



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 112 OF 2026

GOVIND DHARMRAJ KALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the petitioner : Ms. Ashwini Lomte
A.P.P. for Respondent Nos. 1 to 3 : Mrs. Chaitali R. Chaudhari

....

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

RESERVED ON : FEBRUARY 27, 2026
PRONOUNCED ON : MARCH 26, 2026

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

1. Heard learned counsel Ms. Ashwini Lomte 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 10.12.2025 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 18.12.2025 and the confirmation order dated 22.01.2027, 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. No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1	Ambajogai City, District Beed	312/2022 U/s 12(A) Maha. Gambling Act	23/07/2022	Pending in Court
2	Ambajogai City, District Beed	363/2022-U/s. 12(A) Maha. Gambling Act.	23.08.2022	Pending in Court
3.	Ambajogai City District Beed	521/2022 U/s. 12(A) Maha. Gambling Act	30.11.2022	Pending in Court
4.	Ambajogai Rural, District Beed	278/2025-U/s. 12(A) Maha. Gambling Act.	12.06.2025	Pending in Court
5.	Ambajogai City, District Beed	294/2025-U/s 12(A) Maha. Gambling Act.	12/6/2025	Pending in Court
6.	Ambajogai City, District Beed	464/2025-U/s 12(A) Maha. Gambling Act	17/09/2022	Pending in Court

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

Sr. No.	Police Station	Chapter cases No. & U/s.	Date of Registration	Remark
1.	Ambajogai City, District Beed	115/2025-u/s 126 B.N.S.S.	20/03/2025	Final bond

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. 294 of 2025 registered with Ambajogai City Police Station, under Section 12(A) of the Maharashtra Gambling Act on 12.06.2025 and C.R. No. 464 of 2025 registered with Ambajogai City, Police Station, District Beed under Section 12(A) of the Maharashtra Gambling Act on 17.09.2022 to declare the petitioner as a dangerous person. However, there is no live link in respect of first three offences. According to her, the petitioner was not even arrested in those crimes and till today, he is not convicted in any of the aforesaid crimes pending against him. Further, the aforesaid offences can be considered as an individual in nature and no breach of public order is there. Further according to her, the statements of secret witnesses are stereotype in nature as it may give rise to question of law and order, but from those statements, nothing can be inferred that any threat is caused to the public order. The learned counsel for the petitioner in addition to submissions also placed reliance on the following judgments:-

- (i) ***Judgment of our High Court at Principal Seat in the case of Nilofer Ramjan Shaikh Vs. Commissioner of Police, Pune City and others, Criminal Writ Petition No. 3471 of 2025 dated 15.12.2025.***
- (ii) ***Ameena Begum Vs. State of Telangana (2023) 9 Supreme Court Cases 587***
- (iii) ***High Court of Gujarat in Asheshbhai Indravadanbhai Dudhiya (Ganchi) Vs. State of Gujarat & 2 Others in Letters Patent Appeal No. 645 of 2021 dated 06.08.2021.***
- (iv) ***Mahebubhai Husenbhai Rangrej Vs. State of Gujarat & Others AIR Online 2024 GUJ 1249***

(v) ***High Court of Gujarat in Bhavesh Thro Diptiben Bhaveshbhai Ganeshvala Vs. State of Gujarat and others 2025 SCC OnLine Guj 3296***

(vi) ***Shahina @ Shaheen Vs. State of Karnata AIR Online 2024 Kar 2372***

6. Per contra, the learned A.P.P. 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 and also threatened them as to why they informed police about his gambling activities namely "*Kalyan Matka*". Further, both these secret witnesses merely stated without quoting any specific incident that due to the persons involved in such gambling activities, there is harassment of girls and ladies in the area. 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.

9. The term "public order" is clarified by the Hon'ble Apex Court in various cases. Hon'ble Apex Court in the case of ***Ram Manohar Lohia Vs. State of Bihar and another 1965 Legal Eagle (SC) 195, Ameena Begum Vs. State of Telangana (supra)*** has held that, if any act of a person disturbs the even tempo of life of the community at large, then it can be said that there is threat to the public order. Further, the

nature of such act must be of such nature that, it can create impact on public at large causing fear, panic and insecurity in general. Isolated crimes against individual cannot be considered as disturbance to the public order. Therefore, the nature of act of the petitioner in the instant case needs to be tested in the light of aforesaid observations of the Hon'ble Apex Court.

10. 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.

11. The learned A.P.P. has placed reliance on various judgments to establish that how the gambling activities of the petitioner are causing disturbance to public at large. In the case of ***Krishnachandra And Others Vs. State of Madhya (supra)***, the Hon'ble Apex Court has made following observations:-

“Considering the fact that gambling is an evil and it is rampant, that gaming houses flourish as profitable business and that detection of gambling is extremely difficult, the law to root out gambling cannot but be in the public interest. Such a law must of necessity provide for special procedure but so long as it is not arbitrary and

contains adequate safeguards it cannot be successfully assailed. In our opinion the Act with which we are concerned contains sufficient safeguards to ensure that there is no danger to any one except to those who are proved to the satisfaction of the Court to keep a gaming house or who can be presumed unless the contrary be proved to be there for the purpose of gaming. We are satisfied that the impugned provisions are constitutional. The appeal fails and is dismissed.”

