



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

CRIMINAL WRIT PETITION NO. 133 OF 2026

Anil S/o Maroti Budruk,
Age : 24 Years, Occ. Labour,
R/o. Pangari, Tq. Loha,
Dist. Nanded.

PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Section Officer,
Home Department (Special),
Mantralaya, Mumbai -32
2. The District Magistrate,
Nanded
3. The Superintendent of Jail,
Chhatrapati sambhajinagar,

RESPONDENTS

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Mr. S.R. Bagal, Advocate holding for Mr. Bharat N.
Gadegaonkar, Advocate for the petitioner.
Mr. G.A. Kulkarni, A.P.P. for respondent Nos.1 to 3.

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

RESERVED ON : 24.03.2026

PRONOUNCED ON : 23.04.2026

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 07.11.2025 passed by respondent No.2 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-74 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 and Persons Engaged in Black Marketing of Essential Commodities Act, 1981 (hereinafter referred to as “MPDA Act”) as well as the committal order dated 07.11.2025 and confirmation order dated 26.12.2025 passed by respondent No.1-State, 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 two preventive actions are also taken against the petitioner.

Sr. No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1	Sonkhed	111/2025, u/s 302(2), 3(5) of BNS, 47(7)(8) of Mines and Minerals Act.	09.05.2025	Pending trial
2	Sonkhed	210/2025, u/s 303 (3) of BNS, 47, 48 of Maharashtra Land Revenue Code, 1966	09.09.2025	Pending trial

Preventive Action

Sr. No.	Police Station	Chapter Case No. and u/s	Date of registration	Disposal
1	Sonkhed	48/2025, u/s 129 of BNSS	02.06.2025	Closed

The detaining authority has considered the aforesaid two offences namely C.R. Nos.111/2025 and 210/2025 to declare the petitioner as a “Dangerous Person”. According to the learned counsel for the petitioner, though it is claimed that since last five years the petitioner is involved in sand smuggling, but there are only two offences registered against him. Moreover, despite registration of those two offences, the concerned investigating machinery did not even find it necessary to arrest the petitioner and he was only given notice under Section 35 (3) of BNSS, 2023. He pointed out that though such notice was given to the petitioner and he was not even arrested, but the detaining authority still observed that he was aware that the petitioner was on bail. This clearly indicates complete non application of mind and also absence of subjective satisfaction. According to him, the material on record is definitely insufficient to hold that the present matter involves any breach of public order. Further, according to him, the statements of secret witnesses are stereotype in nature which do not reflect any specific incident. Thus, he prayed for

setting-aside the impugned order of detention. He also relied on judgment of this Court in ***Criminal Writ Petition No. 1681 of 2025 (Swapnil Dilip Chaudante vs The State of Maharashtra and others)*** dated 04.02.2026.

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 is involved in sand smuggling which is definitely against the public order as there are so many complaints of similar incident against him. Moreover, as per the statements of secrete witnesses, the petitioner is involved in sand smuggling since last five years and even after preventive action, he continued his illegal activities as before. As such, he prayed for dismissal of the petition by relying on the judgment in the case of ***Harish Patil vs State of Maharashtra and others*** reported in **2016 (3) ABR (Cri) 718**.

5. Admittedly, there are only two crimes registered against the petitioner as aforesaid. Further, from those offences, it is evident that allegations of sand smuggling are there against

him. However, the alleged criminal acts of the petitioner involves theft of sand, but it is equally important to note that despite registration of those offences, the petitioner was not even arrested. Instead of that, the authority released him by only issuing notice under Section 35 (3) of BNSS, 2023. It is surprising to note that though the petitioner was given notice, but the detaining authority has mentioned in the impugned order that he was aware that petitioner was on bail. This shows complete non application of mind on the part of detaining authority.

6. Further, on perusal of statements of secret witnesses, it is clearly evident that they have only stated about the general criminal behaviour of the petitioner without quoting any specific incident. Moreover, those statements are stereotype in nature wherein it is mentioned that since last five years the petitioner is involved in sand smuggling. However, it is equally important to note that though it is claimed that he is involved in such crimes since last five years, but there is registration of only two crimes against him. Considering the nature of allegations in the F.I.R. in both these crimes, it is apparent that only question of law and order may arise, but not any threat to the public order. Therefore, considering the overall

material against the petitioner, it cannot be held that the detaining authority after subjective satisfaction, has come to the conclusion that the petitioner is dangerous person as contemplated under M.P.D.A. Act. Therefore, even though the respondent No.1 has confirmed the order of detention, but on overall consideration, it is revealed that the impugned order has been passed without application of mind and in absence of subjective satisfaction. Therefore, we pass following order.

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order and committal order dated 07.11.2025 bearing No.2025/RB-1/Desk-2/T-4/MPDA/CR-74 passed by respondent No.2 under Section 3(3) of the M.P.D.A. Act, 1981 as well as the confirmation order dated 26.12.2025 passed by Respondent No.1-State, are hereby quashed and set aside.
- (iii) Petitioner Anil Maroti Budruk 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