



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 62 OF 2026

Rohit Sunil Dehade
Age-23 Years, Occu - Nil
R/o. Shahanagar, Sindhiban, Chikalthana,
Chhatrapati Sambhajnagar.
Presently r/o Kumbhephal,
Tq. & Dist. Chhatrapati Sambhajnagar. ...Petitioner

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Home Department (Special),
Mantralaya, Mumbai-32
2. The Secretary,
To the Advisory Board,
MPDA Act and under Secretary,
To the Government of Maharashtra.
Desk Special- 10, New Administrative
Building, 12th floor, Madam Cama Road,
Mantralaya Mumbai.
3. The District Magistrate,
Chhatrapati Sambhajnagar.
4. The Assistant Police Inspector,
Police Station Karmad,
Chhatrapati Sambhajnagar ...Respondents

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Ms. Kalpana K. Kulkarni, Advocate for the Petitioner.
Mr. Govind A. Kulkarni, A.P.P. for Respondent Nos. 1 to 4.

...

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

Reserved on : **12.03.2026**

Pronounced on : **16.03.2026**

JUDGMENT (PER : ABASAHEB D. SHINDE, J.) :

1. Heard.
2. Rule. Rule is made returnable forthwith. With the consent of the parties Writ Petition is taken up for final hearing at the stage of admission.
3. By this Writ Petition, the petitioner takes exception to the detention order and committal order dated 20.08.2025 bearing No. D.O.2025/DC/MPDA/DET-03/CR-120, passed by the Respondent No.3-District Magistrate, Chhatrapati Sambhajnagar in exercise of powers under Section 3 (1) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons, Video Pirates, Sand Smugglers, Persons Engaged in Black-Marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficker Act, 1981 (hereinafter referred to as “**MPDA Act**”) as well as the confirmation order dated 26.09.2025 bearing No. MPDA-0825/CR-471/Spl-3B, passed by the Respondent No.1-State Government in exercise of powers under Section 12 (1) of the MPDA Act. By the impugned detention order, the petitioner has been directed to be detained for a period of 12 months on the ground that the petitioner is a “*dangerous person*” within the meaning of Section 2(b-1) of the MPDA Act holding his activities prejudicial to the maintenance of public order.

4. The impugned detention order is based on the proposal submitted by the Police Inspector, Police Station, Karmad dated 30.07.2025. The proposal has been routed through the Sub Divisional Police Officer, Sub Division Chhatrapati Sambhajnagar Rural and Superintendent of Police, Chhatrapati Sambhajnagar Rural and eventually placed before Respondent No.3-District Magistrate on 14.08.2025, who claims to have arrived at a subjective satisfaction that the petitioner's detention is necessary to prevent him from acting in manner prejudicial to public order. It is pertinent to note that, the basis for submission of proposal for detention of petitioner is registration of seven (7) past criminal cases and one (1) chapter case against the petitioner, the details of which are summarized as follows:

Sr. No.	Police Station	Crime No	Under Section	Date of Registration of offences	Present Status
1	MIDC Cidco	542/2023	452, 354, 354A(1)(i), 504, 506, 34 of IPC	04.11.2023	Pending Trial
2	MIDC Cidco	543/2023	392, 34 of IPC	05.11.2023	Pending Trial
3.	Fulambri	83/2024	379 of IPC	14.03.2023	Pending Trial
4	MIDC Cidco	543/2024	303(2) of BNS	15.10.2024	Pending Trial
5	Karmad	456/2024	303(2) , 3(5) of BNS	12.11.2024	Pending Trial
6	Karmad	497/2024	309 (6), 351, 352 of BNS	17.12.2024	Pending Trial
7	Karmad	144/2025	309(6), 126(2) of BNS	09.04.2025	Pending Trial

Sr. No.	Police Station	Chapter Case No. & Under Section	Date	Disposal
1	Karmad	28/2025 under section 129(e) (g) B.N.S.S.	05.04.2025	As action taken under MPDA Act 1981, the said chapter case was dropped.

