IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 35 OF 2026

Anil @ Anil Punjabi s/o Suresh Pawar
Age :- 245 years, Occ. Labour,
R/o Anil Nivas, Govoind Nagar,
Hingoli Naka, Nanded,
Tq. & Dist. Nanded …Petitioner

VERSUS

1. The State of Maharashtra
Through its Section Officer,
Home Department (Special),
Mantralaya, Mumbai-32;

2. The District Magistrate,
Nanded, Tq. & Dist. Nanded

3. The Superintendent of Jail,
Nanded District Prison Class- 2,
Dist. Nanded ...Respondents

…

Mr. S. S. Gangakhedkar, Advocate for the Petitioner.
Mr. S. P. Sonpawale, A.P.P. for Respondent Nos. 1 to 3.

…

CORAM : SANDIPKUMAR C. MORE AND ABASAHEB D. SHINDE, JJ.

Reserved on : 20.04.2026

Pronounced on : 15.06.2026

JUDGMENT (PER : ABASAHEB D. SHINDE, J.) :

1. Heard. Rule. Rule is made returnable forthwith. With the consent of the parties Writ Petition is taken up for final hearing at the stage of admission.

2. By this Writ Petition, the petitioner has questioned the detention order and committal order dated 30.10.2025 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-72, passed by Respondent No.2-District Magistrate, Nanded in exercise of powers under Section 3 (1) of 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 Trafficker Act, 1981 (hereinafter referred to as *"MPDA Act"*) and approval order dated 07.11.2025, as well as the confirmation order dated 26.12.2025 bearing No. MPDA-1125/CR-616/Spl-3B passed by Respondent No.1-State Government in exercise of powers under Section 12 (1) of the MPDA Act. By the impugned detention order, the petitioner has been directed to be detained for a period of 12 months on the ground that the petitioner is a "*dangerous person*" within the meaning of Section 2 of the MPDA Act holding his activities prejudicial to the maintenance of public order.

3. The impugned detention order is based on the proposal submitted by the Police Inspector, Police Station, Shivajinagar, Dist. Nanded dated 24.09.2025. The said proposal has been routed through the Sub Divisional Police Officer, Sub Division Itwara, Nanded and Superintendent of Police, Nanded and eventually placed before

Respondent No.2-District Magistrate, who claims to have arrived at a subjective satisfaction that, the petitioner's detention is necessary to prevent him from acting in manner prejudicial to public order. It is pertinent to note that, the basis for submission of proposal for detention of petitioner is registration of seventeen (17) past criminal cases and one (1) chapter case against the petitioner. However, the impugned detention order is based on a solitary offence which is as follows :

Sr. No	Police Station	Cri. No.	Section	Date of registration	Present Status
1	Nanded Rural	492/2025	U/Sec. 109, 61(2) BNS, 4/25, 27Arms Act.	24/05/2025	Court Pending

In addition to above crime, two in-camera statements of Witnesses 'A' and 'B' are also made basis for submission of proposal for detention of petitioner.

4. Learned Counsel for the petitioner has assailed the impugned order of detention on the following grounds :-

i. The detaining authority has passed the impugned detention order on the basis of a solitary crime bearing Crime No.492/2025. Though, the petitioner has been released on bail in connection with the said crime, however, the detaining authority has not considered the said bail order.

ii. Taking the allegations of the said solitary crime as it is, there is no live link between the said offence and the passing of the

impugned detention order.

iii. In the light of the fact that the petitioner has been released on bail in connection with the said crime, however, the same has been made basis for passing the impugned detention order which shows non-application of mind, as the detaining authority has failed to differentiate between the 'law and order' and 'public order'.

iv. The impugned detention order suffers from non-compliance of Section 10 of the MPDA Act, as the matter was not referred within mandatory period, nor the representation was forwarded to the Advisory Board.

v. The documents on the basis of which the proposal for passing the impugned detention order was forwarded were supplied to the petitioner at a belated stage; so also, the said documents were not legible.

vi. There is no proper verification of the statements of the in-camera witnesses, which is fatal to passing of impugned detention order.

5. To buttress his submission on the aforesaid grounds learned Counsel for the petitioner relied on the following judgements :-

i. ***Dhanubai Vs. State of Maharashtra and Others*** reported in 2024 SCC OnLine Bom 484

ii. ***Nilesh Sunil Pendulkar Vs. District Magistrate***, Ahmednagar and Others reported in 2024 SCC OnLine Bom 694

iii. ***Arjun Ratan Gaikwad Vs. State of Maharashtra and Ors.*** reported in AIR Online 2024 SC 915

6. Per contra, learned APP would oppose the writ petition by submitting that the detaining authority was subjectively satisfied that the petitioner is a "dangerous person" as defined in MPDA Act, as the petitioner has committed serious offences under Chapter XVI and XVII of Indian Penal Code, i.e., Chapter VI of the Bhartiya Nyaya Sanhita, 2023, and Chapter VI of the Arms Act, 1959. He would further submit that, in order to curb the future criminal activities of the petitioner, the detaining authority, upon considering the antecedents of the petitioner has arrived at a conclusion that, if not prevented the petitioner is likely to commit similar crimes in future, which would be prejudicial to maintenance of public order.

