

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

CRIMINAL WRIT PETITION NO.4761 OF 2025

Aditya Shailendra Mane,
Age : 23 years, Occ. Labourer,
r/o. New Thobade Mala, Degaon Road,
Solapur, Currently lodged at
Yerwada Central Prison

..Petitioner

Vs.

1. The State of Maharashtra
Home Department (Special),
Through the Addl. Chief Secretary,
Home Department (Special),
Government of Maharashtra,
Mantralaya, Mumbai 411 032
2. Commissioner of Police, Solapur,
Office of the Commissioner of Police,
New Administrative Building,
Gandhi Nagar, Solapur

..Respondents

Mr.Sangram Shinde i/b. Mr. Harsh Kashyap, Advocate for petitioner
Mr.P.P.Deokar, APP for respondents

**CORAM : R. G. AVACHAT &
AJIT B. KADETHANKAR, JJ.
DATE : FEBRUARY 03, 2026**

JUDGMENT (Per Ajit B. Kadethankar, J.) :-

Subject-matter:-

The order of detention dated 13.10.2025, passed by respondent no.2 - Commissioner of Police, Solapur, detaining the

petitioner under Section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous persons and video pirates Act, 1981 ("MPDA Act", for short) is challenged by the petitioner by filing present petition under Articles 226 and 227 of the Constitution of India.

2.1. An action u/s 3(2) of the Act had always been questioned by the detainees to be in serious controversy with the fundamental right to Freedom of Personal Life and Liberty as enshrined under Article 21 of the Indian Constitution.

2.2. In order to test the legality of the impugned detention on the parameters of facts, applicability of the provisions under the Act and the context of freedom of personal life and liberty, we framed following points to discuss:-

- i. Whether the antecedents considered for earlier fully executed detention, would form a material to be used for subsequent detention?
- ii. Whether a singular incidence apparently of an individualistic assault occurred with intention to daunt a boy to discontinue a love relationship objected by family, would constitute an offence against 'public order'?
- iii. Whether in camera statements obtained while the

detenue was in custody for the individualistic assault could be used to exercise action u/s 3(2) of the Act, in stead of challenging the bail order?

- iv. Without there being not a single incidence indicating an act against public order, after release on bail in the individualistic office, the detaining authority is justified in exercising the power u/s 3(2) of the Act?

3. Rule. Rule is made returnable forthwith. Considering the nature of petition, we have heard the parties for final disposal of the petition.

FACTS:-

4. Following are the antecedents of the petitioner:-

अ. क्र	पोलीस ठाणे	गुनोक्र व दाखल तारीख	कायदयातील कलमे	सध्यस्थिती
१	फौजदार चावडी	५९९/२०२१ दा.ता.२७/०८/२१	भादविक. ३७९,३४	न्यायप्रविष्ठ
२	फौजदार चावडी	६०१/२०२१ दा.ता.२९/०८/२१	भादविक. ३९२,३४१,३४	न्यायप्रविष्ठ
३	फौजदार चावडी	६०२/२०२१ दा.ता.२९/०८/२१	भादविक. ३७९,३४	न्यायप्रविष्ठ
४	फौजदार चावडी	७७/२०२३ दि.१२/०२/२०२३	क.१४३,१४४,१४५,१४७,१४८, १४ ९,४२७ भादंवि सह क.४/२५ भारतीय शस्त्र अधिनियम, क. १४२ महाराष्ट्र पोलीस अधिनियम, क. ७ फौजदारी कायदा (सुधारणा) अधिनियम, १९३२	न्यायप्रविष्ठ

अ. क्र	पोलीस ठाणे	गुनोक्र व दाखल तारीख	कायदयातील कलमे	सध्यस्थिती
५-१	फौजदार चावडी	६६०/२०२५ दि.११/०९/२०२५	क. ११८(१), ११८(२), ११५ (२), ३५१(३), ३५२, १८९, १९०, १९१(१), १९१(२), भा.न्या.सं. २०२३; सह क.१४२ महाराष्ट्र पोलीस अधिनियम	तपासावर