12. The learned A.P.P. thus pointed out that, the gambling since beginning is considered as an evil, which only flourishes the persons who run such gaming activities, thereby causing great hardship to public at large. However, after going through the judgment minutely, the aforesaid observation has come on record, when the Hon’ble Apex Court was verifying constitutionality of Section 3 and 5 of The Gambling Act of Madhya Pradesh, in the light of Articles 19 and 21 of the Constitution of India and ultimately the aforesaid sections were held Constitutional. Thus, the question was not there before the Hon’ble Apex Court, as to whether the gambling activities were prejudicial to the public order.

13. Same is the case, with the judgment of Madras High Court in the case of *D. Siluvai Venance Vs. State of rep. By The Inspector of Police, Koodankulam Police Station, Tirunelveli [in Crl. OP (MD) 6568 of 2020 and Crl. MP (MD) No. 3340 of 2020 dated 24.07.2020*

wherein so many observations of the Hon'ble Apex Court in various judgments are referred specially to point out as to how the gaming activities are hazardous to public at large. Certain examples from the ancient times like *Mahabhart*a are also given to show as how the gaming ruins the lives of so many individuals and thereby causing threat to public at large. However, such observations have come on record, when the Madras High Court was exercising right under Section 482 of the Code of Criminal Procedure for quashing crime against the petitioner therein, who was in fact innocent, but was accidentally arrayed as an accused in the crime under Gambling Act. As such, in the said judgment, the issue was not whether gaming affects the public order. The observations of the Hon'ble Apex Court and other Courts in the said judgment appear to be general in nature and not in reference to the present issue in hand.

14. On the contrary, the learned counsel for the petitioner has relied on the judgments of High Court of Gujarat as well as High Court of Karnataka, wherein the issue before us was involved. It is significant to note that, the persons engaged in illegal gambling or illegal lottery is included in the definition of dangerous person under the M.P.D.A. Act by way of Maharashtra Amendment Act 29 of 2025, just recently, in the month of June 2025. As such, there is no authoritative pronouncement by this Court yet on the issue, which is involved in

this matter.

15. In case of *Asheshbhai Indravadanbhai Dudhiya (Ganchi) Vs. State of Gujarat & 2 others (supra)* the Gujarat High Court was deciding the correctness of judgment and order of learned Single Judge, whereby preventive detention of the petitioner involved in crime under Gambling Act was upheld. It was the submission of the appellant therein that invoking the jurisdiction under preventive detention law was totally unjustified as there was no disturbance of public order. While discussing the said issue, following observation is made by the Gujarat High Court.

“In the judgment dated 31.08.2020 in the case of Vijay @ Ballu (supra), the issue relating to public order and law and order problem had been dealt with in detail. Law of preventive detention has to be construed not as in an ordinary criminal proceedings of detaining or arresting a person who is said to have committed crime where the procedure is provided and the remedy is available. However, the law of preventive detention is to be strictly followed as per the statute and the settled law on the point. In the present case, by no stretch of imagination can we hold that such incidents could disturb public order.”

16. Similarly, *Gujarat High Court in the case of Mahebubhai Husenbhai Rangrej Vs. State of Gujarat and others (supra)* has held as follows :-

“7. The order impugned was executed upon the applicant and presently he is in Vadodara Central Jail. In the grounds of detention, a reference of two criminal cases registered against the applicant under Sections 4 and 5 of the Prevention of Gambling Act registered with Shaherkotda Police Station on 03.09.2023 and 09.12.2023 was made and further it is alleged that the activities of the detainee as a “common gambling housekeeper” affects adversely or are likely to affect adversely the maintenance of public order as explained under section 3 of the Act of 1985. Admittedly, in all the said offences, the applicant was granted bail.

9. After careful consideration of the material, we are of the considered view that, there is no material placed before the authority to establish that the applicant was convicted of an offence punishable under Section 4 of the Gambling Act within a period of 3 years from the date of such conviction either himself or as a member or leader of game habitually commits or attempts to commit or abate the commission of an offence under the said section. Thus, therefore, we are of the firm view that, the activities as alleged would not fall under the definition of ‘common gaming housekeeper’. In such circumstances, the authority has wrongly arrived at the subjective satisfaction that the activities of the detainee could be termed to be acting in a manner ‘ prejudicial to the maintenance of public order”.

