



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

CRIMINAL WRIT PETITION NO. 1572 OF 2025

Vishal Ramesh Kasabe,
Age : 22 Years, Occ.
R/o. Punjabai Chowk, Indirangar,
Garkheda Parisar, Chhatrapati
Sambhajinagar.

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Home Department (Special),
Mantralaya, Mumbai-32
2. The Commissioner of Police
Ch. Sambhajinagar.
3. The Deputy Commissioner of Police,
Zone-II, Ch. Sambhajinagar
4. The Police Inspector,
Police Station, Jawahar Nagar,
Ch. Sambhajinagar

..Respondents

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Mr. Rahul Joshi, Advocate holding for Ms. Kalpana S. Kulkarni
(Sonpawale), Advocate for the Petitioner

Mrs. B. B. Gunjal, A.P.P. for Respondent Nos.1 to 4/State :

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

**RESERVED ON : FEBRUARY 06, 2026
PRONOUNCED ON: MARCH 17, 2026**

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

1. Heard learned counsel Mr. Rahul Joshi h/f Adv. Kalpana

S. Kulkarni for the petitioner and learned Mrs. Bharati B. Gunjal 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 17.06.2025 passed by respondent No.2 bearing No. O.S.S.2025/CB/MPDA/DET-02/CR-38 in exercise of powers under sub-section (1) of 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 26.06.2025 and the confirmation order dated 13.08.2025 passed by State Government i.e. respondent No.1 vide its order No. MPDA-0625/CR/315/Spl-3B, 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 following offences are registered against the petitioner and one externment order was also passed against him.

Sr. No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1	Jawahar nagar	272/2022 u/s 394, 34 IPC	18.10.2022	Pending trial
2.	Jawahar nagar	98/2023 u/s 379 IPC	27.04.2023	Pending trial
3.	Satara	104/2023, u/s 392, 323, 34 IPC	05/04/2023	Pending trial
4.	Jawahar nagar	234/2023 u/s 324, 323, 504 IPC	23.09.2023	Pending trial
5.	Jawahar nagar	53/2024 u/s 435, 336, 427, 504, 506 IPC	01.03.2024	Pending trial
6.	Jawahar nagar	58/2024 u/s 392, 504, 34 IPC	10.03.2024	Pending trial
7.	Jawahar nagar	108/2025 u/s 142 Maharashtra Police Act, 1951, 4/25 Arms Act, 1959	24.03.2025	Police Investigation
8.	Jawahar nagar	109/2025 u/s 309(5), 118(1) Bhartiya Nyaya Sanhita, 2023	25.03.2025	Police Investigation

Further, the detaining authority also relied on the Externment action taken against the petitioner as follows :-

Externment Action

Sr. No	Police Station	Externment Order No.	Under Section & Disposal
01	Jawahar nagar	Order No. DCP/ Zone-II/Externment/28/2023/07-2024-5063, Office of the Dy. Commissioner of Police, Zone-II, Chhatrapati Sambhajnagar Dated 31/10/2024	Externment order has been dropped as action taken under MPDA Act, 1981

5. The learned counsel for the petitioner further submits that, the

detaining authority has considered mainly two offences namely C.R.No. 108 of 2025 under Sections 142 of the Maharashtra Police Act, 1951 and Section 4/25 of the Arms Act, 1959 registered with Jawaharnagar Police Station, Ch. Sambhajinagar dated 24.03.2025 and C.R. No. 109 of 2025 under Section 309(5) and 118 (1) of Bharatiya Nyaya Sanhita, 2023 (for short "B.N.S.") registered with with Jawahar Nagar Police Station, Ch. Sambhajinagar dated 25.03.2025, to declare the petitioner as a "Dangerous Person". However, it is to be noted that for the first six offences, there is absolutely no live link present, since those offences appeared to be committed during the period from 18.10.2022 to 10.03.2024. According to him, the petitioner is already released on bail in the crimes of 2025. According to him, the detaining authority did not consider the bail orders. He submitted that, the offences against the petitioner are of individual nature and no breach of public order is involved. Moreover, the statement of two secrete witnesses are also vague in nature regarding the dates of the incidents and stereotype in nature. At the most, question of law and order would arise, but there is no breach of public order. Accordingly, he prayed for the relief as mentioned above.

6. 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 her, considering the criminal activities of the petitioner, he fulfills the criteria of being defined as “Dangerous Person” as per sub-section (1) of 3 of the M.P.D.A. Act. She pointed out that, due to dangerous activities of the petitioner, the persons residing within the limits of Ch. Sambhajnagar remain under constant fear and terror, and therefore, the petitioner has become threat to the public order. She 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.

7. Admittedly, the Hon’ble Apex Court in the case of *Nenvath Bujji Vs. State of Telangana [2024 SCC Online SC 367]* has reiterated that detention order cannot be sustained without 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 is no live link between first six offences, registered against the petitioner, during the period from 2022 to 2024. Further, it appears that the petitioner is already released on bail in two crimes, which are

considered for passing this order. However, the detaining authority did not consider the same while passing the impugned order and did not even care to go through the conditions of bail if any. It definitely shows non-application of mind on the part of the detaining authority.

8. It is specifically held by the Hon'ble Apex Court in the case of **Joyi kitty Josef Vs. Union of India & Others** reported in **2025 AIR (SC) 1702** that preventive detention cannot be used to by-pass the judicial bail process. Even in the judgment of **Ameena Begum Vs. State of Telangana [2023(9) SCC 587]** 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 the 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 allegedly committed by the petitioner, are against the individuals, such as, voluntarily causing hurt and insult.

9. 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 of the breach of public order, since the acts mentioned in

those statements are against the individuals. Moreover, the specific dates of the incidents are also not disclosed by the concerned witnesses, and therefore, those appear to be vague in nature. Therefore, considering all these aspects, in the light of observations and decisions of the 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 17.06.2025, bearing Number O.S.S.2025/CB/MPDA/DET-02/CR-38 passed by respondent No.2 under Section sub-section (1) of Section 3 the M.P.D.A. Act, 1981 as well as the approval order of the State Government dated 26.06.2025 and the confirmation order dated 13.08.2025 are hereby quashed and set aside.
- (iii) Petitioner-Vishal Ramesh Kasabe shall be

released forthwith, if not 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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