5. Below is the preventive action taken against the petitioner:-

क्र.	पोलीस अधिकारी	चप्टर केस व आदेश क्र./दि.	कायदयातील कलमे	सद्यःस्थिती
१	सहा.पोलीस आयुक्त, विभाग-१	८५/२०२१ दि.२३/११/२०२१	क. ११०(ई) (ग), १९७३. फौ.प्र.सं	दि.२४/०१/२०१२ रोजी १ वर्षे मुदतीचा चांगल्या वर्तवणुकीचे अंतिम बंधपत्र घेतले होते.
२	पोलीस उप- आयुक्त, परिमंडळ, सोलापूर	क्र.०५/२०२२ दि.२१/०३/२०२२	क.५५ महाराष्ट्र पोलीस अधिनियम, १९५१	पो.उप-आयुक्त, परिमंडळ, सोलापूर शहर यांनी तुम्हास वर्षाकरिता २ सोलापूर शहर व जिल्हयातून तसंच उस्मनाबाद जिल्हा व पुणे जिल्हयातील इंदापूर तालुक्यातून तडीपार केले होते. त्यानंतर, सदरचा आदेश दि.०४/०७/२०२३ रोजी रद्द केला आहे.
३	पोलीस आयुक्त सो., सोलापूर शहर.	क्र.८/सीबी/डिपी/२३ दि.०७/०७/२०२३	क.३(२) एमपीडीए १९८१	तुम्हास एमपीडीए कायदा क. ३(२) अन्वये एक वर्षा करिता स्थानबध्द केले होते. एक दर्षाचा स्थानबध्दतेचा कालावधी उपभोगून दि.०६/०७/२०२४ रोजी मुक्त झालात.

5.1 On 07.07.2023, a detention order under Section 3(2) of the MPDA Act was executed against the petitioner. Consequent to completion of the detention period for one year, the petitioner was released on 06.07.2024. Recently, on 11.09.2025, Crime No.660 of 2025 came to be registered at Foujdar Chawdi Police Station, Solapur, against the petitioner for the offences punishable under Sections 118(1), 118(2), 115(2), 351(3), 352, 189, 190, 191(1) and 191(2) of Bharatiya Nyay Sanhita (BNS). The petitioner was arrested pursuant to the last offence on 17.09.2025 and was released on bail on 22.09.2025.

5.2 On 13.10.2025, respondent no.2 satisfied himself subjectively from the record placed before him that an action under Section 3(2) of MPDA Act was needful to be imposed against the petitioner, whose activities could be termed as a 'dangerous person' within the meaning of Section 2(B-1) of MPDA Act. As such, the petitioner was saddled with the impugned order dated 13.10.2025 and is detained accordingly under the provisions of the MPDA Act. Hence, this petition.

SUBMISSIONS :-

6. Learned counsel for the petitioner records following objections to counter the impugned order of detention:-

- (i) The petitioner cannot be termed as a “dangerous person’ within the meaning of Section 2(B-1) of MPDA Act;
- (ii) He would further submit that the impugned order specifically refers to registration of Crime No.660 of 2025 dated 11.09.2025 at Faujdar Chawdi Police Station, Solapur, as the reason for initiating action under the provisions of MPDA Act.
- (iii) The petitioner was arrested in the Crime No.660 of 2025 and was released on bail.
- (iv) The bail order is not challenged by the respondents/authorities so far.
- (v) Previous offences recorded against the petitioner are during the period from year 2021 to 2023 and the last one is of dated 17.09.2025.
- (vi) The contents of complaint in Crime No.660 of 2025 (supra) cannot be termed as activities/offences against the public order. At the most, for the sake of arguments, it may constitute the individual assault.
- (vii) The in-camera statements reveal that those are absolutely stereo type and are not trustworthy.

(viii) The subjective satisfaction recorded by the detaining authority would not constitute truly subjective satisfaction for initiating action under Section 3(2) of MPDA Act.

As such, learned counsel for the petitioner prays for allowing the petition.

7. Mr.Deokar, learned APP would vehemently oppose the petition. He would invite this court's attention to the contents of the FIR in Crime No.660 of 2025, the in-camera statements of witnesses "A" and "B", the reasoning by the detaining authority recording its substantive satisfaction and the details for effecting the impugned order. Learned APP would further submit that there is no procedural defect in imposing the detention order against the petitioner. That, the petitioner has strong criminal antecedents as also the history of previous preventive action so also the detention order under Section 3(2) of MPDA Act Act. He further adds that there was sufficient material on record that subjectively satisfies the detaining authority that the petitioner certainly fall under the definition of "dangerous person" and his activities are so detrimental to the "public order" that his detention is fully justified. As such, learned APP prays to dismiss the petition.

8. CONSIDERATION :- We have heard the parties at length and perused the record.

8.1 It is the peculiar fact of this case that an action under Section 3(2) of the Act was even earlier initiated and exercised against the Petitioner in the year 2023. He was detained w.e.f. 07.07.2023 to 06.07.2024.

8.2 Obviously, the criminal antecedents prior to 2023 were taken into consideration by the detaining authority at the relevant time. We need not go into the details of the merits of the earlier detention order.

8.3 Post release from the earlier detention on 06.07.2024, there is only one crime recorded against the Petitioner i.e. Crime No. 660 of 2025 registered at Faujdar Chavadi Police Station, Solapur for offences punishable under Sections 118(1), 118(2), 115(2), 351(3), 352, 189, 190, 191(1) and 191(2) of Bharatiya Nyay Sanhita.

