



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

CRIMINAL WRIT PETITION NO. 1505 OF 2025

Santosh Laxman Karnewad
Age : 34 Years, Occ. Labour,
R/o. Nuri Chowk at Maheebub
Nagar, Nanded

Petitioner

VERSUS

1. The State of Maharashtra
Through Secretary, Home
Department, Mantralaya,
Mumbai-32.
2. District Magistrate, Nanded
3. The Superintendent of Police,
Nanded
4. The Police Inspector,
Police Station Vimantal,
Nanded

Respondents

...
Ms. Pratibha Magre, Advocate for the petitioner.
Mr. S.P. Sonpawale, A.P.P. for respondent Nos.1 to 4.
...

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

RESERVED ON : 22.01.2026

PRONOUNCED ON: 18.02.2026

Final Order (Per Sandipkumar C. More, 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 04.08.2025 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-46 passed by respondent No.2/The District Magistrate, Nanded in exercise of powers under Section 3(2) 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 “MPDA Act”) as well as the approval order of the State Government dated 14.08.2025 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.

3. The 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 filing of case	Date of arrest of accused	Accused Bail date	Court case No.	Present status
1.	Vimantal	397/2022, u/s 4/24, 6/25 of Arms Act	21.11.22	21.11.22	22.11.22	RCC No. 178/2023	Pending trial
2.	Vimantal	48/2023, u/s 307/34 IPC, 3/25, 3/27 of Arms Act	09.02.23	10.02.23	25.05.23	S.C. No. 112/2023	Pending trial
3.	Vimantal	382/2023, u/s 4/25 of Arms Act	18.11.23	18.11.23	18.11.23	RCC No. 7/2024	Pending trial

4.	Barad	107/2024, under sec. 103(1), 118 (1), 3(5) of BNS	25.11.24	26.03.25	01.08.25	S.C. No. 59/2025	Pending trial
5.	Vimantal	66/2025, u/s 20 (b) (ii), 22 of NDPS Act	23.02.25	23.02.25	25.03.25	--	On investigation

Preventive Action

Sr. No.	Police Station	Chapter Case No.	Date of Registration	Section	Preset status
1.	Vimantal	02/2021	02.02.2021	110 Cr.P.C.	Closed

However, the detaining authority has considered mainly only one offence i.e. C.R. No. 66 of 2025 under Sections 20 (b) (ii), 22 of N.D.P.S. Act registered with Vimantal Police Station on 23.02.2025 to declare the petitioner as a “Dangerous Person”. According to her, there is no live link in the impugned order of detention and the earlier four crimes registered during the period from 2022 to 2024 against the petitioner. According to her, the petitioner has also been released on bail in the said crime on 25.03.2025, 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. She further submitted that, the statements of secret witnesses are stereotype in nature and the same can give rise to disturbance of law and order and not deterrence to the public order. Thus, she 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 in the case of ***Haridas Shankar Gaikwad vs Commissioner of Police, Solapur and others*** in ***Criminal Writ Petition No.3071 of 2025***

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. According to him, 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 despite earlier preventive action the petitioner did not stop his criminal activities and continued with commission of more serious offences. Thus, he prayed for dismissal of the petition.

5. Admittedly, only one offence of Vimantal Police Station is considered for passing the detention order of the petitioner, wherein it is alleged that the petitioner was found selling contraband articles such as Ganja/marijuana in Basanta

Nagar area of Nanded District. Accordingly, he was caught raid handed and 1.4 kg open marijuana was seized from him alongwith the Ertiga car and sword and dagger. However, the alleged criminal act appears to be of individual nature and for that purpose crime is already registered. It is significant to note that the petitioner has already been released on bail in the said crime on 25.03.2025 by the concerned Court. However, the detaining authority did not bother to consider the said bail order and did not even take any effort for cancelling the bail of the petitioner.

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. 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.

7. Further, it is evident that though there were five crimes mentioned in the detention order, but the first four crimes were in fact committed during the period from 2022 to 2024, wherein the petitioner is already released 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.

8. So far as statements of secret witnesses are concerned, it is in respect of snatching of certain amount from those witnesses by the petitioner. However, those incidents had taken place in the month of January 2025. Moreover, the same were of individualistic in nature, for which, at the most, law and order situation may arise. It cannot be said that those incidents are sufficient to hold that due to criminal activities of the petitioner, there is breach of public order. In the case of ***Dr. Ram Manohar Lohia Vs. State of Bihar, (AIR 1966 SC 740)*** 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.

9. In the instant matter, it appears that the criminal activities of the petitioner are against individuals, but not in deterrence to the public order. Therefore, for that reason also, the detention order appears to be without application of mind.

10. As discussed above, in the instant case, 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 04.08.2025, bearing No. 2025/ RB-1/Desk-2/T-4/MPDA/ CR-46 passed by respondent No.2 The District Magistrate, Nanded under Section 3(2) of the M.P.D.A. Act, 1981 as well as the approval order dated 14.08.2025 and the confirmation order dated 17.09.2025 passed by the State Government, are hereby quashed and set aside.

- (iii) Petitioner Santosh Laxman Karnewad 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