



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION (ST) NO.19959 OF 2024

Vikram @ Bala Shahaji Sonavane Petitioner.
versus
Commissioner of Police and Ors. Respondents.

- Jayshree Tripathi a/w. Anjali Raut for the Petitioner.
- Smt. M. M. Deshmukh, APP for the State/Respondent.
- Mr. S. S. Patil, PSI Vartaknagar.

CORAM : SARANG V. KOTWAL &
S. M. MODAK, JJ.
DATE : 7th FEBRUARY, 2025

ORAL JUDGMENT: (*Per Sarang V. Kotwal, J.*)

1. The Petitioner has challenged the order dated 18/7/2024 passed by the Respondent No.1-The Commissioner of Police, Thane. By a separate order of committal of the same date, the Petitioner was directed to be detained in Nashik Road Central Prison, Nashik. The Petitioner was detained pursuant to the provisions 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, 1981. According to the

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detaining Authority he was a dangerous person within the meaning of the said Act.

2. Along with the detention order, the Petitioner was served with the grounds for detention dated 18/7/2024. In the initial paragraphs, in the grounds i.e. upto paragraph No.3, the past history of the Petitioner was mentioned. There is reference to 6 registered offences at Vartak Nagar Police Station between January 2019 to May 2024. There were two instances where preventive measures were taken against him. First one was an externment order passed in the year 2021 and the other was proceedings under Section 110(e) (g) of Cr. P. C. However it was clarified in paragraph 3 itself that this past history was mentioned only as an introduction of grounds of detention and they were not relied upon by the detaining Authority for forming subjective satisfaction to issue order of detention.

3. The grounds on which the detention order was passed were mentioned in paragraph-4. There was a reference to CR No.626/2024 registered at Vartak Nagar Police Station on

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21/5/2022 under Sections 397, 386, 427, 504, 506 of the IPC read with Section 37(1) and 135 of the Maharashtra Police Act . There is a reference to the ‘in camera’ statements of two witnesses ‘A’ and ‘B’ which are mentioned in paragraph 5.

4. As far as the registered offence was concerned, it pertained to the incident dated 21/5/2024. On that date at around 1.30 p.m the Petitioner entered the informants shop and demanded Rs.5,000/- The Petitioner abused him and threatened him. He assaulted the informant on his head with the handle of a weapon. The Petitioner took away Rs.40,000/- from the informant’s shop. The Petitioner also threatened him. On this basis , FIR was lodged. The investigation was carried out. The Petitioner was arrested on 21/5/2024. The investigation continued. The Petitioner made an application for bail and the bail order was granted in his favour on 12/6/2024.

5. ‘In camera’ statement of witness ‘A’ was recorded on 11/6/2024 in respect of an incident which had taken place in the first week of May 2024 at around 9.30 p.m. At that time, the
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Petitioner had demanded Rs.1,000/- from witness 'A'. The Petitioner assaulted him and by show of a knife removed Rs.700 from witness 'A'. The people in the locality got scared and ran away. This 'in camera' statement was verified by ACP, Vartak Nagar, Division Thane on 21/6/2024.

6. The statement of witness 'B' was recorded on 12/6/2024. It refers to another incident which had taken place in the 2nd week of May at around 10.15 p.m. On this occasion the Petitioner had threatened witness B and had assaulted him. He again had shown a knife to this witness and had forcibly taken Rs.1,100/- from witness 'B'. People in the area had got scared and had run away. This 'in camera' statement was verified by ACP, Vartak Nagar Division, Thane on 21/6/2024. Based on these activities, the respondent No.1 recorded his satisfaction regarding the necessity of passing the detention order.

7. The learned counsel for the Petitioner relied only on one ground to challenge the detention order. The said ground is mentioned in paragraph 5 (d). According to the learned counsel,

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the entire order granting bail was not placed before the detaining authority. Only the operative part of the order granting bail was furnished. The entire bail order ran into 5-6 pages giving reasons for grant of bail and it ought to have been placed before the detaining Authority and copy of the same should have been given to the Petitioner. According to the learned counsel, the bail order was a vital document and its non placement before the detaining Authority has vitiated the subjective satisfaction and had deprived the detenu from making effective representation at the earliest opportunity. Learned counsel for the Petitioner relied on various judgments of this Court as well as of the Hon'ble Supreme Court to support her contentions.

8. On the other hand learned APP submitted that in this particular case, the entire bail order was not a vital document and there were hardly any reasons mentioned in the bail order which would have affected the subjective satisfaction of the detaining Authority in passing the impugned order. She relied on the affidavit in reply filed by the Respondent No.1 and in particular referred to response of the detaining Authority to this particular rsk

ground i.e. 5(d) taken by the Petitioner in his petition. It is mentioned in the affidavit-in reply that bail application was part of the proposal submitted by the Authority to mention the prosecution story and the grounds to grant bail. The bail order was passed on that application. The Petitioner was having his own bail order on his own bail application. It is further mentioned that complete bail order was also given to the Petitioner in Nashik Road Central Prison, Nashik on 24/9/2024 and therefore he was not deprived of making any effective representation.

