



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1413 OF 2025

Sohel Khan Samad Khan,
Age : 27 Years, Occ. Business,
R/o. Old Bhaji Mandi, Bundelpura,
Beed.

..Petitioner

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai
2. District Collector, Beed
Office of District Collector, Beed.
3. Superintendent of Police, Beed
Office of the Police Superintendent Beed.
4. Police Inspector,
Police Station, Beed City,
Beed.

..Respondents

.....

Advocate for the Petitioner : Mr. Sayyed Tauseef Yaseen
A.P.P. for Respondent/State : Mr. N. B. Patil

.....

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

**RESERVED ON : JANUARY 05, 2026
PRONOUNCED ON: FEBRUARY 11, 2026**

JUDGMENT (PER SANDIPKUMAR C. MORE) :-

1. Heard learned counsel for the petitioner and learned A.P.P. 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 26.07.2025, passed by respondent No.2 as well as the approval of the said order of detention on 06.08.2025 under Section 3(3) of the MPDA Act and the confirmation order dated 12.09.2025 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 following offences are registered against the petitioner and one preventive action is also taken against the petitioner.

Sr.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1.	Peth Beed	177/2018, U/s 457,380 IPC	01.06.2018	Pending in Court
2.	Beed City	18/2019, U/s 457, 380 IPC	23.01.2019	Pending in Court
3.	Beed City	63/2020 U/s 307, 324, 504, 506(2) IPC	16.03.2025	Pending in Court
4.	Beed City	116/2024, U/s 326,324, 323, 504, 506, 34 IPC	29.05.2024	Pending in Court
5.	Beed City	133/2024 U/s 394, 323, 504, 506 read with 34 IPC	24.06.2024	Pending in Court
6.	Beed City	50/2025 U/s 118(2), 115(2), 3(5) B.N.S. 2023	31.03.2024	On Investigation
7.	Beed City	86/2025 U/s 126(2), 352, 351(2) BNS	25.05.2025	On Investigation

Preventive Action

Sr. No.	Police Station	Chapter Case No. & U/s.	Date of Registration	Disposal
1	City	21/2024 u/s 129 of BNSS	30.09.2024	Final Bond.

However, the detaining authority has considered mainly two offences namely C.R.No.50 of 2025 under Sections 118 (2), 115(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short “B.N.S.”) registered with Beed City Police Station on 31.03.2025 and C.R.No.86 of 2025 registered with Beed City Police Station, under Sections 126(2), 352, & 351(2) of the B.N.S. dated 25.05.2025 to declare the petitioner as a “Dangerous Person”. However, it is to be noted that for first five offences, there is absolutely no live link present, since those offences appeared to be committed during the period from 2018 to 2024. According to him, the petitioner had not even arrested in last two crimes, which are considered for passing this order. According to him, failure to arrest the accused in those offences suggest that the ordinary law of land is sufficient to deal with the situation and there was no breach of public order. According to him, the detaining authority did not find it necessary to cancel the previous bond of preventive action, before passing the order. Further, though the C.R.No.50 of 2025 was filed against petitioner and two others, but

only petitioner has been detained and no action was taken against other two accused. He submitted that the statements of secrete witnesses are stereotype in nature and they are in respect of individual persons, for which, at the most question of law and order may arise. He also pointed out that, in the detention order, no specific duration was mentioned, and considering the nature of criminal act of the present petitioner against the individual, it cannot be said that public order is disturbed. Thus, he submitted that, the detaining authority, without subjective satisfaction, has passed the impugned order, which needs to be set-aside along with the consequential approval order and as well as confirmation order. The learned counsel for the petitioner, in addition to submissions, also placed reliance on the following judgments :-

- (i) *Arjun S/o Ratan Gaikwad Vs. State of Maharashtra*
[*{2024 SCC OnLine SC 3718}*]
- (ii) *Mohammad Imran Vs. State of Maharashtra*
(*Cri. W.P. 1581/2024 Bom HC, Para 9*)
- (iii) *Nenavath Bujji etc Vs. State of Telangana and others*
[(*2024 SCC OnLine SC 367*)]
- (iv) *Hon'ble Apex Court in the case of Sushanta Kumar Banik Vs. State of Tripura and others (2022 LiveLaw (SC)813*
- (v) *Hon'ble Apex Court in the case of Ameena Begum Vs. The State*

of Telangana and others [(2023 LiveLaw (SC)743)]

(vi) *Rajendrasing Vs. State of Maharashtra*

[(2025 SCC OnLine Bom 3089)]

(vii) *High Court Nagpur Bench in Sheikh Shahrukh Sheikh Mehboob*

Vs. State of Maharashtra in Writ Petition No. 571 of 2024

dated 06.03.2025.