17. Further, in case of *Bhavesh Thro Diptiben Bhaveshbhai Ganeshvala Vs. State of Gujarat and others (supra)*, the High Court of Gujarat has again observed as follows :-

“9. After careful consideration of the material, we are of the considered view that, there is no material placed before the authority to establish that the applicant was convicted of an offence punishable under Section 4 of the Gambling Act within a period of 3 years from the date of such conviction either himself or as a member or leader of game habitually commits or attempts to commit or abate the commission of an offence under the said section. Thus, therefore, we are of the firm view that, the activities as alleged would not fall under the definition of ‘common gaming housekeeper’. After careful consideration of the material, we are of the considered view that on the basis of four criminal cases, the authority has wrongly arrived at the subjective satisfaction that the activities of the detinue could be termed to be acting in a manner ‘prejudicial to the maintenance of public order’. In our opinion, the said offences do not have any bearing on the maintenance of public order. In this connection, we may refer to the decision of the Apex Court in the case of *Piyush Kantilal Mehata Vs. Commissioner of Police, Ahmedabad, 1989 Supp (1) SCC 322*, wherein the detention order was made on the basis of the registration of the two prohibition offences. The Apex Court after referring the case of *Pushkar Mukherjee Vs. State of Bengal (1969) 1 SCC 10* held and observed that mere disturbance of law and order leading to detention order is thus not necessarily sufficient for action under prevention detention Act.

18. In the case of *Shahina Alias Shaheen Vs. State of Karnataka* also the Karnataka High Court, while dealing with the case of a person involved in illegal gambling activities, has made following

observations.

“In this case also the concerned police ought to have persuaded the Court in the case wherein detenue was convicted, to impose higher sentence. Instead of that police appears to be taken easy way to detain the detenue in the custody under the Goonda Act. The alleged offences are not serious in nature and all the offences are bailable. He was not charge sheeted in several such cases in each year. It is also not the case that he was illegally forcing people to participate in the said gambling or playing fraud during the game etc. The maximum punishment prescribed for the offences punishable under Section 78 to Section 80 of K.P. Act is imprisonment which may extend to one year and fine. The Government has ordered to detain the detenue for a period of one year, which appears to be disproportionate to the nature of offences alleged against him. This indicates non-application of the mind by the concerned authority while passing the detention order. The law laid down by the Hon’ble Apex Court referred above are applicable to this case. The competent authority though followed the prescribed procedure while passing the detention order, but failed to apply its mind. Hence it needs interference.”

19. Thus, the High Courts of Gujarat and Karnataka, by observing as aforesaid have already made it clear that, it cannot be held by any stretch of imagination that the acts of gambling could disturb the public order. It is extremely important to note that the Maharashtra Prevention of Gambling Act has made stringent provisions to curb the acts of gambling in Maharashtra State. Though the gambling is

recently added in the ambit of MPDA Act, but under the Maharashtra Prevention of Gambling Act, Section 4 has already provided the punishment to prevent the cases of gambling. According to the same, for the first offence, there is provision of imprisonment, which shall not be less than three months and also fine not less than Rs. 500/-. For the second offence, the imprisonment is not less than six months and fine also not less than Rs. 1,000/-. Again for third or subsequent offence, the imprisonment, which shall not be less than one year, is provided along with the fine which shall not be less than Rs. 2,000/-. On going through this provision, a punishment for even subsequent acts of gambling are there to curb the gambling activities in the State. Not only this, but more strict punishment is also introduced in B.N.S. 2023 for gambling by categorizing it, as petty organized crime under section 112 of the Act. Section 112 of the B.N.S. 2023 has provided punishment for such unauthorized gambling, not less than one year, but it may extend to seven years and fine also. Therefore, considering the provisions of existing Acts, there is sufficient punishment provided for the gambling activities in the State. Therefore, when the law has provided already sufficient punishment for the gambling activities, such short-cut method of passing detention order under M.P.D.A. Act, cannot be adopted.

20. Therefore, the aforesaid observations of Gujarat High Court as

well as Karnataka High Court, which are also based upon the observations of Hon'ble Apex Court, squarely apply to the present case also. In the instant case, we have already observed earlier that considering the nature of statements of secret witnesses, at the most question of law and order may arise. Further, there is no live link between the first three offences against the petitioner and the detention order, as those offences had taken place in the year 2022. Moreover, the Detaining Authority did not even care to go for cancellation of final bond of the petitioner in the preventive action, before passing the impugned order of detention. The petitioner has not yet been convicted in any of the offences under The Maharashtra Prevention of Gambling Act. Only two crimes are considered for passing the impugned order, wherein the petitioner has not been arrested. It is extremely important to note that though it is shown that petitioner is involved in gaming activities, but it is not the case of Detaining Authority that the petitioner had in fact compelled people to indulge in gambling. On the contrary, it appears from the facts and circumstances that, people on their own had participated into the gambling activities run by the petitioner. Therefore, considering all these aspects, we are of the considered view that the detaining authority has wrongly come to the conclusion that the activities of the petitioner have caused disturbance to the public order. Hence, we pass following order :-

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 10.12.2025, passed by respondent No.2 as well as the approval order dated 18.12.2025 by the State Government and the confirmation order dated 22.01.2026 passed by respondent No.1, are hereby quashed and set aside.
- (iii) Petitioner- Govind Dharmaraj Kale 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/