



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

CRIMINAL WRIT PETITION NO. 186 OF 2026

Ganesh Bhujangrao More,
Age : 23 Years, Occ. Labour,
R/o. Shahunagar, Waghala,
Nanded, Tq. & Dist. Nanded

.. Petitioner

VERSUS

1. The State of Maharashtra,
Through : Its Section Officer,
Home Department (Special),
Mantralaya, Mumbai- 32.
2. The District Magistrate,
Nanded, Tq. & Dist. Nanded
3. The Superintendent of Jail,
Central Jail Harsool, Aurangabad,
District : Aurangabad

..Respondents

...

Advocate for the petitioner : Mr. S. S. Gangakhedkar
A.P.P. for Respondent Nos. 1 to 3 : Mr. N. B. Patil

....

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

**RESERVED ON : 24/04/2026
PRONOUNCED ON : 09/06/2026**

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

1. Heard learned counsel Mr. S. S. Gangakhedkar for the petitioner and learned APP Mr. N. B. Patil 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 04.12.2025 passed by respondent No.2 in exercise of powers under Section 3 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 No. MPDA-1225/CR-689/Spl-3B of the State Government dated 13/12/2025 and the confirmation order, by invoking the power of this Court under Article 226 of the Constitution of India.
4. The learned counsel for the petitioner submits that, the detaining authority has relied upon the following offences for passing the impugned order.

Sr. No.	Police Station	C. R. No.	Under Sections	Date of Registration	Present status
1.	Nanded Rural	284/2021	392 r.w. 34 of IPC	11/05/2021	Pending trial

2.	Nanded Rural	229/2022	4/25 of Arms Act, 1959	12/04/2022	Pending trial
3.	Nanded Rural	201/2023	394 r.w. 34 of IPC, 4/25 of Arms Act, 1959	24/03/2023	Pending trial
4.	Nanded Rural	67/2025	118(1), 115(2), 351(2), 351(3), 352(5), 3(5) of BNS	18/01/2025	Pending trial
5.	Nanded Rural	192/2025	109, 189, 189(4), 189(3), 191(1), 191(2), 191(3), 190, 115(2), 351(2), 351(3), 352 of BNS, 4/25 of Arms Act, 1959	27/02/2025	Under investigation
6.	Nanded Rural	1061/2025	118(1), 115(2), 351(2), 351(3), 3(5), 352 of BNS	07/11/2025	Under investigation
7.	Nanded Rural	1108/2025	126(2), 115(2), 351(2), 351(3), 3(5) of BNS, 4/25 of Arms Act, 1959	21/11/2025	Under investigation

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

Sr. No.	Police Station	Chapter Case No. & U/s	Date of Registration	Present Status
1.	Nanded Rural	385/ 2023 u/s 107 of Cr.P.C.	24/09/2023	Closed
2.	Nanded Rural	05/2025 u/s 3(1) of MPDA Act, 1981	14/05/2025	Released by Hon'ble High Court on 28/08/2025

5. The learned counsel for the petitioner further submits that, the detaining authority has considered mainly the following recent two

offence bearing Crime No.1061 of 2025 and 1108 of 2025 registered with Nanded (Rural) Police Station to declare the petitioner as dangerous person. However, there is absolutely no live link in respect of earlier offences. Further, the petitioner was not even arrested in the aforesaid crimes but the detaining authority as well as approving authority did not consider this fact in the impugned orders. Further, the aforesaid offences can be considered as individual in nature and no breach of public order appears to be there. He pointed out that, the statements of secret witnesses are stereotype in nature and at the the most, it can be said that the question of law and order would arise in those incidents. The learned counsel for the petitioner in addition to submissions also placed reliance on the following judgments :-

- A) *Ameena Begum Vs. State of Telangana, AIR Online 2023 SC 706;***
- B) *Joyi Kitty Joseph Vs. Union of India and others, AIR Online 2025 SC 156;***
- C) *Shaikh Maheebub vs. District Magistrate, Nanded and others, 2025 SCC OnLine Bom 2095;***
- D) *Shaikh Zubair Shaikh Khadeer vs. State of Maharashtra through its Section officer, Home Department (Special) and others, 2025 SCC OnLine Bom 930.3;***
- E) *Ashokrao Uttamrao Pawar vs. State of Maharashtra and others, AIR OnLine 2023 BOM***

173;