7. He would further submit that the statements of the in-camera witnesses would show that the petitioner had threatened the said witnesses and, therefore, the people residing within the vicinity of

Nanded Rural Police Station and adjoining area are under constant threat. He would further submit that, while passing the impugned detention order, the detaining authority has scrupulously followed the mandatory provisions contemplated under the MPDA Act. According to the learned APP, the impugned detention order has been passed on 30.10.2025, however, the detaining authority was required to prepare a detailed report, which took two days i.e. 31.10.2025 and 03.11.2025. It is further submitted that there were consecutive holidays on 01.11.225 and 02.11.2025, and thereafter, immediately on 04.11.2025, the proposal was forwarded to the State Government for approval under Section 3(3) of the MPDA Act, and the State Government has passed the order of approval on 07.11.2025.

8. It is further submitted by learned APP that the petitioner was in judicial custody, therefore, the grounds of detention and other relevant papers were served upon the petitioner through the Jail Authority and the said fact was intimated to the petitioner's sister. In short, the contention of learned APP is that there is no delay in passing the impugned detention order nor there is a delay in submitting the report to the State Government. Insofar as the ground with regard to supplying the illegible documents is concerned, it is submitted by learned APP that the documents supplied to the petitioner were readable. Learned APP therefore submits that the grounds raised by the petitioner

and canvassed by the learned Counsel for the petitioner are devoid of any substance.

9. Heard the learned Counsel for the petitioner and learned APP for the Respondents and perused the grounds of detention.

10. We find that the submissions advanced by the learned Counsel for the petitioner are worth consideration. Admittedly, the impugned detention order is passed on the basis of a solitary crime registered on 24.05.2025. It is also an admitted fact that the petitioner has been released on bail in connection with the said crime on 25.09.2025 by the learned Additional Sessions Judge, Nanded. Though there is a reference of date of passing of bail order, however, the detaining authority failed to consider the said aspect in its proper perspective which shows total non application of mind. It is settled position of law that non consideration of order of releasing the detenue on bail would vitiate the detention order. In that regard it would be apposite to rely on the judgment of the Hon'ble Apex Court in the case of ***Joyi Kitty Joseph Versus Union of India and Ors.;*** **(2025) 4 SCC 476**, wherein the Hon'ble Apex Court has observed thus :-

> *"32. Likewise, in the present case, we are not concerned as to whether the conditions imposed by the Magistrate would have taken care of the*

apprehension expressed by the detaining authority; of the detenu indulging in further smuggling activities. We are more concerned with the aspect that the detaining authority did not consider the efficacy of the conditions and enter any satisfaction, however subjective it is, as to the conditions not being sufficient to restrain the detenu from indulging in such activities.

33. Ameena Begum vs. State of Telangana, (2023) 9 Supreme Court Cases, 587, noticed with approval Vijay Narain Singh v. State of Bihar (1984) 3 Supreme Court Cases 14 and extracted paragraph 32 from the same (Vijay Narain Singh): (SCC pp.35-36).

> *"32....It is well settled that the law of preventive detention is a hard law and therefore it should be strictly construed. Care should be taken that the liberty of a person is not jeopardised unless his case falls squarely within... not be used merely to clip the wings of an accused who is involved in a criminal prosecution. It is not intended for the purpose of keeping a man under detention when under ordinary criminal law it may not be possible to resist the issue of orders of bail, unless the material available is such as would satisfy the requirements of the legal provisions authorising such detention. When a person is enlarged on bail by a competent criminal court. great caution should be exercised in scrutinizing the validity of an order of preventive detention which is based on the very same charge which is to be tried by the criminal court."*
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> *(emphasis supplied)*

34. The criminal prosecution launched and the preventive detention ordered are on the very same allegations of organised smuggling activities, through a network set up, revealed on successive raids carried on at various locations, on specific information received, leading to recovery of huge cache of contraband. When bail was granted by the jurisdictional Court, that too on conditions, the detaining authority ought to have examined whether they were sufficient to curb the evil of further indulgence in identical activities; which is the very basis of the preventive detention ordered.

35. The detention order being silent on that aspect, we interfere with the detention order only on the ground of the detaining authority having not looked into the conditions imposed by the Magistrate while granting bail for the very same offence; the allegations in which also have led to the preventive detention, assailed herein, to enter a satisfaction as to whether those conditions are sufficient or not to restrain the detenu from indulging in further like activities of smuggling".

