



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1370 OF 2025

Shyamsingh s/o Gendasingh Mathwale,
Age : 25 Years, Occ. Unemployed,
R/o.Gurudwara Gate No.2, Nanded.
District Nanded. ..Petitioner

VERSUS

1. The State of Maharashtra,
Section Officer (Special),
Home Department, Government of Maharashtra
Mantralaya, Mumbai-32.
2. The District Magistrate & Collector,
Dist. Nanded.
3. The Superintendent of Police,
District Nanded.
4. The Sub-Divisional Police Officer
Sub-Division Nanded City,
District Nanded.
5. The Police Inspector,
Vazirabad Police Station,
Dist. Nanded. .. Respondents

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Advocate for the Petitioner : Adv. Yogesh Birajdar h/f
Mr. Namdev S. Shinde.
A.P.P. for Respondent Nos. 1 to 5/State : Mr. P. S. Patil

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

**RESERVED ON : JANUARY 23, 2026
PRONOUNCED ON : JANUARY 28, 2026**

JUDGMENT (PER SANDIPKUMAR C. MORE) :-

1. Heard learned counsel for the petitioner and learned A.P.P.

Mr. P. S. Patil for respondent/State.

2. Rule. Rule made returnable forthwith. Heard finally with consent of the rival parties.

3. The petitioner has challenged the order of detention dated 05.08.2025, passed by respondent No.2 as well as the State Government has approved the order of detention on 14/08/2025 vide its order No. MPDA-0825/CR-446/Spl-3B and the confirmation order dated 17/09/2025 passed by respondent No.1 by invoking the power of this Court under Article 226 of the Constitution of India.

4. The learned counsel for the petitioner submits that, the detaining authority has relied upon the following offences for passing the impugned orders.

Sr. No.	Police Station	C.R. No.	Under Section	Date of filing of the case	Date of arrest accused	Accused Bail Date	Court Case No.	Present status
1.	Vazirabad	362/2020	324,323,504, 506, 34 IPC 4/25 Arms Act	19/07/2020	22/07/2020	22/07/2020	RCC No. 877/2020	Court Pending
2.	Vazirabad	460/2020	324, 323,504, 506, 34 IPC	06/10/2020	06/11/2020	06/11/2020	RCC No. 47/2021	Court Pending
3.	Itwara	369/2020	4/25 Arms Act	21/11/2020	21/11/2020	21/11/2020 Notice	RCC No. 111/2021	Court Pending

Sr. No.	Police Station	C.R. No.	Under Section	Date of filing of the case	Date of arrest accused	Accused Bail Date	Court Case No.	Present status
4.	Itwara	176/2022	4/25 Arms Act	12/07/2022	12/07/2022	12/07/2022	RCC No. 977/2022	Court Pending
5.	Vazirabad	60/2025	308(2), 126(2), 324(2) 351(2), 351(3), BNS, 4/25 Arms Act, 3,4 Prevention of Damage to Public Property Act 1984	09/02/2025	13/03/2025	03/04/2025	RCC No. 638/2025	Court Pending
6.	Vazirabad	253/2025	118(1), 352, 351(2), 3(5) BNS	13/06/2025	17/06/2025	17/06/2025	17/06/2025	On investigation

Preventive Action :-

Sr. No.	Police Station	Chapter Case No.	Date	Section	Present Status
1.	Itwara	154/2024	07/03/2024	107 CrPC	Closed
2.	Vazirabad	12/2025	19/04/2025	129 BNSS	Closed
3.	Vaizirabad	Outward number 2745/2025	18/06/2025	153(3) BNSS	Closed

5. The learned counsel for the petitioner further submits that, out of the aforesaid offences, the detaining authority has considered mainly two offences namely C.R. No. 60 of 2025 and C.R. No. 253 of 2025 of Vazirabad Police Station to declare the petitioner as a dangerous person. However, there is absolutely no live link in respect

of first four offences. According to him, though the petitioner is released on bail in those offences, which are pending either for trial or for investigation, but the detaining authority did not consider this fact in the impugned order. Further, the aforesaid offences can be considered as an individual in nature and no breach of public order appears to be there. According to him, only the last offence appears to be in proximity of the detention order, but in that offence also the petitioner was not arrested. He pointed out that, the statements of secret witnesses are stereotype and only describe as to how the petitioner is a dangerous person involved in serious crimes, but without giving any particulars of specific incidents to that effect. According to him, the statements of two secret witnesses appear to be recorded on the basis of hearsay information. At the most, it can be said that the question of law and order would arise in those incidents. Accordingly, he prayed for the reliefs as mentioned above. The learned counsel for the petitioner in addition to submissions also placed reliance on the following judgments :-