However, the impugned order of detention is based only on a solitary offence details of which are as follows :-

Sr. No.	Crime No	Under Section	Date of Registration of offences	Police Station	Present Status
1.	144/2025	309(6), 126(2) Bhartiya Nyaya Sanhita, 2023	09.04.2025	Karmad	Pending Trial

In addition to above one crime, two in-camera statements of witnesses 'A' and 'B' are also made basis for passing of the impugned detention order.

5. Learned counsel for the petitioner has assailed the impugned detention order mainly on two grounds. Firstly, according to learned counsel for the petitioner the proposal for preventive detention was forwarded on 30.07.2025 on the basis of a solitary offence registered on 09.04.2025. However, the order of detention has been passed on 20.08.2025, after an unexplained and inordinate delay of 133 days from the date of last prejudicial act of the petitioner. Such delay clearly demonstrates that the requisite live link between the alleged prejudicial activities and the necessity for preventive detention had been severed, particularly when the in-

camera statements of confidential witnesses “A” and “B” were purported to have been recorded on 28.07.2025 and 29.07.2025 respectively.

6. The second limb of argument of learned counsel for the petitioner is that, so far as offence bearing Crime No. 144/2025 registered on 09.04.2025 is concerned, it is individualistic in nature. She thus submit that, even taking the allegations of FIR in the said crime as it is, the same would not amount to an act prejudicial to the public order but at the most it could be said to be an act affecting the law and order. She therefore submit that, on the basis of this solitary crime, the order of detention ought not have been passed. Insofar as the in-camera statements of witnesses ‘A’ and ‘B’ are concerned, a perusal thereof would reveal that the same are copy paste and lacks specific details such as dates, places, or particulars of the alleged incidents.

7. In short the submission of learned counsel for the petitioner is that, the impugned order reflects a mechanical exercise of power by the authorities, without due application of mind, without arriving at the requisite subjective satisfaction, and without appreciating the well-settled distinction between the acts affecting “public order” and the “law and order”.

8. Per contra, learned APP supports the impugned detention order of detaining the petitioner. According to learned APP the petitioner is a habitual offender who creates terror and the residents within the jurisdiction of Karmad Police Station and adjoining areas remain in constant fear. He would further submit that, Respondent No.3-District Magistrate was subjectively satisfied that, if not prevented, the petitioner is most likely to indulge in further dangerous activities which are prejudicial to the maintenance of public order in the future. He also submit that, considering the statements of the in-camera witnesses 'A' and 'B', it is evident that there was threat and violence in both the incidents which would have directly affected the public order.

9. Learned APP would therefore submit that, Respondent No.3-District Magistrate has rightly considered the entire material placed before him and has arrived at a subjective satisfaction that preventive detention of the petitioner is very much warranted. He would further submit that the authorities have followed the procedure prescribed under the MPDA Act as according to him, after passing the order of detention the same was forwarded to the Advisory Board. The proposal was placed before the Advisory Board

on 09.09.2025, after hearing the petitioner on 18.09.2025 the same was forwarded to the State Government on 22.09.2025 and after receipt of the opinion from the Advisory Board, the impugned order of detention has been confirmed by Respondent No.1-State Government by an Order dated 26.09.2025. In short, the contention of learned APP is that, the procedure as contemplated under MPDA has been scrupulously adhered to, he therefore urge that, the Writ Petition deserves to be dismissed.

10. After having heard learned counsel for the petitioner and learned APP for the State Authorities, we find that, the impugned order of detention is based on a Solitary Crime and two in-camera statements, however it is pertinent to note that, there is delay of 133 days in between passing of impugned order of detention and the last prejudicial act of the petitioner. As it could be seen that, last crime bearing No. 144/2025 has been registered on 09.04.2025, the proposal for detention of petitioner appears to have been submitted on 30.07.2025, whereas impugned order of detention has been passed on 20.08.2025. On perusal of in camera statements reveals that, general statements have been made by both the witnesses.

