

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4419 OF 2025

Bajarang Nagnath Chavan	]	
{Detained in Yerwada Central Prison}	]	
Age: 29 Years,	]	
R/at: near Sanmadikar Hospital,	]	
Sarata Road. Sangali, Dist: Solapur.	]	Petitioner
Versus		
1. State of Maharashtra	]	
through Principal Secretary,	]	
Department of Home	]	
Govt. of Maharashtra	]	
Mantralaya, Madam Cama Road,	]	
Mumbai – 400 032.	]	
(Summons to be served upon	]	
Office of Government Pleader,	]	
High Court, Mumbai)	]	
2. Commissioner of Police, Solapur City,	]	
Having address at : Solapur	]	
3. The Superintendent	]	
Yerwada Central Prison	]	Respondents

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Mr. Premkumar Mishra a/w Mr. Irshad Malik, for Petitioner.

Mr. Anand S. Shalgaonkar, A.P.P, for Respondents – State.

Mr. Tukaram Ghadage, Crime Branch, Solapur City present.

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**CORAM : R.G. AVACHAT AND
AJIT B. KADETHANKAR, JJ.**

DATE : 9th JANUARY, 2026.

ORAL JUDGMENT : [PER R.G. AVACHAT, J.]:

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel for the parties.
2. The challenge in this petition is to an order viz: C.O. No.06/CB/DP/2025 dated 28th April, 2025 passed by respondent No.2 – Commissioner of Police, Solapur City 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 (for short “MPDA Act”).
3. The petitioner has been detained on account of his activities to have been prejudicial to the maintenance of the public order. The order has been passed when the petitioner was in detention. The Commissioner of Police, Solapur found that if the petitioner is released on bail, he may indulge in the activities like a “dangerous person” within the meaning of section 2 (b) (iv) of the MPAD Act. The order of detention has been approved by the Home Department, State of Maharashtra vide order dated 19th June, 2025. The petitioner is, therefore, before us.

4. Learned Counsel for the petitioner would submit that the Detaining Authority did not apply its mind to the material on record. Five crimes registered in connection with offence of theft have been considered besides two in camera statements. According to the learned Counsel for the petitioner, all the First Information Reports [for short "F.I.R.] in those crimes have been registered against unknown persons. On arrest of the petitioner, no booty has been recovered from him. None of the victims has identified the petitioner as alleged culprit. The petitioner was arrested in connection with one crime on the statement of a co-accused. Other four crimes have been slapped against him. So far as two in-camera statements are concerned, learned Counsel would submit that those are cyclostyle in nature. The petitioner did not have history of any offence of extortion. Therefore, in-camera statements are nothing short of got up one. According to the learned Counsel, even at all, the crimes are considered, those may, at the most, be termed to have caused disturbance to maintenance of law and order and not public order. According to him, the petitioner has been in jail for over eight months. His liberty is at stake. He has, therefore, urged to allow the Writ Petition setting petitioner at large.

5. Learned A.P.P would, on the other hand, submit that subjective satisfaction of the Detaining Authority should not be a subject of judicial review. He first took us through the order impugned herein. According to him, a valid detention order can be passed when the detenu is in custody in connection with some other crime. In support of his such submission, learned A.P.P relied upon the judgment of the Apex Court in case of **Ashok Kumar Vs. Delhi Administration and others**,¹. He then took us through some of the Police statements to suggest that stolen amount was recovered at the instance of the co-accused, who disclosed the involvement of the petitioner in the crimes in question.

6. Learned A.P.P then relied on the judgment of the Apex Court in case of **Hasan Khan Ibne Haider Khan Vs. R.H. Mendnoca and others**² to make out a distinction between “Law and Order” and “Public Order”. According to him, even series of offence of theft committed by one and the same person may give apprehension of his further activities to be prejudicial to maintenance of public order.

