



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 99 OF 2026

SHAM S/o APPARAO BHALEKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the petitioner : Gopal C. Navandar
A.P.P. for Respondent Nos. 1 to 3 : Mrs. Chaitali R. Chaudhari

....

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

**RESERVED ON : MARCH 25, 2026
PRONOUNCED ON : APRIL 28, 2026**

JUDGMENT (PER SANDIPKUMAR C. MORE, J) :-

1. Heard learned counsel Mr. Gopal C. Navandar for the petitioner and learned A.P.P. Mrs. Chaitali R. Chaudhari 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 17.11.2025 passed by respondent No.2/The District Magistrate, Beed 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 27.11.2025 and the confirmation order dated 26.12.2025, by invoking the power of this Court under Article 226 of the Constitution of India.

4. The detaining authority claims that the petitioner has indulged into following crimes :-

Sr.	Police Station	Cri. No.	Section	Date of registration	Charge sheet No & date	Court case No.	Result
1	Majalgaon City	238/2024	12(A) of M.Gambling Act	13.06.2024	39/2024 18.06.2024	SCC No. 519/2024 25/06/2024	Pending in Court
2.	Majalgaon City	531/2024	12(A) of M.Gambling Act	31/12/2024	03/2025 20.01.2025	SCC No. 163/2025 20.01.2025	Pending in Court
3.	Majalgaon City	252/2025	12(A) of M.Gambling Act	08/07/2025	48/2025 27/08/2025	SCC No. 1262/2025 29.08.2025	Pending in Court
4.	Majalgaon City	366/2025	12(A) of M. gambling Act	09/10/2025	-	-	On investigation
5.	Majalgaon City	372/2025	12(A) of M. Gambling Act	15.10.2025	-	-	On investigation

Preventive Action

Sr. No.	Police Station	Chapter cases No. & U/s.	Date of Registration	Remark
1.	Majalgaon City	24/2025, 129 BNSS	05/08/2025	Final bond 19.08.2025

5. The learned counsel for the petitioner further submits that, out of the aforesaid offences, the detaining authority has considered mainly two offences namely C.R. No. 366 of 2025 registered with Majalgaon City Police Station, under Section 12(A) of the Maharashtra Prevention of Gambling Act, 1887 on 09.10.2025 and C.R. No. 372 of 2025 registered with Majalgaon City Police Station, District Beed under Section 12(A) of the Maharashtra Prevention of Gambling Act, 1887 on 15.10.2025, to declare the petitioner as a dangerous person. According to him, he is not convicted in any of the aforesaid crimes pending against him. On the contrary, the Detaining Authority failed to consider that in one of such crimes, he has been acquitted by the concerned Court. Further, the aforesaid offences can be considered as an individual in nature and no breach of public order is there. Further according to him, the statements of secret witnesses are stereotype in nature and it may give rise to question of law and order, but no breach of public order. The learned counsel for the petitioner in addition to submissions also placed reliance on the following judgments:-

- (i) ***Gujarat High Court in the case of Shri Firoz @ Firoj Mendis S/o Yasinkhan Pathan Through Takib S/o Giroj Khan Pathan Vs. State of Gujrat and others in Special Criminal Application No. 12182 of 2025 decided on 15.09.2025.***
- (ii) ***Gujarat High Court in the case of Mustafa @ Kali Usmanbhai Kachhot Vs. State of Gujarat in Special Civil Application No. 10877 of 2018 dated 08.10.2018***
- (iii) ***Aatish S/o Ravindra Kharat Vs. State of Maharashtra and others 2024 DGLS (Bom.)880***

(iv) ***Haridas Shankar Gaikwad Vs. Commissioner of Police Solapur 2025 DGLS (Bom.)3336***

6. Per contra, the learned A.PP. strongly opposed the submissions made on behalf of the petitioner and submitted that the petitioner is a dangerous person as per the provisions of the “M.P.D.A” Act. She pointed out that, the Detaining Authority has given proper reasons as to why the petitioner needs to be detained. She further submitted that the statements of secret witnesses ‘A’ and ‘B’ clearly indicate that due to gambling activities of the petitioner and his associates, the public at large is sufferer. Moreover, the petitioner and his associates, while carrying out the gambling activities at public places, also tried to harass girls and ladies of the area. She also placed reliance on following judgments to demonstrate as to how the gambling activities of the petitioner affect the public order.

(i) ***Krishnachandra And Others Vs. State of Madhya Pradesh 1963 SCC OnLine SC 206 : (1964)***

(ii) ***Sodan Singh And Others Vs. New Delhi Municipal Committee And Others (1989) 4 Supreme Court Cases 155***

As such, she supported the impugned orders and prayed for dismissal of the petition.

7. It is extremely important to note that, all the offences mentioned in the grounds for detention against the petitioner are under the provisions of The Maharashtra Prevention of Gambling Act,

1887. Except, these offences, no other offence under any other Act is registered against the petitioner. Further, in the preventive action as mentioned above, the final bond has also been taken from the petitioner.

8. On perusal of statements of secret witnesses 'A' and 'B', it is clearly evident that, the petitioner had allegedly assaulted them with wooden log and sword on the ground as to why they informed police about his gambling activities namely "*Kalyan & Millan Matka*". Thus, it can be gathered from the statements of secret witnesses that at the most a question of law and order may arise, but not the deterrence to the public order.

09. In the instant case, the Detaining Authority is claiming that since the petitioner is engaged in gambling activities, it certainly affects the life of people, as they not only lose money, but their dependents also have to suffer great hardship. Thus, the main question before us is to decide as to whether the gambling activities of the petitioner cause threat to the public order. This question is already discussed by this Court, in detail by placing reliance on various judgments of the Hon'ble Apex Court as well as High Courts of Gujarat and Karnataka, in our earlier judgment in *Criminal Writ Petition No. 112 of 2026 decided on 26.03.2026 (Govind Dharma Kale Vs. The State of Maharashtra and others)*. After such elaborate

discussion, we have ultimately, held that the offence under Section 12 (A) of the Maharashtra Prevention of Gambling Act, 1887 does not commit any breach public order and that the existing law on the gambling including the provision of the Bhartiya Naya Sanhita 2023 is sufficient to take care such crimes. We have unequivocally held that there is no propriety in passing the detention order, when there are only offences registered under the provisions of the Maharashtra Prevention of Gambling Act, 1887 against the detenue. Therefore, the issue as to whether, activities of gambling of a person, commits breach of public order has already answered by us in the negative in the aforesaid judgment. Thus, the same view needs to be taken in the instant matter, wherein offences under the provisions of Maharashtra Prevention of Gambling Act are only registered against the present petitioner. In view of the same, we pass the following order :-

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 17.11.2025, passed by respondent No.2 as well as the approval order dated 27.11.2025 by the State Government and the confirmation order dated 26.12.2025 passed by respondent No.1, are hereby quashed and set aside.
- (iii) Petitioner- Sham S/o Apparao Bhalekar shall be released

forthwith, if not required in any other case.

(iv) Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

YSK/