

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

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4548 OF 2025

Shivaji Nanaso Ingole]
(Father of Detenu)]
Age – 59 Years,]
R/o. Koptevasti, Sangola,]
Tal. Sangola, Dist. Solapur.] ... Petitioner

Versus

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. Jayshree Tripathi (Through V.C.) a/w. Ms. Anjali Raut & Mr. Amit Waykool for the Petitioner.

Mr. Shriram Chaudhari, A.P.P. for the Respondents-State.

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

Date : 5th February 2026.

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

- 1. Rule.** Rule made returnable forthwith. Heard finally with the consent of parties.
- 2.** The son of Petitioner i.e. Pappu Shivaji Ingole (detenu) 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 is the father of detenu. The detenu has been detained on the ground of his activities as a sand smuggler to be prejudicial to maintenance of public order. The concerned police officer therefore put up a proposal before the Respondent No.1- District Magistrate, Solapur. On appreciation of the proposal, the Respondent No.1- District Magistrate passed the order impugned herein.
- 4.** The challenge to the order is only on the ground of delay in passing order and the authorities to have not moved the Court concerned for cancellation of bail granted to the detenu in a crime registered against him for commission of theft of sand. Two in-camera statements have also been relied upon.
- 5.** We do not propose to reproduce submissions advanced by the learned counsel for the Petitioner, since the same may form part of the reasons in support of our order.

6. Learned A.P.P. on the other hand would urge that one more opportunity, as a last chance to file additional affidavit for and on behalf of the Respondent No.1-District Magistrate be granted, so as to explain the delay in passing the order. According to him, the offences of theft of sand, not less than 11 in numbers, were registered against the detenu. His criminal activities continued unabated. Moreover, two in-camera statements are there. According to him, it appears that the bail order was not placed before the District Magistrate. He, again, for this purpose, seeks time to verify the facts and circumstances and come back to this Court to respond to the Petition.

7. According to the learned A.P.P., the order impugned herein itself demonstrates subjective satisfaction of the detaining authority. He would further submit that the Court should be slow in exercise of power of judicial review in case of subjective satisfaction of the detaining authority in support of his contention as to subjective satisfaction of the detaining authority, the learned A.P.P. took us through the relevant paragraphs of the order and ultimately urged for the dismissal of the Petition, when this Court expressed its disinclination to grant him further time to come with additional affidavit.

8. Learned A.P.P. relied on a judgment in the case of *Krishna Hari Godambe Vs. The Commissioner of Police, Mumbai & Ors., reported in 2017 ALL MR (Cri) 4979*. The paragraph Nos.14 to 16 of the said judgment read

as follows :

"14. As far as delay is concerned, the main issue is whether the live-link is snapped. This depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guide lines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the court has to scrutinize whether the detaining authority has afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the Court has to investigate whether the causal connection has been broken in the circumstances of each case.

15. The Supreme Court in the case of Hemlata Kantilal Shah Vs. State of Maharashtra reported in (1981) 4 SCC 647 : 1982 SCC (Cri) 16 observed as under:-

"Delay ipso facto in passing an order of detention after an incident is not fatal to the detention of a person, for, in certain cases delay may be unavoidable and reasonable. What is required by law is that the delay must be satisfactorily explained by the detaining authority."

16. Coming to the case in hand, the detention order was issued on 7.10.2016 i.e after 3 months and 12 days from the date when the last in-camera statement was recorded which was recorded on 25.6.2016 and after 2 months and 17 days from the submission of proposal i.e on

20.7.2016. Looking to the prejudicial activities of the detenu, we are of the opinion that the delay, if any, during this period which is unexplained, would not snap the live-link between the prejudicial activities of the detenu and the purpose of detention. In any event, we are of the opinion that the delay has been satisfactorily explained. Thus, we find no merit in this ground.”

9. It needs to be mention that the question of delay is a matter of fact and therefore there could hardly be any precedent on this point. It is reiterated that in this case although there was long delay of over two months in passing the order post receipt of the proposal, there is no whisper in the impugned order regarding the same.

10. We have considered the submissions advanced. The order of detention is of 9th September 2025. The proposal for the detention of the detenu was moved on 30th June 2025. The office of the Superintendent of Police and the office of the District Magistrate are at one and the same place i.e. at Solapur. It has therefore to be assumed that the proposal reached the District Magistrate’s office within a couple of days. The order has been passed about 2 months and 8 days after the proposal was received. Though the ground of delay in passing the order is specifically raised in the Petition, the affidavit-in-reply already filed is silent on the said ground.

11. Time and again it has been held that the delay in passing order ipso facto is not a ground to set-aside the order of detention. It has however been

further observed that the detaining authority has to explain the delay, howsoever short or long. The order of detention is conspicuously silent to demonstrate as to why the delay has occurred in passing the order post receipt of the proposal.

12. So far as the other ground is concerned, the compilation of documents supplied to the detenu contains the bail order which indicates that the order of bail was placed before the District Magistrate. The detention order is however silent to refer to the bail order. Here again it needs to be stated that, when the police authorities have every remedy to approach the Court concerned to urge for cancellation of bail, the same was not resorted to.

13. So far as the in-camera statements are concerned, although such statements by themselves may be sufficient to pass an order of detention, the detention order is silent in stating that the in-camera statements alone formed a sufficient basis for passing the order. If the crime registered against the detenu, which prompted the concerned Police Station Officer to submit the detention proposal, is not considered, there ought to have been reasons indicating that the detaining authority had sufficient justification to pass the order solely on the basis of in-camera statements. It needs to be observed here itself that the in-camera statements were recorded before the crime was registered against the detenu.

14. For all the aforesaid reasons, we find the order impugned herein warrants interference in this Writ Petition. The Writ Petition, therefore, succeeds and is allowed in terms of prayer clause (b), which reads thus :

“(b) The order of Detention bearing No. 2025/DCB-2/RR-5402(1)/25 dated 09/09/2025 issued under Section 3 of M.P.D.A. Act 1981 by the Respondent No. 1 be quashed and set aside and on quashing the same the detenu (Pappu Shivaji Ingole) be ordered for release forthwith.”

15. The son of Petitioner i.e. Pappu Shivaji Ingole be released forthwith, if not required in any other case.

16. Rule made absolute in above terms.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT, J.]

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