11. So far as the aspect with regard to non supplying the relevant documents at the earliest that too non-legible documents has definitely

deprived the petitioner from making proper representation as guaranteed under Article 22(5) of the Constitution of India. Learned Counsel for the petitioner is therefore justified in relying upon the judgment of this Court, in the case of ***Nilesh Sunil Pendulkar (supra)*** in that regard, wherein this Court in paragraph Nos.17 and 20 observed thus :-

> *17. Learned Counsel for the petitioner would submit that the documents supplied to the petitioner were illegible. The petitioner was unable to make effective representation. Learned APP would repel this submission by stating that the petitioner was aware of the record comprising of papers of investigation of solitary offence and pited against him. He is not said to have been surprised by the papers, though they are illegible.*
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> *20. When petitioner was in detention, he was served with the documents, many of which were illegible. Somehow he made representation on 20.10.2023. There is every reason to believe that his right to make representation was paralyzed. While in detention, he is not expected to have relevant record with him. This being the position, we find merit in the submissions of the learned Counsel for the petitioner."*

12. We also find force in the submissions of the learned Counsel for the petitioner that the allegations made in the offense which is made basis for passing the impugned detention order does not amount to the act which is prejudicial to the public order but at the most it could be said to be an act of disturbing the law and order. In that regard, it would be apt to rely on the judgment in the case of ***Arjun Ratan Gaikwad (supra),*** wherein the Hon'ble Apex Court has duly considered this aspect in paragraph Nos.14 and 15 which reads thus :-

> *14. Recently, a Bench of this Court has referred to various judgments of this Court while following the law laid down by this Court in the case of Ram Manohar Lohia (supra), it will be appropriate to reproduce the following paragraph from the judgment of this Court in the case of Ameena Begum v. State of Telangana and Others.*

"38. For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquillity affects the public order and the question to be asked, as articulated by Hon'ble M. Hidayatullah, C.J. in Arun Ghosh v. State of W.B. [Arun Ghosh v. State of W.B., (1970) 1 SCC 98: 1970 SCC (Cri) 67: (AIR 1970 SC 1228)], is this: (SCC p. 100, para 3)

> *"3. ...Does it [the offending act] lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed?"*

39. In Arun Ghosh case [Arun Ghosh v. State of W.B., (1970) 1 SCC 98: 1970 SCC (Cri) 67: (AIR 1970 SC 1228)], the petitioning detenu was detained by an order of a District Magistrate since he had been indulging in teasing, harassing and molesting young girls and assaults on individuals of a locality. While holding that the conduct of the petitioning detenu could be reprehensible, it was further held that it (read: the offending act) "does not add up to the situation where it may be said that the community at large was being disturbed or in other words there was a breach of public order or likelihood of a breach of public order. (Arun Ghosh case [Arun Ghosh v. State of W.B., (1970) 1 SCC 98: 1970 SCC (Cri) 67: (AIR 1970 SC 1228)], SCC p. 101, para 5)"

40. In the process of quashing the impugned order, the Hidayatullah, C.J. while referring to the decision in Ram Manohar Lohia [Ram Manohar Lohia v. State of Bihar, 1965 SCC OnLine SC 9: (1966) 1 SCR 709: (AIR 1966 SC 740)] also ruled (Arun Ghosh case [Arun Ghosh v. State of W.B., (1970) 1 SCC 98: 1970 SCC (Cri) 67: (AIR 1970 SC 1228)], SCC pp. 99-100, para 3)

> *"3.... Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order.... It is always a question of degree of the harm and its effect upon the community.... This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."*

41. In Kuso Sah v. State of Bihar [Kuso Sah v. State of Bihar, (1974) 1 SCC 185: 1974 SCC (Cri) 84: (AIR 1974 SC 156)], Hon'ble Y.V. Chandrachud, J. (as the Chief Justice then was) speaking for the Bench held that: (SCC pp. 186-87, paras 4 and 6)

> *"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....*
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> *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." (emphasis supplied)*
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> *15. As to whether a case would amount to threat to the public order or as to whether it would be such which can be dealt with by the ordinary machinery in exercise of its powers of maintaining law and order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not be amounting to a threat to the public order. As against this, if a person in a public space where a number of people are present creates a ruckus by his behaviour and continues with such activities, in a manner to create a terror in the minds of the public at large, it would amount to a threat to public order. Though, in a given case there may not be even a physical attack."*

13. Applying the ratio laid down by the Hon'ble Apex Court in the case of ***Arjun Ratan Gaikwad (supra)***, we are of the considered view that the preventive detention is not mean to punish for the past act but to prevent the future activities which would be prejudicial to the maintenance of public order. Every criminal activity may not be termed as prejudicial to public order but at the most can be said to be an act disturbing the law and order. Mere registration of a solitary crime, in our considered view cannot be said to have a live link. We thus find that the impugned detention order is unsustainable in law. We, therefore are inclined to allow this Writ Petition. Hence, the following order :-

:: ORDER ::

i. The Writ Petition stands allowed.

ii. The impugned order of detention dated 30.10.2025 bearing No. 2025/RB-1/Desk-2/T-4/MPDA/CR-72 passed by Respondent No.1-District Magistrate, Nanded and the approval order 07.11.2025 as well as order of confirmation bearing No. MPDA-1125/CR-616/Spl-3B dated 26.12.2025 passed by Respondent No.1-State Government, are hereby quashed and set aside.

iii. The Petitioner – Anil @ Anil Punjabi s/o Suresh Pawar shall be released forthwith, if not required in any other offence.

iv. Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE, J.) (SANDIPKUMAR C. MORE , J.)

Narwade