



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1437 OF 2025

Radhyesham @ Bajrang Ankushrao Kundgir,  
Age : 28 Years, Occ. Unemployed  
R/o. Murmuragalli, Old Monda,  
Nanded

.... PETITIONER

**VERSUS**

1. The District Magistrate & Collector,  
Dist. Nanded.
  2. The Superintendent of Police,  
Nanded.
  3. The State of Maharashtra,  
Through : The Secretary,  
Home Department (Spl) Mantralaya,  
Mumbai
  4. The Superintendent Aurangabad,  
Central Prison, Aurangabad
- .... RESPONDENTS

....  
Advocate for the Petitioner : Mr. Abhaysing K. Bhosale  
A.P.P. for Respondent Nos. 1 to 4/State : Mr. S. P. Sonpawale

.....

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

**RESERVED ON : 25/02/2026  
PRONOUNCED ON : 18/03/2026**

**ORDER ( PER SANDIPKUMAR C. MORE, J. ) :-**

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

Mr. S. P. Sonpawale for respondents/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 28.08.2025 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-53, passed by Respondent No. 1, as well as the approval of the said detention order by the State Government on 05.09.2025 vide its Order No. MPDA-0925/CR-495/Spl-3B and the confirmation order dated 17.10.2025 passed by Respondent No. 3, by invoking the powers 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 Sections                                                                        | Date of Registration | Present Status |
|---------|----------------|----------|---------------------------------------------------------------------------------------|----------------------|----------------|
| 1.      | Vazirabad      | 334/2020 | 188, 269, 270, of IPC r/w 4/25 of Arms Act, 1959, 135 of Maharashtra Police Act, 1951 | 29/06/2020           | Pending trial  |
| 2.      | Limbgaon       | 90/2020  | 399, 402 of IPC r.w. 3/25, 4/25 of Arms Act                                           | 02/08/2020           | Pending Trial  |
| 3.      | Nanded Rural   | 97/2020  | 4/25 of Arms Act, 1959                                                                | 23/02/2020           | Pending Trial  |
| 4.      | Nanded Rural   | 174/2022 | 307, 386, 143, 147, 148, 149 of IPC & 3/25 of Arms Act                                | 23/02/2022           | Pending Trial  |

|    |           |          |                                                                                                                                                      |            |                     |
|----|-----------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------|
| 5. | Vazirabad | 60/2025  | 308(2), 126(2), 324(2), 351(2), 351(3) of Bhartiya Nyaya Sanhita, 4/25 of Arms Act, 1959, 3 & 4 of Prevention of Damage to Public Property Act, 1984 | 09/02/2025 | Pending Trial       |
| 6. | Vazirabad | 308/2025 | 333, 74, 115, 352, 351(2) of Bhartiya Nyaya Sanhita, 2023, r/w 4/15 of Arms Act                                                                      | 16/07/2023 | Under Investigation |

**Preventive Action :-**

| Sr. No. | Police Station | Chapter Case No. | Date       | Section          | Present Status |
|---------|----------------|------------------|------------|------------------|----------------|
| 1.      | Vazirabad      | 25/2019          | 09/09/2024 | 110 Cr.PC.       | Closed         |
| 2.      | Vazirabad      | 61/2024          | 24/08/2025 | 129 BNSS, 2023   | Closed         |
| 3.      | Vaizrabad      | 100/2025         | 18/04/2025 | 135(3)BNSS, 2023 | Closed         |

5. The learned counsel for the petitioner further submits that out of the aforesaid offences, the detaining authority has mainly relied upon the offence bearing C.R. No. 308 of 2025 of Vazirabad Police Station, registered on 16.07.2025 under Sections 333, 74, 115, 352, 351(2) of the BNS, 2023 and Section 4/25 of the Arms Act, to declare the petitioner as a dangerous person. However, there is absolutely no live link in respect of the first four offences allegedly committed by the petitioner during the period from 2020 to 2022. According to him, though the petitioner has been released on bail in the aforesaid

offences, which are pending either for trial or investigation, but the detaining authority has failed to consider this fact in the impugned order. He further submits that the aforesaid offences are against individuals and do not disclose any breach of public order. According to him, only the last offence appears to be proximate to the order of detention; however, the investigation in the said offence is yet to be completed. He pointed out that the statements of the secret witnesses are stereotype and merely describe the petitioner as a dangerous person without providing particulars of any specific incidents. 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. In addition to his submissions, the learned counsel for the petitioner has also placed reliance on the judgment of this Court in the case of *Shyamsingh s/o Gendasingh Mathwale vs. State of Maharashtra and others*, Criminal Writ Petition No. 1370 of 2025, decided on 28.01.2026.

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” within the meaning of 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 the “M.P.D.A. Act”).

He pointed out that the detaining authority has assigned proper reasons as to why the petitioner needs to be detained. He further submitted that the impugned order has been passed after due application of mind and upon recording subjective satisfaction. With these submissions, he prayed for dismissal of the petition.

7. Admittedly, only one offence is considered for passing the detention order against the petitioner. However, the investigation in the said offence is going on and in respect of earlier offences, there is no live link. 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 is only one crime considered for passing the detention order, 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 committed breach of any of the conditions of the bail. As such, non-mentioning of these facts clearly indicates that the detaining authority has passed the impugned order without application of mind and 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. On the contrary, the statements are in respect of alleged deterrent behavior of the petitioner, which at the most give rise to question of law and order considering the alleged criminal act against the individual. As such, these statements cannot form base of detention order. Therefore, from these statements, it cannot be inferred that the acts of petitioner, 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 crime also the petitioner is charged for the offence under section Indian Arms Act along with the other offences. However, whether any notification as per the Arms Act was in existence is not clarified in the detention order and in the

absence of such notification, there is no possibility of securing conviction against the petitioner to that effect. 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 28.08.2025 bearing No.2025/RB-1/Desk-2/T-4/MPDA/CR-53, passed by Respondent No. 1, as well as the approval of the said detention order by the State Government on 05.09.2025 vide its Order No. MPDA-0925/CR-495/Spl-3B and the confirmation order dated 17.10.2025 passed by Respondent No. 3, are hereby quashed and set aside.
- (iii) Petitioner- Radhyesham @ Bajrang Ankushrao Kundgir 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