

[2026 LiveLaw \(SC\) 510](#)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
MANOJ MISRA; J., MANMOHAN; J.

SLP(CRL.) NO. 5410/2026; MAY 13, 2026

VIDYAWANT versus THE STATE OF MAHARASHTRA & ORS.

Preventive Detention — Maharashtra Prevention of Dangerous Activities Act, 1981 — Section 3 — Bootlegger — Maintenance of Public Order vs. Law and Order — Non-application of Mind — Failure to invoke ordinary laws of the land - Held: The subjective satisfaction of the detaining authority that the activities of the appellant were prejudicial to the maintenance of "public order" had no real basis - A bald and stereotypical averment that the appellant's activities are prejudicial to public order is legally insufficient - To invoke the stringent powers of preventive detention, there must be cogent material on record to demonstrate that the alleged activities disrupted public order, rather than just affecting 'law and order' - In the present case, despite five registered cases under the Maharashtra Prohibition Act, 1949, the Investigating Agency made no effort to arrest the appellant under ordinary criminal law, even though the offences are cognizable - Where a person can be effectively dealt with under the ordinary laws of the land, the invocation of preventive detention laws is unwarranted in the absence of cogent material showing a distinct breach of public order - the preventive detention order cannot be sustained and is quashed. [Relied on *Arjun v. State of Maharashtra and Ors.* 2024 SCC OnLine SC 3718; *T. Devaki v. Government of Tamil Nadu* (1990) 2 SCC 456; Paras 12 - 14]

For Petitioner(s) Mr. Anand Dilip Landge, AOR Mrs. Sangeeta Nenwani, Adv. Ms. Revati Pravin Kharde, Adv. Mr. Shreenivas Patil, Adv. Mr. Rahul Prakash Pathak, Adv.

For Respondent(s) Mr. Shrirang B. Varma, Adv. Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR

ORDER

1. Leave granted.
2. Heard learned counsel for the parties.
3. The appellant was placed under detention by an order of the Commissioner of Police, Chhatrapati Sambhajinagar, dated 13.10.2025, issued under sub-section (1) read with sub-section (2) of Section 3¹ of the Maharashtra

¹ Section 3. Power to make orders detaining certain persons. – (1) The State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section:

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 (for short “the 1981 Act”). The grounds of detention supplied to the appellant under Section 8 of the 1981 Act gave a list of criminal cases registered against him in the past. Those cases are detailed in a tabular form reproduced below:

| Sr. No. | Police Station | C.R. No. & Under Section | Date of Registration | Present Status |
|---------|---|--|----------------------|-----------------------|
| 1. | Inspector, State Excise, B Division, Chhatrapati Sambhajinagar | 115/2021 u/s 65(e) Maharashtra Prohibition Act, 1949 | 03/08/2021 | Pending trial |
| 2. | Inspector, State Excise, B Division, Chhatrapati Sambhajinagar | 92/2023 u/s 65(b) (d)(e), 80, 81, 83, 90 Maharashtra Prohibition Act, 1949 u/s 328 IPC | 05.06.2023 | Pending trial |
| 3. | Inspector State Excise B-1 Division Chhatrapati Sambhajinagar | 166/2024 u/s 65(b)(d)(e), 90, Maharashtra Prohibition Act, 1949, u/s Bharatiya 123 Nyaya Sanhita, 2023 | 03.10.2024 | Pending trial |
| 4. | Sub-Inspector State Excise B-1 Division Chhatrapati Sambhajinagar | 166/2025 65(a) u/s (e), Maharashtra Prohibition Act, 1949 | 25/07/2025 | Pending investigation |
| 5. | Sub-Inspector State Excise B-1 Division Chhatrapati Sambhajinagar | 213/2025 u/s 65(e) Maharashtra Prohibition Act, 1949 | 11/09/2025 | Pending investigation |

4. In addition to the above cases, earlier action was proposed against the appellant under the 1981 Act in 2024, which was dropped.

5. Paragraph 4 of the grounds of detention recites two recent cases i.e., mentioned at serial Nos.4 and 5 in the table, which formed basis of the detention order. Those are: (i) C.R. No.166/2025, dated 25.07.2025, under Section 65(a)(e) of Maharashtra Prohibition Act, 1949; and (ii) C.R. No.213/2025, dated 11.09.2025, under Section 65(e) of the same Act.

6. In both the said cases referred to in paragraph 4 of the grounds of detention, investigation is pending.

Provided that the period specified in the order made by the State Government under this sub-section shall not, in the first instance, exceed 3 months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government, together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless in the meantime, it has been approved by the State Government.

7. However, he was placed under detention by recording satisfaction that the appellant is a Bootlegger within the meaning of Section 2(p) of the 1981 Act; and that action against the appellant under normal law of the land is insufficient and ineffective to deter him from indulging in bootlegging activities prejudicial to the maintenance of public order, with a view to prevent the appellant from acting in any manner prejudicial to the maintenance of public order, it is necessary to detain the appellant under the 1981 Act.

