putting the public under fear. According to him, the incidents in respect of secret witnesses had in fact taken place at public places, 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. Thus, he prayed for dismissal of the petition.

5. Admittedly, only one offence of Vimal Police Station has been considered for passing the detention order of the petitioner, wherein it is alleged that the petitioner voluntarily caused grievous hurt to the informant Priyanka Panchal with sharp edged weapon. However, it is significant to note that the petitioner was released on bail on the same day of his arrest on 27.02.2025. On going through the impugned order of detention, nothing is mentioned about his bail condition by respondent No.2. Moreover, the alleged incident appears to be

of personal nature and the public at large is not involved in the same. By non mentioning the conditions of bail, there is lack of application of mind and also subjective satisfaction on the part of respondent No.2.

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. Further, in the case of **Ameena Begum Vs. State of Telangana and Others** (supra) it is observed the right of life and personal liberty is placed on such a high pedestal by the Court that it has always insisted that whenever there is any deprivation of life or personal liberty, the authority responsible for such deprivation must satisfy the Court that it has acted in accordance with the law. This is an area where the Court has been most strict and scrupulous in ensuring observance with the requirements of law, and even where a requirement of the law is breached, in the slightest measure, the Court has not hesitated to strike down the order of detention or to direct the release of the detainee even though

the detention may have been valid till the breach occurred. The Court has always regarded personal liberty as the most precious possession of mankind and refused to tolerate illegal detention, regardless of the social cost involved in the release of possible renegade. Further, the Hon'ble Apex Court in the said case, has also distinguished between law and order and public order.

7. In the instant case, all the incidents mentioned in the crimes against the petitioner appears to be of personal nature and it is not against the public at large. Even the preventive actions against the petitioner have been closed. It is most important to note that in the statements of secret witnesses, no particular incident prejudicial to the public order is mentioned, only general and vague allegations appear to have been made by those witnesses. Moreover, the same appear to be of stereotype nature. Thus, considering all these aspects, there is no such application of mind or subjective satisfaction is apparent from the impugned order. Failure to consider the bail conditions definitely indicates that the same were sufficient to deal with the criminal act of the petitioner.

8. Further, it is evident that though there were twelve crimes mentioned in the detention order, but the first eleven

crimes were in fact committed during the period from 2020 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.

9. Under such circumstances, 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 14.07.2025, passed by respondent No.2 The District Magistrate Nanded, under Section 3(1) of the M.P.D.A. Act, 1981 as well as the approval order of the State Government dated 23.07.2025 and the confirmation order dated 23.08.2025 passed by respondent No.3, are hereby quashed and set aside.

- (iii) Petitioner- Vishwas Parmeshwar Shinde shall be released forthwith, if not required in any other offence.
- (iv) Rule is made absolute in aforesaid terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

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