

JVS.

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

CRIMINAL WRIT PETITION NO. 6259 OF 2025

Sohel @ Suhail Mushtaque Khan	}	Petitioner
Versus		
State of Maharashtra & Ors.	}	Respondents

Mr. Vivek M. Punjabi with Mr. Priyansh R. Jain, Advocates
for the Petitioner.

Mr. S. V. Gavand, APP for Respondent No. 1-State.

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

DATE: 18th FEBRUARY 2026

P.C.:

To challenge the detention order dated 10th October 2025 passed by the Commissioner of Police, Brihanmumbai, the petitioner aged about 21 years has approached this Court.

2. The petitioner had been detained under the detention order no. 09/PCB/DP/ZONE-VI/2025 alongwith a committal order dated 10th October 2025 passed by the Commissioner of Police, Brihanmumbai under section 3 (2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous persons, Video Pirates, Sand Smugglers and Persons engaged in Black-marketing of Essential Commodities Act, 1891 (in short MPDA Act).

3. Under section 8 of the MPDA Act, the petitioner was also served with the grounds of detention alongwith the copies of documents placed before the detaining authority. The committal order further directed that the petitioner be detained at Thane Central Prison, Thane until his production before the Advisory

Board and thereafter be transferred to Nashik Road Central Prison, Nashik for continued detention. Upon perusal of the proposal for the detention of the petitioner along with papers placed by the sponsoring authority, that is, Trombay police station, Mumbai, the Commissioner of Police passed the detention order which is primarily based upon C.R. No. 334 of 2025 registered against the petitioner in the recent past under sections 309(6), 351(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 read with section 142 of the Maharashtra Police Act, 1951. The petitioner was produced before the learned Judicial Magistrate First Class, 60th Court, Kurla and was sent to the judicial custody until 11th July 2025. Eventually, the petitioner applied for bail in C.R. No. 334 of 2025 and the same was granted by order dated 4th July 2025 on executing personal bond and surety bond of Rs.15,000/- subject to such other conditions as were imposed upon him.

4. In the order dated 10th October 2025 passed under section 3(2) of the MPDA Act, the Commissioner of Police has authorised detention of the petitioner until he was produced before the Advisory Board. The Commissioner of Police passed a separate order on 10th October 2025 through which the petitioner was informed that the detention order has been passed against him after having considered the relevant documents. The petitioner was further informed that if there is any error in the documents or some papers were illegible or missing, he had the liberty to make a request in writing to the detaining authority and on such request made by him, the documents shall be supplied to him. The detention order dated 10th October 2025 was approved by the Government of Maharashtra vide the government order dated 16th October 2025 and a separate order was issued in that regard.

5. Mr. Vivek M. Punjabi, the learned counsel for the petitioner submits that the powers under MPDA Act cannot be exercised in a case where the respondent-authority can resort to and take action under the ordinary criminal law. The learned counsel for the petitioner further contends that the petitioner has been granted bail in the criminal cases registered against him. However, no application seeking cancellation of bail was filed by the police. The statements made by in-camera witnesses in July, 2025 have been taken into consideration while passing the detention order on 10th October 2025 without any justification. The submission made at the Bar is that the liberty of a citizen cannot be curtailed by resorting to the preventive detention draconian statutes on mere surmises of the detaining authority. The learned counsel for the petitioner referred to the observations by the Hon'ble Supreme Court in "*Mallada K. Sri Ram v. The State of Telangana*" (2023) 13 SCC 537 which was referred by a co-ordinate Bench of this Court in Criminal Writ Petition No. 469 of 2022 titled "*Devidas Lalji Ade v. State of Maharashtra & Ors.*".

6. In the first place, we would indicate that the facts in "*Devidas Lalji Ade*" were quite different. In that case, three criminal cases were registered against the detainee but he was not arrested in those cases and was merely served with a notice under section 41-A(1) of the Code of Criminal Procedure, 1973. There was an action initiated against the detainee under section 93 of the Maharashtra Prohibition Act, 1949 for execution of bond and ultimately that proceeding was dropped against him.

7. Just to indicate, there is no law of precedent in criminal cases (refer: "*Willie (William) Slaney v. State of Madhya Pradesh*", (1955) 2 SCC 340). Every order of detention has to be examined in the facts

of that case. May be the preventive detention statutes are very harsh and ensues serious consequences to the detenue by restricting his right to liberty, but then, a writ Court has limited jurisdiction to interfere with an order of detention passed by the competent authority which has been approved by the State government within the statutory period. A preventive detention order which is passed on subjective satisfaction of the detaining authority is not open to challenge on mere showing of some mistake in the detention order. The writ Court shall interfere in the matter where it is *prima facie* demonstrated before the Court that there was no material at all to pass the detention order.

8. The petitioner has a formidable criminal past. He had an early foray into the crime world at a young age. The cases registered against him are of serious nature. The FIRs vide (i) C.R. No. 222 of 2025 dated 29th April 2025 at Trombay Police Station under section 142 of the Maharashtra Police Act, 1951; (ii) C.R. No. 330 of 2025 dated 25th June 2025 at Trombay Police Station under section 142 of the Maharashtra Police Act, 1951; (iii) C.R. No. 334 of 2025 dated 27th June 2025 at Trombay Police Station under sections 309(6), 351, 352 of the Bharatiya Nyaya Sanhita, 2023 read with section 142 of the Maharashtra Police Act, 1951; and (iv) C.R. No. 677 of 2025 dated 28th June 2025 at Powai Police Station under sections 304(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 read with section 142 of the Maharashtra Police Act, 1951 have been registered against the petitioner. There is a description of an incident which happened on 24th June 2025 in which the petitioner is said to have started assaulting the complainant. It is stated that the petitioner, when crowd gathered there became aggressive and threatened them with a bamboo stick. The local residents shut their

doors and windows. The petitioner, thereafter, left the place. There are other incidents narrated in the order dated 10th October 2025 which records that the petitioner and his associates used to move in the area armed with iron rods, knives, bamboo sticks etc.

9. In the background of such criminal activities of the petitioner, we do not find any substance in the submission made by Mr. Vivek M. Punjabi, the learned counsel for the petitioner that the respondent-authority could have taken action against the petitioner under the ordinary criminal law. The detention order is passed to prevent the detainee from committing further crimes. The ordinary criminal law shall take effect only after a crime is committed by a person. This is also not a ground that the orders granting bail to the petitioner have not been challenged. The expression “public order” cannot be defined in a straight jacket formula and it shall take its colour in the peculiar facts and circumstances of the case. The activities of the petitioner which have caused serious apprehensions in the minds of the general public residing in the area that they may be victim of a crime if they come across the petitioner shall definitely be an activity which shall amount to disturbing the public order.

10. Writ Petition No. 6259 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]