

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4421 OF 2025

Suraj Ram Gaikwad, Age 39 years,	]	
R/o. Dhakta Rajwada, Kontam Chowk,	]	
Solapur, At present : Yerwada	]	
Central Prison, Pune.	]	...Petitioner.

Versus

1. Commissioner of Police, Solapur.	]	
	]	
2. The State of Maharashtra.	]	
	]	
3. The Superintendent, Yerwada	]	
Central Prison, Pune.	]	Respondents.

Ms. Jayshree Tripathi for the Petitioner.

Mr. Anand Shalgaonkar, APP for the Respondent-State.

**Coram : R. G. Avachat &
Ajit B. Kadethankar, JJ.**

Date : January 7, 2026.

Oral Judgment [Per R. G. Avachat, J.] :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of parties.
2. The Petitioner has been detained in exercise of powers under Section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders and Dangerous Persons Act, 1981.

3. The Petitioner was arrested in connection with Crime No. 387 of 2025 registered with Jodbhavi Peth Police Station for offence punishable under Sections 189(2), 189(4), 191(2), 191(3), 190, 118(1), 118(2), 352, 351(2) of BNS 2023 read with Section 4/25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951. He was in jail in magistrate's custody. The Police Station Officer of Jodbhavi Peth Police Station submitted a report for the detention of Petitioner on the ground of if he is released on bail, he will continue to indulge in activities dangerous to the maintenance of public order.

4. In the third and fourth week of May 2025, two persons, on a condition of keeping their identity secret, came forward and gave statements that in those weeks, the Petitioner had intercepted them, threatened them at knife point and extorted money from them.

5. Based on the report submitted by the police officer, the Respondent No.1- the Commissioner of Police, Solapur was satisfied with the material placed before him and therefore passed the order impugned herein.

6. Learned Advocate for the Petitioner would submit that the detention order is silent to demonstrate that the detaining authority had any material to observe that there is every likelihood of the Petitioner being granted bail. She relied upon the judgment of the Hon'ble Supreme Court in the case of **Kamarunnissa v. Union of India**

[(1991) 1 SCC 128].

7. Learned APP, on the other hand, submitted that the Petitioner has a long criminal history of similar crimes. He took us through the relevant paragraphs of the impugned order to make out a case of subjective satisfaction of the detaining authority. According to him, the impugned order spells out the reasons for detention of Petitioner. According to learned APP, the detaining authority has observed in so many words, referring to the law regarding the grant of bail. He also relied upon the Constitution Bench judgment in the case of **Rameshwar Shaw v. District Magistrate, Burdwan [AIR 1964 SC 334].** Besides, he relied upon the decision of this Court in the case of **Omkar Chandrashekhar Kapare v. Commissioner of Police, Pune City [2019 ALL MR (Cri) 1760].**

8. Learned APP then took us through the FIR and statements of eye witnesses recorded during investigation of the crime registered against the Petitioner, which impelled the detaining authority to pass the impugned order. He then took us through the in-camera statements.

9. All in all, according to learned APP, the material on record undoubtedly indicates that the Petitioner has a long criminal history and once released on bail, was likely to indulge in similar activities. According to him, the subjective satisfaction of the detaining authority

should not be subject of judicial review when the order impugned herein contains the material in that regard. He, therefore, urged for the dismissal of writ petition.

10. We have considered the submissions advanced.

11. Since the Petition has been pressed on the sole ground that there is likelihood of the Petitioner being granted bail in the crime registered against him, we do not propose to deal at length with all other averments made in the petition.

12. The order of detention is dated 21st July 2025. Although the order impugned herein refers to the past criminal activities of Petitioner, the order is based on Crime No. 387 of 2025, referred to hereinabove and two in-camera statements recorded in the month of June 2025. Close reading of the police papers of the crime registered against the Petitioner would indicate that the incident had occurred over dispute between two families. It appears that nephew of the Petitioner had molested the cousin of informant. The averments in the FIR and police papers would indicate that to prevent the victim or her family members from proceeding to lodge FIR against the Petitioner's cousin, the Petitioner, his family members and relations had been to the house of informant and threatened them of dire consequences. Then there are two in-camera statements. Both so called victims claimed to have been intercepted and threatened at knife point with a

view to extort money from them. Those statements were recorded in June 2025 while the proposal for detention of Petitioner was moved on 17th June 2025.

13. The Constitution Bench of the Hon'ble Supreme Court in the case of ***Rameshwar Shaw*** (supra) has observed thus :

“Public Safety – Order of detention of person already in jail custody is beyond the powers of the District Magistrate – such person cannot act in prejudicial manner – Subjective satisfaction of detaining authority – Justifiability – Past conduct of person, relevancy of.”

14. Moreover, in the case of ***Kamarunnisa*** (supra), the the Hon'ble Supreme Court has observed thus :

“From the catena of decisions referred to above it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing.”

15. Now, coming to the factual matrix of the matter in hand, we have to ascertain whether the order impugned herein indicates that the detaining authority has recorded subjective satisfaction as regards there being every possibility of Petitioner being granted bail in the crime registered against him. Close reading of the order impugned herein would indicate that the detaining authority has simply reiterated the law regarding the grant of bail. Except observing that there was every possibility of Petitioner being granted bail, no reason

in support of such view has been assigned in the impugned order. Therefore, the order impugned herein is without giving reasons in support of the continued detention of the Petitioner. For the aforesaid reasons, interference with the order impugned herein is warranted. Petition, therefore, succeeds and is allowed in terms of prayer clause (b), which reads thus :

“(b) The order of detention bearing D.O. 14/CB/DP/2025 dated 21.7.2025 issued under Section 3 of MPDA Act 1981 by the Respondent No. 1 be quashed and set aside and on quashing the same the Petitioner be ordered for release forthwith.”

16. Petitioner be released forthwith, if not required in any other case.

17. Rule made absolute in above terms.

[Ajit B. Kadethankar, J.]

[R. G. Avachat, J.]