8.4 In the light of these facts, we have to test the impugned action of the R.No. 2 on the question as to 'whether the single offence of 2025 could trigger the detaining authority to impose detention against the petitioner u/s 3(2) of the Act'.

9.1 The text of the complaint is as follows:-

- a. One Gayatri Kamble who happened to be sister of Petitioner's friend namely Samarth Kamble was in love relations with one Yash Landge.
- b. Families of both Gayatri and Yash was unhappy with the relationship between Gayatri and Yash Landge. On 08-09-2025 while Gayatri and Yash had assembled at lake near Siddheshwar Temple Solapur, Yash Landge's mother namely Vandana interfered therein and scolded Gayatri and her friend Meghana reminding them earlier instruction to avoid meeting Yash. She further warned Gayatri not to meet Yash again.
- c. However despite that, Yash Landge went to Gayatri's house at Thobde Vasti on her call. Samarth i.e. Gayatri's brother learnt that Yash has arrived at their house. Annoyed by this, Samarth sent his two friends to call Yash at Mutt located at Damaninagar. When Yash was taken at the Mutt, Samarth's friends including the Petitioner beat him. It is alleged that the Petitioner questioned Yash as to how Yash

could dare to visit Gayatri despite the incidence that occurred during the noon. Thus at about 12.00 p.m. of 08-09-2025, To dissuade Yash Landge from continuing relations with Gayatri, her brother along with his friends including the Petitioner assaulted the complainant Yash Landge. Pursuant to this, Yash Landge lodged crime no. 660 of 2025 based solely on which the impugned action has been taken by the detaining authority against the Petitioner.

- d. It is apparent from the recitals of the complaint in Crime No. 660 of 2025, that the act of the Petitioner can not be said to be against 'Public Order'. There is difference between an act against 'law & Order' and 'Public Order'.
- e. The incidence in Crime No. 660 of 2025 is purely of individualistic nature. It has history of the love relations between Gayatri Kamble and the complainant Yash Landge, and the incidence took place solely to discourage the said relationship. This can, by no stretch of imagination be said to be an act against public order.

- f. It is also pertinent note that the in camera statement 'A' refers to an incidence that took place in the month of August 2025. Even recitals of the same also reveal that Petitioner tried to assault the witness and his associates destructed his canteen.
- g. The statement of witness 'B' is also on the same line of the witness 'A'. None of them speak about specific details about date of alleged incidences. While witness 'A' speaks about August 2025, Witness 'B' refers to first week of September 2025 i.e. prior to the registration of Crime NO. 660 of 2025.
- h. We also find that the 'A' statement is recorded on 20-09-2025 while Petitioner was behind bar before could be released on bail in the Crime NO. 660 of 2025. 'B' statement is recorded on 22-09-2022 on which day the Petitioner was ordered to be released on bail.
- i. The petitioner is released on bail on 22.09.2025 in connection with Crime No.660 of 2025. As observed above, the in-camera statements were obtained even

before he could be physically released on bail pursuant to the order dated 22.09.2025. As a matter of fact, the authorities had not challenged the petitioner's bail order nor any application for cancellation of bail has been preferred by the police authorities. It is also not the case of the detaining authority or the police authorities that the petitioner, after his release on bail, has committed any activity detrimental to the public order. Under such circumstances, this court has consistently deprecated the practice of engaging the persons under detention by taking recourse to Section 3(2) of the MPDA Act. The impugned order itself is silent on the point as to why the action of detention has been placed into service under such circumstances, while there is no act on the part of the petitioner to trigger the detention procedure.

- j. There is unexplained delay between the dates of in-camera statements and the detention order. The detention order as also the reply affidavit are silent as to when a proposal for initiating action under Section 3(2) of the MPDA was proposed by the police authorities to the detaining authority. The entire detention procedure must be

transparent. Any gray area or missing link in the process creates clouds on the process itself. Detention is not an unfettered right of the detaining authority, as has been held consistently by this Court and the Hon'ble Supreme Court in catena of judgments.

10.1 We may make profitable reference to an order passed by this Court at Bombay in **Criminal Writ Petition no. 2867 of 2025 dated 18-12-2025 (Omkar alias Tedyu Umesh Satpute Vs. State of Maharashtra and ors.)** of which paragraph Nos. 6.1 reads as follows:-

6.1) We are of the opinion that, any and every disorderly or wrongful behaviour of a person in a public space or commission of wrongful act or offences will surely disturb and affect peace and social equilibrium in an area or locality to a certain extent and may at times be aggravated to law and order situation. Such law and order situation can be dealt with by the law under the normal criminal system. Every such disorderly behaviour or infraction as we may call it does not and cannot be said to affect public order or be termed as public disorder. Every public disorder will emanate from law and order situation but it is not necessary that every law and order situation culminates into a public disorder kind of situation. A quarrel between two individuals or an assault on an individual will be termed as a personal or individualistic attack which will affect those individuals and others to a certain extent but will surely not disturb public peace or amount to a situation of public disorder. Individualistic acts raise only a law and order problem.

