



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

CRIMINAL WRIT PETITION NO. 1674 OF 2025

Bhima Baban Salve,
Age : 20 Years, Occ. Labour,
R/o. Near Ichhamani Hotel, Mukundwadi,
Chh. Sambhajinagar **..PETITIONER**

VERSUS

1. The State of Maharashtra,
Through Hon'ble Secretary,
Home Department (special),
Mantralaya, Mumbai.
2. The Commissioner of Police,
Chh. Sambhajinagar
3. The Police Inspector,
Mukundwadi Police Station,
Chh. Sambhajinagar
4. The Police Inspector,
Jawaharnagar Police Station,
Chh. Sambhajinagar
5. The Police Inspector,
MIDC CIDCO Police Station,
Chh. Sambhajinagar **..RESPONDENTS**

.....
Advocate for the Petitioner : Mr. Arvind G. Jadhav
A.P.P. for respondent Nos. 1 to 5 : Mr. P. S. Patil
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**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

RESERVED ON : MARCH 10, 2026

PRONOUNCED ON: APRIL 07, 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 30.07.2025 passed by respondent No.2 in exercise of powers under Section 3(1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons, Video Priates, 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 07.08.2025 and the confirmation order dated 19.09.2025 confirmed by State Government after opinion of Advisory Board, by invoking the powers 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 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	Mukundwadi	395/2022 u/s 324, 323, 34 IPC	11.11.2022	Pending Trial

2.	Mukundwadi	432/2022 u/s 324 34 IPC	17.12.2022	Pending trial
3.	Mukundwadi	340/2023 u/s 457, 380 IPC	03/08/2022	Pending trial
4.	Mukundwadi	501/2023 u/s 380, 454, 457 IPC	23.11.2023	Pending trial
5.	Jawaharnagar	243/2024 u/s 309(4) 3(5) Bharatiya Nyaya Sanhita, 2023	16.08.2024	Pending trial
6.	MIDC Cidco	125/2025 u/s 309(4), 309(6) Bharatiya Nyaya Sanhita, 2023	18.03.2025	Pending trial
7.	MIDC Cidco	133/2025 u/s 309(6), 3(5) B.N.S. 2023	21.02.2025	Pending trial
8.	Karmad	144/2025 u/s 309(6), 126(2) B.N.S. 2023	09.04.2025	Pending trial
9.	Mukundwadi	202/2025 u/s 303(2), 62, 3(5) of B.N.S. 4/25 of Arms Act, 1959, 135 of Maharashtra Police Act, 1951	26.05.2025	Pending trial

Preventive Action

Sr. No.	Police Station	Chapter Case No.	Disposal
1.	Mukundwadi	04/2024 U/s 110 (e)(g) of Cr. P.C	As action taken under MPDA Act, 1981 the said chapter case was dropped

However, the detaining authority has considered mainly four offence namely C.R. No. 125 of 2025, under

Sections 309(4), 309(6) of B.N.S. 2023 registered with MIDC Cidco Police Station on 18.02.2025 and C.R. No. 133 of 2025 under Sections 309(6), 3 (5) of the B.N.S. 2023 on 21.02.2025 registered with same Police Station and C.R. No. 144 of 2025 under Sections 309(6), 126(2) B.N.S. 2023 registered with Karmad Police Station on 09.04.2025 and C.R. No. 202 of 2025 under Sections 303(2), 62, 3(5) of B.N.S. 2023, 4/25 of Arms Act, 1959, 135 of the Maharashtra Police Act, 1951 registered with Mukundwadi Police Station on 26.05.2025 to declare the petitioner as a "Dangerous Person". According to the learned counsel for the petitioner there is no live link in the impugned order of detention and the earlier five crimes registered during the period from 2022 to 2024 against the petitioner, even the preventive action taken against the petitioner in the year 2024 was dropped. According to him, the petitioner has also been released on bail in three crimes, but there is only mention in the detention order about he being released on bail. There is no attempt of cancellation of bail by the concerned Investigating Officers. Thus, there is no application of mind in passing the impugned order. He further submitted that, the nature of criminal act as alleged, is not against public order, but it is individual in nature. Further, according to him, the statements of secret witnesses are

stereotype in nature. Those can give rise to disturbance of law and order, but not disturbance to the public order. Thus, he prayed for setting-aside the impugned order of detention. He placed reliance on the judgment of Hon'ble Apex Court in the case of ***Shaik Nazneen Vs. State of Telangana and Others*** ***[(2023) 9 Supreme Court Cases 633]***.

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 pointed out that the petitioner since 2022 is involved in serious crimes, like theft, causing hurt as mentioned in the impugned order. Moreover, as per the statements of secrete witnesses, the incidents mentioned therein have taken place in public places. He further submitted that even after releasing on bail, the tendency to commit crime by the petitioner has not been stopped, and therefore, considering the repeated criminal activities of the petitioner, the same are definitely prejudicial to the maintenance of public order in future.

5. Admittedly, there are four offences of same nature, namely causing theft and threats registered against the

petitioner recently. However, in earlier three offences, the petitioner has already been released on bail. Moreover, in the last offence, he was not even arrested. The Detaining Authority merely mentioned in the impugned order that the Authority was aware about the petitioner's release on bail. However, there is no attempt on the part of Detaining Authority for going through the conditions of bail. Further, no endeavour was made by the Detaining Authority for getting the bail orders of the petitioners, cancelled through the concerned Investigating Officers. It clearly indicates non-application of the mind and absence of subjective satisfaction on the part of Detaining Authority. In the case of **Sk. Naznin Vs. State of Maharashtra (Supra)**, it has been observed that detention order must be passed after verifying that there was breach of public order. In the said judgment itself, words and phrases "Public Order" and "Law and Order" are discussed. It is held in the said judgment that though the petitioner was released on bail in four crimes, but it can at the best be said to be a law and order situation and not the public order situation. Such law and order situation could be dealt with under ordinary law of land and there was absolutely no occasion for invoking the extra ordinary powers under the law of preventive detention.

6. Thus, it appears in the instant matter that the petitioner has already been released on bail in three cases, and therefore, the existing law can take care of the pending cases against the petitioner. As such, as per the observation of Hon'ble Apex Court in the aforesaid case, there is no necessity for invoking the extra ordinary powers under the law of preventive detention. Moreover, there is no live link between the detention order and earlier five crimes, which were registered during the period from 2022 to 2024.

7. 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 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.

O R D E R

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 30.07.2025, 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 07.08.2025 and the confirmation order dated 19.09.2025 passed by respondent No.1, are hereby quashed and set aside.
- (iii) Petitioner- Bhima Baban Salve 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/