7. Learned Counsel also relied on the judgment of this Court in case of **Sangita Nandu Toradmal Vs. The State of Maharashtra and others**³

1 Air 1982 Supreme Court Cases 1143

2 2000 Cri. L.J. 1729

3 Criminal Writ Petition No.839 of 2025

wherein it has been observed that once Detaining Authority is satisfied on the basis of material on record to pass an order of detention, judicial review thereof should rarely be made.

8. The learned A.P.P has also placed on record a chart indicating the crimes registered at various Police Stations within the limits of Commissionerate of Police, Solapur. According to him, since the petitioner and his associates are behind the bars, the graph is southward. According to him, three of the associates of the petitioner who have been involved in the crimes in question are still at large. One of the accused has been detained under this very Act and he has not challenged the said order. The petitioner did not raise any objection to his detention, before the Advisory Board. All in all, according to the learned A.P.P, if the petitioner is released on bail, there is every possibility of he being indulged in the activities prejudicial to the maintenance of the public order. He, therefore, urged for dismissal of the Writ Petition.

9. We have considered the submissions advanced by the learned Counsel and the learned A.P.P and perused the order impugned herein. The term “dangerous person” given in section 2 (b) (iv) of the MPDA Act, reads thus;

“2. (iv) in the case of a dangerous person, when he is engaged, or is making preparations for engaging, in any of his activities as a dangerous person, which affect adversely, or are likely to affect adversely, the maintenance of public order”.

10. Since the petitioner is alleged to have been found to have indulged in offences of theft in a dwelling house, he was arrested. During his custody, the order impugned herein was passed. The record further indicates that two in-camera statements have been recorded. The so-called victims have stated that the petitioner had intercepted them. Threatened them at a point of sharp weapon and relieved them of cash.

11. Admittedly, all the F.I.R's have been lodged against unknown persons. It is true that offence of theft may be committed in secrecy. There has, however, to be some material in the cases in hand. A close reading of police papers would indicate that no booty (stolen articles) of any of the crimes in which the petitioner was arrested has been recovered at the instance of the petitioner. The crimes appear to have been slapped against the petitioner only on the ground of a co-accused to have named him. Less said the better, since the statement of co-accused does not stand judicial scrutiny in Court's of law. Needless to mention that the Courts those may be seized with the criminal cases filed against the petitioner

should not be influenced by these observations. Suffice it to say that the petitioner has been arrested solely on the basis of the statement of the co-accused, which admittedly will not stand scrutiny in Court's of law.

12. We are conscious of the fact that even offences of theft may have been potency of apprehension of causing disturbance to maintenance of public order. The material on record was, however, short of coming to such a conclusion.

13. Now what remains is, in-camera statements of two persons. We have gone through the said in-camera statements. Those appear to be cyclostyle. When the petitioner had never been involved in any offence relating to extortion or robbery, it is just surprising that based on two in-camera statements, he could be said to have every likelihood of indulging in similar activities. Learned Counsel for the petitioner has, therefore, every reason to contend that in-camera statements have been got up one.

14. The petitioner is behind the bars for little over eight months. The fact that the co-accused has not challenged his own detention order, has little consequences on the merits of this petition. Even the fact that the other three accused are at large, has no bearing on the fate of this Writ Petition.

15. In our considered view, the police papers of the crimes registered against the petitioner were short of even issuing summons against the petitioner in those crimes. Those should not have formed basis for passing the order impugned herein. We have already observed that in-camera statements are cyclostyle one and should not have been relied on when the petitioner did not have history or even a single crime of extortion registered against him. Interference in the impugned order is, therefore, warranted. In the result, petition succeeds, in terms of the following order;

: ORDER :

(a) Impugned order of detention viz: C.O. No.06/CB/DP/2025 dated 28th April, 2025 passed by respondent No.2 – Commissioner of Police, Solapur and confirmation order bearing No.MPDA-0425/CR-197/Spl-3B dated 19th June, 2025 passed by Section Officer to the Government of Maharashtra, Home Department (Special) are hereby set aside.

(b) The petitioner be released forthwith, if not required in any other case.

16. The petition stands disposed of.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT J.]