11. So far as the aspect of delay is concerned, it would be apt to rely on the judgment of this court in **Criminal Writ Petition No. 104**

of 2024 decided on 26.04.2024 in the case of ***Rama Devchand Kumbhalkar Vs. State of Maharashtra and Ors.*** and more particularly paragraph 11 which reads thus:

11. The Hon'ble Apex Court in the case of Pradeep Nilkanth Paturkar vs S Ramamurthi and others reported in AIR 1994 SC 656 has observed that the unexplained delay whether short or long, specially when the petitioner has taken a plea of delay, vitiates the detention order. In para 9 of the said exposition in Pradeep Nilkanth Paturkar's case (supra) the Hon'ble Apex Court has referred to its earlier decision in the case of T A Abdul Rahman V/s. State of Kerala reported in (1989) 4 SCC 741 in paragraph 15 as follows :-

“ The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the Court has to scrutinise whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the Court has to investigate whether the causal connection has been broken in the circumstances of each case.”

12. We thus find that, though Respondent No. 3-District Magistrate asserts that there is a live link between passing of impugned order of detention and the last prejudicial act of the petitioner, however, Respondent No 3-District Magistrate has utterly failed to explain the delay between the last prejudicial act of the petitioner and passing of impugned order of detention. In the light of judgment of this court in the case of ***Rama Devchand Kumbhalkar***

(*Supra*), we are of the considered view that the delay of 133 days in between the last prejudicial act of the petitioner and passing of the detention order snaps the live link, likewise the delay in passing the impugned detention order whether short or long, failure on the part of Respondent No. 3- District Magistrate to explain the said delay vitiates the impugned detention order.

13. It is settled position of law that, the preventive detention is not mean to punish for past act but to prevent future conduct that threatens public order. Similarly, it needs to be borne in mind, as to whether, mere pendency of criminal cases without a live link to eminent disturbances of public order justify preventive detention, whether it is only a concern about law and order or a public order. In that regard, it would be profitable to rely on the observations of the Hon'ble Apex Court in the case of ***Ram Manohar Lohia v. State of Bihar*** reported in ***AIR 1966 SC 740***, while explaining the term 'Law and Order' and 'Public Order' which reads thus:

"54. ... Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under

the Defence of India Act but disturbances which subvert the public order are....

55. It will thus appear that just as “public order” in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting “security of State”, “law and order” also comprehends disorders of less gravity than those affecting “public order”. One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State...”

14. Thus, ‘Public Order’ refers to disturbances affecting community at large whereas, ‘Law and Order’ can encompass a broader range of disturbances, including those of local and minor nature. Thus the underline principle is that the activity of a person should be such that it will affect the public order. The three circles referred to by the Hon’ble Apex Court had explained that the activities disturbing law and order may not necessarily disturb the public order. We find that mere pendency of criminal cases without a live link to eminent disturbances of public order cannot justify preventive detention.

15. We find that there is no material placed on record to substantiate that the petitioner was likely to commit any specific act prejudicial to public order in the immediate future. As it can be seen that the alleged Crime registered on 09.04.2025, cannot be said to have such a live link. In the light of above, we are of the considered

view that the impugned detention order is unsustainable in law so also find that, the confirmation order of the State Government also does not sustain. Hence, we pass the following order:-

:: ORDER ::

- i. The Writ Petition stands allowed.
- ii. The impugned order of detention dated 20.08.2025 bearing No. D.O.2025/DC/MPDA/DET-03/CR-120 passed by Respondent No.3-District Magistrate, Chhatrapati Sambhajnagar and the order of confirmation bearing No. MPDA-0825/CR-471/Spl-3B, dated 26.09.2025 passed by Respondent No.1-State Government, are hereby quashed and set aside.
- iii. The Petitioner – Rohit Sunil Dehade shall be released forthwith, if not required in any other offence.
- iv. Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE, J.)

(SANDIPKUMAR C. MORE , J.)