



This order is corrected as per the order passed on
18.02.2026.

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

CRIMINAL WRIT PETITION NO. 1536 OF 2025

1. Shantaram Maroti Shinde,
Age : 44 Years, Occ. Labour,
R/o. Palskheda Tq. Soygaon,
District Chh. Sambhajnagar **..PETITIONER**

V E R S U S

1. The State of Maharashtra,
Through Section Officer,
Home Department (Special),
2nd Floor, Mantralay, Mumbai-32.
2. The District Magistrate,
Collector and District Magistrate Office,
Chh. Sambhajnagar
3. The Superintendent,
Central Prison, Harsool, Chhatrapati
Sambhajnagar. **..RESPONDENTS**

.....
Advocate for the Petitioner : Adv. Sunita G. Sonawane
A.P.P. for Respondent Nos. 1 to 3 : Mrs. Chaitali R. Choudhari
.....

**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. at the stage of admission.

2. The petitioner who is a bootlegger, has challenged the order of detention dated 20.08.2025 passed by respondent No.2/The District Magistrate, Chhatrapati Sambhajnagar in exercise of powers under Section 3 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 28.08.2025 and the confirmation order dated 09.09.2025 passed by respondent No.3, 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 one preventive action is also taken against the petitioner.

Sr. No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1.	Fardapur	44/2024 u/s 65(f) of Maharashtra Prohibition Act, 1949	23.03.2024	Pending trial

2.	Fardapur	169/2024, u/s 65(f) of Maharashtra Prohibition Act, 1949	25.10.2024	Pending trial
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3.	Fardapur	02/2025 u/s 65(f) of Maharashtra Prohibition Act, 1949	11.01.2025	Pending trial
4.	Fardapur	17/2025 u/s 65(f) Maharashtra Prohibition Act, 1949	28.02.2025	Pending trial
5.	Fardapur	30/2025 u/s 65(f) Maharashtra Prohibition Act, 1949	30.03.2025	Pending trial
6.	Fardapur	69/2025 u/s 65(f) Maharashtra Prohibition Act, 1949	19.06.2025	Pending trial

Preventive Action

Sr. No.	Police Station	Chapter Case No. & U/s.	Present status
01	Fardapur, District Chhatrapati Sambhajinagar	06/2023 u/s 93 of the Maharashtra Prohibition Act, 1949	Final bond of Rs. 25,000/- was taken

However, the detaining authority has considered mainly last three offences viz. C.R. No. 17 of 2025, C.R. No. 30 of 2025 and C.R. No. 69 of 2025 all under Section 65(F) of the

Maharashtra Prohibition Act, 1949 registered with Fardapur Police Station, District Chhatrapati Sambhajnagar on 28.02.2025, 30.03.2025 and 19.06.2025. According to the learned Adv. Sunita Sonawane, though the petitioner is shown to be involved in selling illicit country-liquor, but the investigating machinery did not consider the fact that there was no poisonous material found in the liquor. Moreover, the statements of secrete witnesses indicate that there was no disturbance to the public order and those statements are stereotype in nature and at the most could reflect a breach of personal security. In support of her submission, the learned Advocate for the petitioner relied on the following two judgments of this Bench :-

- (i) ***Karim Bindu Jadhav Vs. The State of Maharashtra in [Criminal Writ Petition No. 1014 of 2025 dated 11.09.2025].***
- (ii) ***Ibbu Kashim @ Kasim Nuriwale Vs. The State of Maharashtra, in [Criminal Writ Petition No. 1319 of 2025 decided on 24.11.2025].***

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. He submitted that the detention order under challenge, is not merely based on three offences

and the statements of the secret witnesses, but the chequered history of the petitioner has been taken into consideration, for passing the same. According to him, despite filing of similar cases against the petitioner, the petitioner continued his business of production of country made liquor. Such activities, not only disturbed the public order, but also adversely affect the health of public at large. Moreover, people are hesitant of lodging complaints against the petitioner due to terror created by him in the area. Thus, he prayed for dismissal of the petition.

5. On going through the impugned order of detention, it can be seen that there are as many as six crimes, registered against the petitioner during the period from 23.03.2024 to 19.06.2025. Moreover, a prohibitory action in the form of Chapter Case 6 of 2023, had already filed wherein final bond of Rs. 25,000/- was obtained from him. However, after going through the impugned order of detention, the detaining authority appears to have considered last three crimes, but there is no material to show that the authority had arrived at the subjective satisfaction, regarding the dangerous nature of the petitioner towards public at large.

6. In the judgment of Hon'ble Apex Court in **District Collector, Ananthapur Vs. Laxmanna, [reported in 2005 Mh.L.J. OnLine (Cri.) Supreme Court 49]** it is observed as follows:

“7. We do not think this argument of the learned counsel can be accepted. If the detention is on the ground that the detenu is indulging in manufacture or transport or sale of arrack then that by itself would not become an activity prejudicial to the maintenance of public order because the same can be effectively dealt with under the provisions of the Excise Act but if the arrack sold by the detenu is dangerous to public health then under the Act, it becomes an activity prejudicial to the maintenance of the public order, therefore, it becomes necessary for the detaining authority to be satisfied on material available to him that the arrack dealt with by the detenu is an arrack which is dangerous to public health to attract the provisions of the Act and if the detaining authority is satisfied that such material exists either in the form of report of the Chemical Examiner or otherwise copy such material should also be given to the detenu to afford him an opportunity to make an effective representation.

8. Therefore, while holding that dealing with arrack which is dangerous to public health

would become an act prejudicial to the maintenance of public order attracting the provisions of the Act. It must be held that it is obligatory for the detaining authority to provide the material on which it has based its conclusion on this point. Therefore, we are in agreement with the High Court that if the detaining authority is of the opinion that it is necessary to detain a person under the Act to prevent him from indulging in sale of goods dangerous for human consumption the same should be based on some material and the copies of the such material should be given to the detenu.”

7. Thus, in the light of the aforesaid observation, it is for the detaining authority to determine, whether the act of preparing illicit country liquor is dangerous to the public health, on the basis of Chemical Analyzer's report. In the instant case, in C.R. No. 17 of 2025, the illicit country made liquor is having 10% volume to volume ethyl alcohol, whereas in C.R. No. 30 of 2025, there is only 8% and in C.R. 69 of 2025, there is 26% ethyl alcohol is found. It is to be noted that no poisonous substance is found in the aforesaid illicit liquor. As such, it cannot be said that the said liquor was injurious to the public at large.

8. Under such circumstances, it appears that the petitioner at the most must have created law and order situation by indulging into business of producing country made liquor, but certainly not a disturbance to the public order, as no poisonous material was found in the C.A. report. Under such circumstances, the impugned order appears to be passed without adequate supportive material and without proper subjective satisfaction. Thus, the impugned order and its confirmation cannot be sustained. In the result, we pass the following order.

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 20.08.2025, bearing passed by respondent No.2 The District Magistrate Chhatrapati Sambhajinagar, under Section 3 of the M.P.D.A. Act, 1981 as well as the approval order of the State Government dated 28.08.2025 and the confirmation order dated 09.09.2025 passed by respondent No.3, are hereby quashed and set aside.
- (iii) Petitioner- Shantaram Maroti Shinde 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

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