- (I) ***Hanif Alias Illu Hafiz Ansari Vs. State of Maharashtra and others***
[AIR Online 2024 BOM 208]

6. Per contra, the learned A.P.P. strongly opposed the submissions made on behalf of the petitioner and submitted that the petitioner is a dangerous person as per the definition of Section 2 (b-1) of the of The Maharashtra Prevention of Dangerous Activities of Slumlords,

Bootleggers, Drug-Offenders/Dangerous Persons, Video Pirates, Sand Smugglers And Persons Engaged in Black-Marketing of Essential Commodities Act, 1981 (hereinafter referred to as “M.P.D.A” Act). He pointed out that, the detaining authority has given proper reasons as to why the petitioner needs to be detained. He further submitted that, the statements of secret witnesses ‘A’ and ‘B’ were recorded on 7.7.2025 and also verified by the detaining authority on 29.7.2025 and immediately thereafter, detention order is passed on 5.8.2025. Thus, he claimed that the order was passed on subjective satisfaction. With these submissions, he prayed for dismissal of the petition.

7. Admittedly, only two offences are considered for passing the detention order against the petitioner. However, in first offence of Vazirabad Police Station bearing C.R. 60 of 2025 appears to be in respect of robbery and under the provisions of Indian Arms Act, but it appears to be committed long back on 9.2.2025. Moreover, the petitioner had also been released on bail in the said crime. However, nothing is mentioned in the detention order about the said bail order and therefore, it indicates non application of mind. This Court, in the case of *Hanif Alias Illu Hafiz Ansari Vs. State of Maharashtra and Others [AIR Online 2024 BOM 208]* has held as follows :-

“Two crimes relied upon would not form basis or material for recording subjective satisfaction as, first offence was of such nature that warranted only

issuance of a notice under Section 41 of the Code and in second crime, he was released on bail. Detaining authority had not recorded its subjective satisfaction that statements of witnesses were genuine and it had not interacted with ACP to verify such statement. Order granting anticipatory bail was not placed before the detaining authority and therefore detention order stood quashed. ”

8. In the instant case also, there are only two crimes considered for passing the detention order, out of which, first crime is dated 9.2.2025, wherein the petitioner has already been released on bail. However, nothing is mentioned in the detention order about his release on bail or he has breached any condition of the bail. Further, in the second offence, he was not even arrested and only notice was served upon him. As such, non-mentioning of these facts clearly indicates that the detaining authority has passed the impugned order without subjective satisfaction.

9. Moreover, even after perusal of statements of secret witnesses ‘A’ and ‘B’, it is clearly evident that, no specific incident has been quoted in those statements related to them and as committed by the petitioner. On the contrary, the statements are in respect of alleged deterrent behavior of the petitioner, which might be acquired from other persons. As such, these statements cannot form base of detention order. Therefore, from these statements also it cannot be

inferred that the acts of petitioner being at large, are prejudicial to the public order. The statements are thus not sufficient enough to curtail the personal liberty of the petitioner.

10. In the instant case, what is revealed is that, there is no live link between the detention order and first four offences allegedly committed by the petitioner in the period ranging from 2020 to 2022. What is material is that, in the recent offences also the first is under Indian Arms Act along with the robbery, but whether any notification as per the Arms Act was in existence is not clarified in the detention order. In next offence, the Investigating Officer not even found it necessary to arrest the petitioner. Therefore, even though the Advisory Board approved the detention order of the petitioner, but still we are of the opinion that there is no material on record to categorize the petitioner as a dangerous person as contemplated in Section 2(b-1) of The M.P.D.A. Act, 1981.

11. In view of the aforesaid reasons, the petition deserves to be allowed and therefore, we pass the following order :-

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 05.08.2025, passed by respondent No.2 as well as the approval order dated 14/08/2025 and the confirmation order dated 17/09/2025, passed by respondent

No.1, are hereby quashed and set aside.

(iii) Petitioner- Shyamsingh s/o Gendasingh Mathwale shall be released forthwith, if not required in any other offence.

(iv) Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

YSK/