9. We have considered the submissions. The main question would be whether it was necessary to place the reasoned bail order before the detaining Authority to enable him to reach his subjective satisfaction. The compilation submitted along with the grounds of detention include the application for bail i.e. Criminal Bail Application No.953/2024 presented before the Court of Sessions at Thane. It formed part of the compilation submitted before the detaining Authority and also formed the compilation which was given to the Petitioner. The operative part formed part of the compilation which was placed before the detaining
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Authority and a copy of which was also given to the Petitioner along with the grounds of detention. The contention of the Petitioner is that, this particular document forms only the operative part. The entire order including the reasons for granting bail to the Petitioner was not forming part of the compilation submitted before the detaining authority. Neither was this supplied to the Petitioner when the grounds of detention were supplied to him.

10. Learned counsel for the Petitioner relied on various judgments to support her case. From amongst all these judgments the judgment of the Division Bench of this Court in the case of ***Anil Tukaram Mohite vs. Commissioner of Police Pimpri Chinchwad & Ors.*** as reported in ***2021 ALL MR (Cri) 3794*** crystallizes the position on this particular issue. This judgment has taken note of the relevant observations of the Hon'ble Supreme Court in the earlier cases and in particular referred to the following two cases: ***K. Varadhraj vs. State of T. N. & Anr, (2002) 6 SCC 735*** and ***Abdul Sattar Ibrahim Manik vs. Union of India and Ors., (1992) 1 SCC 1.***

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11. After considering the relevant law on the point, the Division Bench in paragraph 32 observed that the Supreme Court has held that it is clear that placing of application for bail and the order made therein are not always mandatory and such requirement would depend on the facts of each case.

12. The legal position on this issue is quite clear which is reproduced by the Division Bench of this Court in the case of Anil Mohite. There is hardly any dispute regarding this settled legal position.

13. In the present case, therefore, we will have to see the bail order passed by the Competent Court granting bail to the Petitioner. A copy of the entire bail was produced before us for our perusal. It is taken on record and marked “X” for identification. The said order was passed by Additional Sessions Judge, Thane on 12/6/2024. Till paragraph 3 the prosecution story was mentioned and in paragraphs 7 and 8 submissions of the rival counsel were reproduced. The reasoning part is only in paragraph 9 which reads
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thus:

“9] From perusal of record, it reveals that applicant is behind the bars since 21.5.2024. Prima facie, the investigation as regards applicant seems to be completed. Nothing is remained to be recovered or discovered at the instance of applicant. No purpose will be served by keeping the applicant behind the bars. It is settled law that merely multiple offences are registered, is not a ground to reject the bail. The offences are not punishable with death sentence or life imprisonment. Considering the above discussion, applicant is entitled for release on bail. Hence, the following order:

ORDER

1] Bail Application No.953/2024 is allowed.

21 Applicant viz. Vikram @ Bala Shahaji Sonawane in Crime No. I-626/2024 registered with Vartaknagar Police Station under Sections 397, 386, 427, 504, 506 of I.P.C. and under Section 37(1) punishable under Section 135 of the Maharashtra Police Act, shall be released on bail on furnishing P.R. bond of Rs. 50,000/-(Rupees Fifty Thousand only) with surety in like amount on following conditions:

a) The applicant shall not directly or indirectly make any inducement, threat or promise to

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any persons acquainted with the facts of the so as to dissuade them from disclosing such facts to the police or Court or tamper the prosecution evidence.

b) The applicant shall attend concerned police station once in a month i.e. on every 15th day of each month in between 11.00 a.m. to 1.00 p.m. till filing of charge-sheet or three months whichever is earlier;

c) The applicant shall at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Court and also inform about change in it.

d) The applicant shall regularly attend the Court and co-operate in the trial.

e) The applicant shall not commit an offence similar to the offence alleged against him.

f) In case of breach of any of the conditions, the prosecution is at liberty to file application for cancellation of bail.

8) Bail before the Ld. J. M. F. C.

Order dictated and pronounced in the open Court.”

14. Thus it can be seen that the thrust of the reasoning was completion of the investigation and the futility of keeping the

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Petitioner behind the bars in that situation. It was also observed that merely multiple offences being registered was not the ground to reject the bail application. It can be said that there was absolutely no reference to the actual description of the incident which would have impacted the public order in the area. If there was any such discussion or any reasons on the merits of the matter then it could have been accepted that it would have mattered for the detaining authority to form his subjective satisfaction either way. The reasons mentioned in the bail order was restricted to the consideration of passing of the bail order. There was no discussion on merits.

15. Consideration for passing a detention order is completely different. In the facts of the present case, reasoning part of the bail order has no reference to the material which could have affected the satisfaction of the detaining authority in passing the detention order. Therefore testing this particular order on the law referred to herein above we are of the clear opinion that non placement of this bail order does not vitiate the subjective satisfaction arrived at

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by the detaining authority in passing the detention order.

16. Resultantly, we do not find any merit in the grounds raised by the Petitioner for setting aside of this detention order. The Petition is dismissed and the Rule is discharged.

(S. M. MODAK J.)

(SARANG V. KOTWAL, J.)

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