- F) *Arjun Ratan Gaikwad vs. State of Maharashtra and others, AIR OnLine 2024 SC 915;***
- G) *Shivam alias Shiva Dattatraya Nilkhan vs. State of Maharashtra, through its Section Officer, Home Department (special and others, 2025 SCC OnLine Bom 2166;***
- H) *Dhanya M. Vs. State of Kerala, 2025 SCC OnLine SC 1315 &***
- I) *Nenavath Bhujji Etc vs. State of Telangana and others, AIR Online 2024 SC 167.***

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 definition of Section 2 (b-1) of the 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 "M.P.D.A" Act). He pointed out that, the detaining authority has given proper reasons as to why the petitioner needs to be detained. He added that previously also the detention order was passed against the petitioner. With these submissions, he prayed for dismissal of the petition.

7. On perusal of record it appears that there is no live link between

the last offence dated 24/05/2025 and the order of detention dated 30/10/2025. The petitioner was not even arrested in the last offence, which itself indicates that the offence was not so serious. The petitioner had in fact served notice under section 35 (3) of BNSS 2023. Therefore, it can be said that the respondents without seeking cancellation of bail to the petitioner in the earlier offences have resorted to the stringent action, which is held impermissible by the Hon'ble Apex Court in the case of **Ameena Begum Vs. State of Telangana** (*supra*). This clearly indicates that the detention order has been passed without subjective satisfaction. Moreover, on perusal of FIR in the offences which are made ground for detention order, it is evident that there is no consideration whether those incidents were sufficient to disturb the public order. As per the observations in the cases of **Shaikh Mahebub vs. District Magistrate, Nanded** (*supra*) and **Shaikh Zubair Shaikh Khadeer vs. State of Maharashtra through its Section officer, Home Department (Special)** (*supra*) the detention order must reveal that there was breach of public order though there may be breach of law and order. No such consideration is finding place in the impugned order. Thus, non-application of mind on the part of detaining authority is apparent from the record.

8. The impugned order also does not reflect that the detaining

authority had in fact verified the incidents mentioned in the statements of secret witnesses 'A & B' from the verifying authority i.e. SDPO. This is against the observation in the case of **Ashokrao Uttamrao Pawar vs. State of Maharashtra and others, AIR Online 2023 Bom 17**, wherein it is held as follows:

“Though there is a reference to the Authority verifying the statements by discussing / interacting with the witnesses, and the concerned Assistant Commissioner of Police and Deputy Commissioner of Police a perusal of the statements reveals that other than only endorsing that the Authority had done a verification, there is no reference that the content of the statements was verified by the detaining authority i.e. the District Magistrate or that the Detaining Authority has verified that the witnesses were unwilling out of fear of the detenu to depose against him. It is evident that the subjective satisfaction of the authority was arrived at without complying with verification as was required by law.”

It is to be noted that every breach of trust does not lead to disturbance of public order since the public order operates in larger circle. There may be instances of breach of law and order but it cannot be held that there was disturbance to the public order.

9. Coming to the offences committed by the petitioner which are considered for passing the detention order, it reveals that the name of

petitioner was not even mentioned in FIR in crime No.1061 of 2025. Moreover, in the second crime i.e. CR No.1108 of 2025 the petitioner was not even arrested, which speaks in volume for itself. Even the advisory board seems to have lost sight of the fact that only notices were issued under Section 35(3) of BNSS, 2023 to the petitioner in last two offences, which is against the observation of the Hon'ble Apex Court in the case of ***Nenavath Bhujji Etc vs. State of Telangana and others*** (supra) wherein it is reiterated that illegal detention order cannot be sustained and therefore, strict compliance of the provisions is required to be made, since it relates to the question of liberty of citizen.

10. Therefore, considering all these aspects, though, the Advisory Board approved the detention order of the petitioner, but still we are of the opinion that there is no material on record to categorize the petitioner as a dangerous person as contemplated in Section 2(b-1) of The M.P.D.A. Act, 1981.

11. In view of the aforesaid reasons, the petition deserves to be allowed and therefore, we pass the following order :-

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The detention order dated 04/12/2025 bearing

No.2025/RB-1/Desk-2/T-4/MPDA/CR-82 passed by respondent No.2 as well as the approval order dated 13/12/2025 of the State Government and the confirmation order bearing No. MPDA-1225/CR-689/Spl-3B, passed by respondent No.1, are hereby quashed and set aside.

- (iii) Petitioner- Ganesh Bhujangrao More shall be released forthwith, if not required in any other offence.
- (iv) Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE