

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

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4423 OF 2025

Sachin Ananada Kedar	]	
Age-35 years,	]	
R/o.Vasud, Tal. Sangola	]	
Dist Solapur	]	
At present Yerwada Central Jail, Pune	]	...Petitioner
	]	
<u>VERSUS</u>	]	
	]	
1. The District Magistrate Solapur	]	
	]	
2. The State of Maharashtra	]	
(Through Addl. Chief Secretary)	]	
to Government of Maharashtra	]	
Mantralaya, Home Department	]	
Mantralaya, Mumbai.	]	
	]	
3. The Superintendent	]	
Yerwada Central Prison, Pune	]	...Respondents

.....
*Ms. Jayashree Tripathi (through V.C.) a/w Mr. Amit Waykool, for
Petitioner.*
Mr. A. S. Shalgaonkar, APP for the Respondent-State.
.....

CORAM : R.G. AVACHAT &
AJIT B. KADETHANKAR, JJ.

RESERVED ON : 6th FEBRUARY 2026.
PRONOUNCED ON : 20th FEBRUARY 2026.

JUDGMENT : (PER R.G. AVACHAT, J.)

1. Rule. Rule made returnable forthwith. With the consent of the

learned counsel for the parties, heard finally.

2. The challenge in this writ petition, under Article 226 of the Constitution of India is to the order dated 27th June 2025 passed by the District Magistrate, Solapur - Respondent No.1, detaining the petitioner for a period of 12 months. The order of detention has been confirmed by the respondent No.2-State in the Department of Home. The order of detention impugned herein has been passed on the ground of the petitioner's activities as a sand smuggler, are likely to be prejudicial to the maintenance of public order. The challenge is mainly on the following two grounds :

- i. In-camera statements to have not been duly verified i.e. truthfulness/veracity of the statements.
- ii. The petitioner to have not been supplied with all the documents relied on by the detaining authority for passing the order of detention.

3. The learned advocate for the petitioner, first took us to two in-camera statements and mainly the certificate of verification of those statements appearing on the flip side of those statements. According to the learned advocate, the concerned Police Officer has not verified truthfulness/genuineness of what has been stated to by the two witnesses whose in-camera statements have been recorded. According to her, the order/orders impugned herein is/are liable to be set aside. In

support of her claim, she relied on judgment of the Apex Court in case of *Phulwari Jagdambaprasad Pathak Vs. Shri. R. H. Mendonca & Ors.*¹

4. So far as regards second ground of challenge is concerned, learned advocate for the petitioner adverted our attention to paragraph No.6 of the order to submit an anonymous complaint in writing made against the petitioner was relied on by the detaining authority. The copy of the said complaint was not given to the petitioner. Non supply of copy of the said complaint caused great prejudice to the petitioner in his right to make an effective representation against the order of detention. In support of her submissions, she relied on the judgment of Apex Court in case of *Union of India Versus Ranu Bhandari.*²

5. The learned APP would, on the other hand, submit the petitioner had criminal history of crimes of theft of sand. Number of crimes were registered against him in the past. Even an order of his externment was passed. The same did not have any deterrent effect on the activities of the petitioner. The petitioner in the recent past indulged in commission of theft of sand. According to him, the petitioner reigned terror in the vicinity. Victims even did not dare to come forward to speak against the petitioner. Two of the victims, however came forward to give statements on condition of keeping their identity secret. According to him, perusal of those in-camera statements would indicate the petitioner to have threatened those two witnesses. Those were in relation to petitioner's

1 2000 ALL MR (Cri) 1503 (Supreme Court)

2 (2008) 17 Supreme Court Cases 348

activities as a sand smuggler. The petitioner even threatened one of those two and committed extortion. According to the learned APP, the order impugned herein has been passed after having subjectively satisfied with the material placed before the detaining authority. She would further submit that verification certificates appended to the in-camera statements go long way to indicate the Police Officer concerned to have been true to his job. Certain original communications were made available for our perusal. According to learned APP, there is contemporaneous record to indicate the detaining authority to have satisfied about the genuineness of the in-camera statements. The detaining authority was also satisfied that the concerned Police Officer had verified truthfulness of those statements. In support of his submissions, the learned APP relied on the judgment of this Court in the case of *Avinash Gopal Shilimkar Vs. The State of Maharashtra & Ors.* in Criminal Writ Petition No.2403 of 2025 with Interim Application (ST) No.15708 of 2025.

6. So far as regards other ground of challenge is concerned, the learned APP would submit that order of detention is based on the last crime registered against the petitioner and two in-camera statements. According to him, there is a passing reference of an anonymous complaint against the petitioner. The complaint has not weighed with the detaining authority to pass the order impugned herein. The learned

APP meant to say that the material which was placed before the detaining authority was quite sufficient in support of the impugned order of detention. According to him, an anonymous complaint was not a base for passing the order impugned herein. It was not necessary to provide the petitioner with a copy of such complaint. In support of his submissions, the learned APP relies on the judgment of this Court in case of ***Abhishek Pradip Tarkase Vs. The Commissioner of Police Nagpur City and Ors.*** in Criminal Writ Petition No.2825 of 2015.

6.1 The learned APP ultimately urged for the dismissal of the petition.

7. We have considered the submissions advanced. Perused the order impugned herein. The order of detention has been passed under Section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons and Video Pirates, Sand Smugglers and Persons Engaged in Black-Marketing of Essential Commodities Act, 1981 (for short 'MPDA Act'). The activities of the petitioner as sand smuggler were likely to be prejudicial to the maintenance of public order. The term, 'Sand Smuggler' defined in clause (e)-(2) of Section 2 of MPDA Act reads thus :

“(e)-(2) “Sand smuggler” means a person who individually or as at part of a group of persons is engaged in or is preparing to engage in or associated with or abets unauthorized extraction, removal, collection, replacement, picking up or disposal of sand and its transportation, storing and selling or who commits or attempts to commit or abets the commission of offences in respect of sand which are punishable under the Mines and Minerals (Development and Regulation) Act, 1957 or under the Maharashtra

Minor Mineral Extraction (Development and Regulation) Rules, 2013;

7.1 While the term ‘acting in prejudicial manner to the maintenance of public order’ means – (iv)-(a) :

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

8. Paragraph four of the detention order gives a list as catalogue of the crimes registered against the petitioner in the past and even preventive action initiated against, and reads thus :

“4(1) / That the previous history of the crimes registered against you in the past eight years shows your criminal background

Sr. No	Police Station	C.R No.	Section / Act	Date of registration	Date of arrest	Current Status/Result
1	Sangola	185/2018	U/S 160 Of I.P.C	10/03/2018	--	The offence has been proven, a fine of ₹ 100 is imposed in case of non-payment of the fine, and 4 days of imprisonment shall follow.
2	Sangola	462/2019	Section 379,	28/05/2019	18/6/2019	Court Pending R.C.C. 325/2019
3	Sangola	534/2019	Section 379, 34 of I.P.C. under Section 9 & 15 of Protection of Environment Act,	15/06/2019	26/06/2019	Court Pending R.C.C. 280/2020
4	Sangola	936/2020	Section 379, 34 of I.P.C. under Section 9 & 15 of Protection of Environment Act,	03/07/2020	03/07/2020	Court Pending R.C.C. 340/2020
5	Sangola	608/2022	Section 379, 34 of I.P.C. under Section 9 & 15 of Protection of	24/05/2022	23/10/2024	Court Pending R.C.C. 481/2022

Sr. No	Police Station	C.R No.	Section / Act	Date of registration	Date of arrest	Current Status/Result
			Environment Act,			

4(2) /- Information of the preventive action already initiated against you is as follows :

Sr. No.	Police Station	Chapter Case No	Section
1	Sangola Police Station	Order No. Extermen/S.R. No.4/2020 from the Probationary Assistant District Magistrate and Sub-Divisional Magistrate, Sangola Division	As per Section 56(b) of the Maharashtra Police Act, an order externing from Solapur & Sangli for a period of 01 year

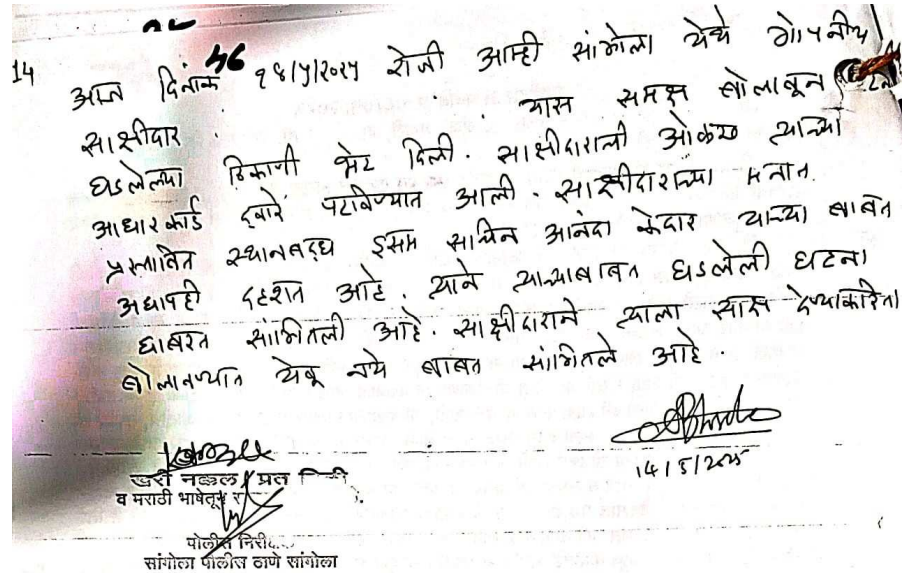
Subsequent to the filing of the criminal cases against you as mentioned in point 4(1), legal actions were taken from time to time. Furthermore, as mentioned in point number 4(2), you were exterminated from Solapur and Sangli district for Periods of 1 years under Sections 56(b) of the Maharashtra Police Act. Even after that, You Committed new Offence on that From all these, it is clear that, the legal actions and prevention actions against you have been inadequate and ineffective in order to prevent your criminal acts. It is also seen that, in future your attitude & inclination will remain supportive towards spreading fear in society and committing terrifying activities obstructive to public order.”

9. The last crime in the chart dates back to May-2022, the detention order has been passed about three year after registration of the last crime in the aforesaid chart. We are, therefore, of the view at registration of the crime and action of externment taken against the petitioner way back in 2022, and therebefore have no proximate connection with the order of the detention.

10. What weighed with the detaining authority to pass the impugned order is the registration of the crime, C.R. No. 207 of 2025 for the offences punishable under Sections 303(2) of BNS and under Section 9

and 15 of Protection of Environment Act besides under Section 4, (1),4(1)(c), and 21 of Mines and Minerals Act. When the detention order was passed, the said crime was still under investigation. It appears that the petitioner was granted bail in the said crime. Moreover, two in-camera statements recorded in the month of May-2025 have been relied on. Since nothing has been submitted as regards material to indicate whether the petitioner was actually involved in the crime, C.R No.207 of 2025 against him is concerned, we do not propose to read police papers of the said crime. Same is the case about the gist of in-camera statements.

11. Both in-camera statements bear certificates of verification of those statements as below :



12. In the case of *Phulwari Jagdambaprasad Pathak* (supra) the Apex

Court has observed thus :

“16. Then comes the crucial question whether ‘in-camera’ statements of persons/witnesses can be utilised for the purpose of arriving at subjective satisfaction of the detaining authority for passing the order of detention. Our attention has not been drawn to any provision of the Act which expressly or impliedly lays down the type of material which can form the basis of a detention order under Section 3 of the Act. Preventive detention measure is a harsh, but it becomes necessary in larger interest of society. It is in the nature of a precautionary measure taken for preservation of public order. The power is to be used with caution and circumspection. For the purpose of exercise of the power it is not necessary to prove to the hilt that the person concerned had committed any of the offences as stated in the Act. It is sufficient if from the material available on record the detaining authority could reasonably feel satisfied about the necessity for detention of the person concerned in order to prevent him from indulging in activities prejudicial to the maintenance of public order. In the absence of any provision specifying the type of material which may or may not be taken into consideration by the detaining authority and keeping in view the purpose the statute is intended to achieve the power vested in the detaining authority should not be unduly restricted. It is neither possible nor advisable to catalogue the types of materials which can, form the basis of a detention order under the Act. That will depend on the facts and situation of a case. Presumably, that is why the Parliament did not make any provision in the Act in that regard and left the matter to the discretion of the detaining authority. However, the facts stated in the materials relied upon should be true and should have a reasonable nexus with the purpose for which the order is passed.”

13. True, the afore-referred verification certificates do not indicate in so many words about the concerned Police Officer to have verified truthfulness/veracity of the incidents spoken about by the two witnesses. It may, therefore, appear that in-camera statements to have not been duly verified/certified. There is, however, contemporaneous record in the nature of a communication made by Additional Superintendent of Police of Rural Solapur to the SDPO Pandharpur

asking him to verify the truthfulness of those statements. To be specific the last paragraph of the said communication reads thus :

" तरी प्रस्तावातील गोपनीय साक्षीदारावर बितलेल्या प्रसंगाबाबत घडलेल्या ठिकाणी भेट देवून त्यांनी दिलेल्या जबाबातील हकीकतीच्या सत्यतेची पडताळणी करणेकरीता आपली नियुक्ती करण्यात येत आहे. उक्त प्रस्तावातील दोन गोपनीय साक्षीदारांचे जबाब सिलबंद लखोटयात आपणाकडे पाठविण्यात येत आहेत. यातील गोपनीय साक्षीदार यांना समक्ष बोलावून घेवून त्यांनी दिलेल्या जबाबातील सत्यतेची घडलेल्या घटनेच्या ठिकाणी भेट देवून आपण स्वतः पडताळणी करावी. त्यानंतर सदरचे जबाब पुन्हा सिलबंद करून केले कार्यवाईचा अहवालासह सिलबंद जबाब सत्वर पोलीस निरीक्षक, सांगोला पोलीस ठाणे यांच्याकडे पाठवावे."

14. In response to the said communication, the SDPO, who did the verification of those statements, made a report to the Superintendent of Police on 14th May 2025, i.e. the day on which the verification of the statement was made. For ready reference, the said communication is reproduced herein below :

17 28

	उपविभागीय पोलीसअधिकारीकार्यालय, पंढरपूरविभाग, पंढरपूर Ph.No- 02186-223855 Email Id -sdpo.div.pandharpur@gmail.com गोपनीय जावक क्रमांक :- 110 / 2024 पंढरपूर, दिनांक :- 14/05/2024
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प्रति,

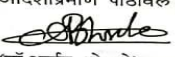
मा.पोलीस अधीक्षक सा.प.,
 सोलापूर ग्रामीण.
 यांना सविनय सादर.

रिपोर्ट :- डॉ.अर्जुन भोसले, उपविभागीय पोलीस अधिकारी, पंढरपूर उपविभाग, पंढरपूर
 याजकडून विनंती कि,
 विषय :- एम.पी.डी.ए.प्रस्तावातील गोपनीय साक्षीदारांच्या जबाबातील सत्यतेची पडताळणी केले बाबत...
 संदर्भ :- जा.क्र.१८ई/एल.सी.बी./एम.पी.डी.ए./सांगोला पोलीस ठाणे/२०२५-३७१६ सोलापूर ग्रामीण.
 दि.१३/०५/२०२५..

—०००—

महोदय,

उपरोक्त विषयान्वये सविनय सादर की, सांगोला पोलीस ठाणे यांच्या प्रस्तावातील स्थानबध्द इसम नामे..... याच्या विरुद्धच्या दोन गोपनीय साक्षीदारांच्या जबाबातील मजकुराच्या सत्यतेची व साक्षीदारावर बितलेल्या प्रसंगाबाबत घडलेल्या ठिकाणी दिनांक १४/०५/२०२५ रोजी भेट देवून सदर तीन साक्षीदारांची त्यांच्या आधारकार्डच्या द्वारे ओळख पटवून घेवून त्यांच्याकडे चौकशी केली आहे. त्यांनी घाबरलेल्या अवस्थेत पोलि/सांगोला पो.ठाणे यांनी घेतलेल्या जबाबाप्रमाणे हकीकत कथन केली आहे. आम्ही स्वतः गोपनीय तीन साक्षीदारांच्या जबाबाची पडताळणी केली असून त्यांच्या मनात प्रस्तावित स्थानबध्द नामे याची अद्यापही दहशत व भिती असल्याचे दिसून आले आहे.सदरच्या जबाबावर शेर नमुद केल्यानंतर सदर जबाब आम्ही स्वाक्षाकीत करून पुन्हा वेगळ्या लिफाफ्यामध्ये सिलबंद करून सदर पत्राच्या प्रतीसोबत पोलीस निरीक्षक सांगोला पोलीस ठाणे यांच्याकडे संदर्भाय आदेशाप्रमाणे पाठविले आहे.



(डॉ.अर्जुन भोसले)
 उपविभागीय पोलीस अधिकारी,
 पंढरपूर उपविभाग, पंढरपूर.

प्रत माहीतीकरीता व योग्य त्या कार्यवाहीकरीता :-
 पोलीस निरीक्षक,
 सांगोला पोलीस ठाणे.

15. Then there is another original document in the file which speaks of the detaining authority to have satisfied himself that the concerned Police Station Officer did verify truthfulness of in-camera statements. The Clause Nos.12 and 13 in the said document read thus :

अ.क्र.	चेकलिस्ट	लागू असले तेथे () अशी खूप करावी होय
१२	गोपनीय जबाबातील घटना व साक्षीदारास वाटत असलेली भीती खरी असल्याची पडताळणी वरिष्ठ अधिका-याने केली आहे. पडताळणी करताना संबंधीत अधिका-याचे नाव, पदनाम व दिनांक नमूद केला आहे.	होय
१३	अ.क्र. १२ मध्ये नमूद केलेल्या बाबीसंदर्भात स्थानबद्धता प्राधिका- यांनी समाधान व्यक्त केले आहे.	होय

16. From the contemporaneous record placed before us, we find that the SDPO did verify truthfulness of the in-camera statements, although the same is not spelt out in so many words in the verification certificates appended to the in-camera statements. According to us, the first ground of challenge therefore fails.

17. In the case of ***Union of India Versus Ranu Bhandari*** (supra) it has been observed thus :

“A. Preventive Detention – Communication of grounds of detention – Documents and materials to be/not to be supplied – Documents relied upon by detaining authority – Held, all such documents irrespective of whether against detenu or in his favour and whether detenu had knowledge thereof or not, must be furnished to detenu to enable him to make effective representation in exercise of his right under Art. 22(5) – Non-supply of such documents would vitiate the detention order – COFEPOSA Act, 1974, S. 3(1)”

18. Paragraph No. 6 of the detention order reads thus :

“I carefully observed the documents produced before me. On perusal of the continuation in criminal activities at para 5(1) and on the basis of confidential statements of witnesses at para No. 5(2)A and 5(2) B, I am subjectively satisfied that, you are engaged in the activities that caused obstacle to the public order situation. Due to the terror you have created, not all ordinary people come forward to openly complain against you, due to which an anonymous complaint has been received regarding your criminal activities. On seeing your criminal activities and your attitude, it is noticed that you are habitual criminal in future also you will participate in criminal activities that will cause obstacle to the public order situation therefore, I am subjectively satisfied that, it has become inevitable to detain you in order to prevent you from committing activities causing obstacle to public order in future as per provisions of Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons and Video Pirates, Sand smugglers and Person Engaged in Black Marketing of Essential Commodities Act, 1981 (MAH. Act No.IV of 1981) (Amendment Act-1996, 2009, 2015) (E-2)”

19. The learned APP may be right in his submission that a copy of the document which is not relied on for passing the detention order need not be supplied to the petitioner. After all it is a question of fact. Close reading of paragraph 6 of the order impugned states in so many words among other grounds namely registration of the crime, two in-camera statements and anonymous complaint received against the petitioner had also weighed with the detaining authority to pass the impugned order. The matter underlined hereinabove makes out the same. Admittedly, a copy of anonymous complaint has not been supplied to the petitioner. Had the copy of the complaint would have been supplied to the petitioner, he would have been in better position to make

effective representation against his detention order. Relying on the observations in the case of *Union of India Versus Ranu Bhandari* (supra) we find that non supply of a copy of anonymous complaint to the petitioner caused him prejudice in his right to make effective representation against his detention order. The order of detention is, therefore, liable to be set aside.

20. For the aforesaid reason, we find the order of impugned herein warrants interference in this writ petition. The writ petition, therefore, stands allowed in terms of following order :

::ORDER::

- i. The Writ Petition stands allowed;
- ii. The order of detention Dated 27th June 2025 and order of confirmation of the said order are hereby set aside.
- iii. The concerned authorities to release the petitioner forthwith, if he is not required, in any other case.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT, J.]