8. The detention order was challenged before the High Court, *inter alia*, on the ground that if there had been any substance in the allegations, the Investigating Agency could have arrested the appellant but no steps in that regard were taken by the Investigating Agency. Besides there is no cogent material to demonstrate that the activities attributed to the appellant were prejudicial to maintenance of public order. It was also urged that if the matter could be handled under the ordinary laws of the land, there is no justification to invoke preventive detention measures. To buttress the submissions, a decision of this court in *Arjun vs. State of Maharashtra and Ors.* [2024 SCC OnLine SC 3718] was cited.

9. The aforesaid submissions however were not accepted by the High Court and, therefore, the petition was dismissed by the impugned order dated 25.02.2026. Aggrieved by the impugned order, this appeal has been filed.

10. The submission on behalf of the appellant is that this is a case of clear non-application of mind as the detaining authority did not consider whether any effort was made to arrest the petitioner during investigation of cases registered under the Maharashtra Prohibition Act. It has been submitted that the offences punishable under the Maharashtra Prohibition Act are cognizable offences whereunder a person can be placed under arrest. Therefore, if investigating agency found no reason to arrest the appellant, there was no justification to place the appellant under preventive detention.

11. *Per contra*, on behalf of the State, it is stated that the grounds of detention would indicate that appellant had been indulging in selling spurious liquor (Toddy) and there existed material on record to indicate that the appellant had been indulging in such activity in the past also, therefore, on registration of fresh cases on 25.07.2025 and 11.09.2025, the detaining authority took a conscious decision to place the appellant under detention. Besides, subjective satisfaction of the detaining authority cannot be questioned on sufficiency of material. It is, therefore, prayed on behalf of the State that the appeal be dismissed.

12. We have accorded due consideration to the rival submissions and have perused the materials available on record. It is not in dispute that since 2021 there are five cases registered against the appellant for committing offences under the Maharashtra Prohibition Act. The chart containing criminal history of the appellant, as found in the grounds of detention, would indicate that in three cases trial is pending and the remaining two are under investigation. It is not the case of the State that they have either no power to arrest during investigation or the appellant was arrested, though released on bail. Besides, there is no

indication in the grounds of detention that activity of the appellant has affected public order. A bald averment that appellant's activity has been prejudicial to maintenance of public order is not sufficient. There must be cogent material to indicate that appellant's activity has disrupted public order (See: T. Devaki v. Govt. of T.N., (1990) 2 SCC 456). It is not stated in the grounds that by consumption of spurious Toddy supplied by the appellant people fell sick thereby causing disturbance to the public order. Besides, there is no material to demonstrate that there was an effort to arrest the appellant in connection with the cases registered against him. In such circumstances, in our view, the satisfaction of the detaining authority that activities of the appellant were prejudicial to the maintenance of public order has no real basis. Besides, where a person can be dealt with under ordinary laws of the land, invocation of the power under preventive detention laws is not warranted in absence of cogent material to show breach of public order.

13. In *Arjun* (supra) this Court had the occasion to deal with a similar case. While holding the detention order bad in law, it was observed as follows:

“16. In the present case, all the six cases are with regard to selling of illicit liquor. Though six cases are registered, the Excise Authority did not find it necessary to arrest the appellant even on a single occasion. It would have been a different matter, had the appellant been arrested, thereafter released on bail and then again the appellant continued with his activities. However, that is not the case here.

17. Insofar as statements of the two unnamed witnesses are concerned, the allegations are as vague as it could be. In any case the statements which were stereotype even if taken on its face value would show that the threat given to the said witnesses is between the appellant and the said witnesses. The statements also do not show that the said witnesses were threatened by the appellant in the presence of the villagers which would create a perception in the mind of the villagers that the appellant herein is a threat to the public order.

18. In that view of the matter, we do not find that the subjective satisfaction of the detaining authority that the activities of the appellant were prejudicial to the maintenance of public order is substantiated.”

14. Here also, there is nothing on record to indicate that any effort was made by the Investigating Agency to arrest the appellant for the offences which have been registered against him. Besides, by mere use of repetitive stereotypical words, as found in the 1981 Act, in absence of cogent material to indicate that there had been a breach of public order due to prejudicial activities of the appellant, preventive detention under Section 3(1) of the 1981 Act is not warranted. For the aforesaid reasons, we are of the view that the preventive detention order cannot be sustained. The appeal is, therefore, allowed. The order dated 25.02.2026 passed by the High Court dismissing the Writ Petition of the appellant is set aside. The preventive detention order dated 13.10.2025 bearing No.2025/CB/MPDA/DET-06/CR-68 is hereby quashed. The appellant shall be released forthwith unless required in any other case.

15. Pending application(s), if any, shall also stand disposed of.