10.2. In **Kuso Sah Vs. State of Bihar [Kuso Sah Vs. State of Bihar,:(1974) 1 SCC 185**, in paragraphs 4 and 6, it has been held that:-

"4.... The two concepts have well defined contours, it being well-established that stray and unorganised crimes of theft and assault are not matters of public order since they do not tend to affect the even flow of public life. Infractions of law are bound in some measure to lead to disorder but every infraction of law does not necessarily result in public disorder.

6.... The power to detain a person without the safeguard of a court trial is too drastic to permit a lenient construction and therefore Courts must be astute to ensure that the detaining authority does not transgress the limitations subject to which alone the power can be exercised."

10.3. We also place our hands on another order passed by this Court at Aurangabad in **Criminal Writ Petition no. 1026 of 2024 (Vaibhav @ Swapnil Balasaheb Shelke Vs. State of Maharashtra and ors.,) on 14-08-2025** of which paragraph No.13 reads thus:-

13. The copy supplied to the petitioner of the in-camera statements do not contain day or date of the incident allegedly committed by him. Same appears to have caused the petitioner prejudice in his defence to meet those statements. Be that as it may. We find no live link between the last two crimes registered against the petitioner under I.P.C. and the impugned order. Only with a view to make out a live link, in-camera statements appear to have been recorded. True, the grounds of detention are separable (Section 5A of the MPDA Act). In the order of detention it has not been so observed. In the Marathi version of order of

detention, there is reference of a chapter case initiated against the petitioner under Section 110 of Cr.P.C., while in the English version thereof, it is recorded as Section 107 of Cr.P.C. Then it would be anybody's guess as to whether really chapter case under Section 110 of Cr.P.C. was initiated against the petitioner and the bond of good behaviour obtained from him. No papers relating to the said chapter case were supplied to the petitioner. The same too amounts to non-supply of grounds of detention or all the material relied on for passing of the order impugned herein. For all these reasons, we find interference with the order impugned herein to have been warranted.

11.1 In view of above, we are of the opinion that the impugned order ought not to have been issued nor the Petitioner ought to have been detained on the basis of a singular incidence post last detention which is in fact an individualistic offence, but not an offence against 'Public Order'. The In camera Statements 'A' and 'B' do not inspire confidence as to its genuineness nor could be used merely to frame the Petitioner to make out a case of breach of 'public order', more so, while the bail order is not challenged by the prosecution.

11.2 It is trite law that the provision u/s 3(2) of the Act can not be used as a tool to keep a person consistently behind bar. Such action even under the garb of so called acts against public order deprives the constitutional right of liberty of the persons like the Petitioner.

11.3 The power u/s 3(2) of the Act must be used in exceptional circumstances and to protect and preserve Public Order. A singular incidence of private assault or individualistic offence could not be used as ground to hold a person 'dangerous person' within the meaning of the Act and to initiate an action u/s 3(2) of the Act.

11.4 Grounds to initiated action u/s 3(2) of the Act cannot be dug out. The contents of in camera statements and the circumstances in which those are obtained has much importance while to co-relate those with the criminal antecedents of a person. Its not sufficient that such statement merely refers to a particular incidence, but those must inspire confidence in mind that the detainee a dangerous person within the meaning of law who persistently act against the public order.

11.5 Sequence of the criminal antecedents of the detainee, recording of in camera statements and the circumstances prevailing while the in camera statements play vital role in deciding legality of an order passed u/s 3(2) of the Act.

11.6 Reference to any offending act of the detainee in the in camera statement which apparently doesn't not make out an offence

against public order, might be used to oppose bail or for cancellation of bail. But in no circumstances it can be used to prepare a case u/s 3(2) of the Act.

11.7 Accordingly, we record our findings as 'No' to the points framed by us for deciding the legality and validity of the impugned detention order.

12. For the reasons recorded above, we have no room of doubt in our minds that the impugned order must go. Hence we pass following order.

- (i) The Criminal Writ Petition is allowed in terms of prayer clause (a);
- (ii) The impugned order dated 13.10.2025, passed by respondent no.2 - Commissioner of Police, Solapur is quashed and set aside;
- (iii) The Petitioner be released from detention forthwith if not required in any other offence.
- (iv) Rule made absolute in above terms.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT, J.]

KBP