

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.5907 OF 2025

Bhaskara Kale Gauda

.. Petitioner

Vs.

The Commissioner of Police
Brihanmumbai, Opposite Crawford
Market, Mumbai & Ors.

.. Respondents

...

Mr. Nitin H. Sejpal with Mr. Prabhanjay Dave, Mrs. Pooja N. Sejpal
and Mr. S. Gharat, advocates for the petitioner.

Mr. S.V. Gavand, Addl. P.P. for the respondent nos.1 to 4.

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 9th FEBRUARY 2026

PER, SHREE CHANDRASHEKHAR, CJ:

This writ petition seeks to challenge the order dated 19th September 2025 passed by the Commissioner of Police under the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons, Video Pirates, Sand Smugglers, Persons Engaged in Black-marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficking Act, 1981 as amended up to 2025 (hereinafter referred to as "MPD Act").

2. Briefly stated, the petitioner was detained pursuant to a detention order no. 07/PCB/HT/Zone-II/2025 dated 19th September 2025 alongwith the committal order issued by the Commissioner of Police under section 3 (2) of the MPD Act. In compliance of section 8 of the Act, the petitioner was also served with the grounds of detention alongwith the copies of documents placed before the detaining

authority. As per the committal order, the petitioner was initially detained at Thane Central Prison, Thane and produced before the Advisory Board. He is presently lodged at Nashik Road Central Prison, Nashik. The petitioner states that the detaining authority while passing the detention order has relied upon an incident that took place on 15th July 2025, pursuant to which offence under sections 3,4,5,7(1)(b) of the Immoral Traffic (Prevention) Act, 1956 was registered against him vide C.R No.0634 of 2025. The petitioner further states that he was produced before the learned Special Judge on 16th July 2025 and was remanded till 18th July 2025 and thereafter to judicial custody till 21st July 2025. The petitioner filed an application for bail which was granted despite the prosecution's objection, upon his executing a P.R. bond and a surety bond in the sum of Rs. 25,000/-, subject to such other conditions as to be imposed upon him.

3. Like any other detention statute, the MPD Act is enacted for preventive detention of persons who are engaged in certain activities as defined under the definition clause in the said statute. The MPD Act under sub-clause (a) to section 2 defines the expression "acting in any manner prejudicial to the maintenance of public order". Clause (iv) provides that a dangerous person is a person who is engaged in a human trafficking or is making preparations for engaging, in any of the activities as a human trafficker which affect adversely, or are likely to affect adversely, the maintenance of public order. Explanation to clause V of section 2(a) indicates that the expression "public order" has been used in the MPD Act in a wider sense. This explanation covers every activity which adversely affects directly or indirectly whether causing or calculated to cause any harm, danger or alarm or a feeling of insecurity, among the general public or any section thereof

or a grave or widespread danger to life or public health. It also refers to disturbance in tranquility and day to day life of the community. The definition clause V of section 2(a) with Explanation under section 2 of the MPD Act is not under challenge and, therefore, plain meaning to the said provision has to be assigned by the Court.

4. The activities alleged against the petitioner shall fall under the expression "public health". However, the learned counsel for the petitioner submits that when the women indulged in the activities of prostitution are found to be of an adult age and there is no finding recorded by the detaining authority that public health shall be affected, the order of detention dated 19th September 2025 is vitiated and liable to be set aside. The learned counsel for the petitioner refers to decisions in "*Shaikh Nazneen*¹", "*Mustakmiya Jabbarmiya Shaikh*²", "*Umesh Shivaji Vetal*³", "*Atik Ghulam Hussain Qureshi*⁴", "*Roshini Devi*⁵", "*Ameena Begum*⁶" "*Pushkar Mukherjee*⁷", "*Kanu Biswas*⁸" to submit that the detention order dated 19th September 2025 falls foul of the expression "public order" and cannot sustain the scrutiny in law.

5. In the first place, we are inclined to indicate that the order passed in "*Mustakmiya Jabbarmiya Shaikh*" was with respect to Gujarat Prevention of Anti-Social Activities Act, 1985 and the order passed in "*Roshini Devi*" was with respect to Telangana Prevention of Dangerous Activities Boot-Leggings, Dacoit, Drug Offenders, Goondas, Immoral, Traffic Offenders [Land-Grabbers, Spurious Seed Offenders,

¹ *Shaikh Nazneen v. State of Telangana and Others* (2023) 9 SCC 633.

² *Mustakmiya Jabbarmiya Shaikh* (1995) 3 SCC 237.

³ *Umesh Shivaji Vetal v. District Magistrate, Ahilyanagar & Ors.* 2025 ALL MR (Cri.) 4509.

⁴ *Atik Ghulam Hussain Qureshi v. District Magistrate, Ahilyanagar & Ors.* 2025 ALL MR (Cri.) 4634.

⁵ *Roshini Devi v. The State of Telangana & Ors.* SLP (CrI.) No.18223 of 2025 decided on 8th January, 2026.

⁶ *Ameena Begum v. The State of Telangana & Ors.* (2023) 9 SCC 587

⁷ *Pushkar Mukherjee & Ors. v. State of West Bengal* (1968) SCC Online SC 334

⁸ *Kanu Biswas v. State of West Bengal* (1972) 3 SCC 831

Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders] Act, 1986. Whereas, as noticed above, the petitioner has been detained in respect of the activities of human trafficking in which he engaged himself. Not only such activities are social evil and create insecurity in the minds of the general public, but it also affects the public health. The Hon'ble Apex Court in "*Pesala Nookaraju*"⁹ has held as under:-

"16. The essential concept of the preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. The basis of detention is the satisfaction of the executive of a reasonable probability of the likelihood of the detenu acting in a manner similar to his past acts and preventing him by detention from doing the same. A criminal conviction on the other hand is for an act already done which can only be possible by a trial and legal evidence. There is no parallel between the prosecution in a court of law and a detention order under the 1986 Act. One is a punitive action and the other is a preventive act. In one case a person is punished on proof of his guilt and the standard is proof beyond the reasonable doubt, whereas in the other a person is detained with a view to prevent him from doing such act(s) as may be specified in the Act authorising preventive detention."

6. The executive authority under the MPD Act has demonstrated a sound application of mind while passing the impugned order and, in view of the same, we find no reason to interfere in this writ petition.

7. Accordingly, Writ Petition No.5907 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

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⁹ *Pesala Nookaraju v. State of A.P.* (2023) 14 SCC 641