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, considering the criminal activities of the petitioner, he fulfills the criteria of being defined as “Dangerous Person” as per Section 2(b-1) 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, due to dangerous activities of the petitioner, the persons residing within the jurisdiction of City Police Station, Beed and adjoining areas remain under constant fear and terror, and therefore, the petitioner has become threat to the public order. He pointed out that, the detaining authority is convinced and subjectively satisfied that the petitioner is a “Dangerous Person” as defined in M.P.D.A. Act, 1981 and thus pass the impugned order, which needs to be upheld.

6. Admittedly, the Hon'ble Apex Court in the case of ***Nenvath Bujji*** (supra) has reiterated that illegal detention order cannot be sustained for want of, strict compliance of the provisions, since it relates to the question of liberty of citizen. Further, it is clearly apparent from the material on record that there was no live link between first five offences, registered against the petitioner, during the period from 2018 to 2024. Further, it appears that on 04.01.2024, the petitioner is already acquitted from Crime No.63 of 2020 for the offences punishable under Section 307 of the Indian Penal Code by the learned Sessions Judge, Beed. However, though the aforesaid crime was part of detention order, but the detaining authority did not consider the acquittal of the petitioner from the said crime.

7. It is not in dispute that under the preventive action a final bond for good behaviour was taken from the petitioner on 30.09.2024, but the authorities failed to cancel this bond before invoking the provisions of M.P.D.A Act, 1981 against the petitioner. The learned counsel for the petitioner heavily relied on the judgment of Apex Court in the case of ***Rajendersing Vs. State of Maharashtra*** (supra), wherein it is observed that failure to cancel an existing bond, before passing a detention order, certainly raises questions regarding the

necessity of detention, which the District Magistrate has to answer. No such cancellation, of the aforesaid bond, is done in the instant case.

8. It is specifically held in the case of *Joyi Kitty Joseph Vs. Union of India* (supra) that preventive detention cannot be used to by-pass the judicial bail process. Even in the judgment of *Ameen Begum Vs. State of Telangana* (supra) the Hon'ble Apex Court has explained the distinction between threat to law and order and acts prejudicial to public order. On this background, if the nature of act committed by the petitioner is examined, then it appears that it had not created deterrence to the public order. On the contrary, it appears that the criminal acts alleged to be committed by the petitioner, are against the individuals, such as voluntarily causing hurt and causing insult. Moreover, it is to be noted that the petitioner had not even arrested in the crimes, which are considered for passing the detention order. Under such circumstances, it can be inferred that the respondents have ignored the aspect of non-arrest, while passing the impugned order of detention. Feeling the arrest of petitioner being not necessary, clearly indicates that the ordinary law of the land is sufficient to deal with criminal act of the petitioner. The Hon'ble Apex Court, time and again has observed this, in the cases of *Arjun Gaikwad Vs. State of Maharashtra*, *Amenabegum Vs. State of*

Telangana, and Rajendersing Vs. State of Maharashtra.

09. It is also important to note that, in crime No.50 of 2025 other two persons are also involved along with the present petitioner, for causing voluntary hurt. However, no action appears to be taken against the other two accused in the aforesaid crime, and therefore, detaining authority or the sponsoring authority cannot adopt pick and choose method, there has to be explanation in the impugned order as to why the action is taken only against the petitioner by ignoring other two. No such reason is given in the impugned order, and therefore, the same can be termed as an order passed without application of mind.

10. So far as in-camera statements of secret witnesses are concerned, those are stereotype in nature and even taken as true, the question of law and order would at least arise, but not in respect of breach of public order, since the acts mentioned in those statements are against the individuals. Therefore, considering all these aspects, in the light of observations and decisions of Hon'ble Apex Court, what is revealed that the criminal acts of the petitioner have created law and order situation, but not disturbance to the public order. Even though the Advisory Board has confirmed the detention order, but still we are of the opinion that there was no concrete material before the

detaining authority to hold that the petitioner is a dangerous person. Under such circumstances, the petition deserves to be allowed. Accordingly, following order is passed.

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 26.07.2025, passed by respondent No.2 under Section 3(3) of the M.P.D.A. Act, 1981 as well as the approval order of the State Government dated 06.08.2025 and the confirmation order dated 12.09.2025 passed by respondent No.1, are hereby quashed and set aside.
- (iii) Petitioner- Sohel Khan Samad Khan 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

YSK/