

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

CRIMINAL WRIT PETITION NO. 2144 OF 2026

Aman @ Aman Ibrahim Khan

..Petitioner

Versus

The Commissioner of Police, Pune & Ors.

..Respondents

Mr. Ashraf Ali Shaikh a/w. Ibrahim Shaikh for Petitioner.

Mr. S. V. Gavand, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.**

DATE : 18 SEPTEMBER 2026

JUDGMENT : (PER SARANG V. KOTWAL, J.)

1. This petition is taken out of turn for final hearing because the learned counsel for the Petitioner submitted that the Petitioner's mother is not well. He tendered the medical certificate issued by Apollo Hospitals, Pune dated 08.09.2026 and certificate issued by Shivmangal Multispeciality Hospital, Pune, dated 13.08.2026. The copies of the certificates are taken on record and marked 'X' collectively for identification. Therefore, on humanitarian grounds we are taking this matter out of turn for final hearing.

2. Heard Mr. Ashraf Shaikh, learned counsel for the Petitioner and Mr. S. V. Gavand, learned APP for the State-Respondents.

3. The Petitioner has challenged the Detention order dated 06.12.2025 passed by the Respondent No.1 Commissioner of Police, Pune directing his detention under The Maharashtra (Prevention of Dangerous Activities) Act, 1981 (for short 'MPDA Act'). Along with the Detention order, the Committal order was also passed on 06.12.2025 directing his detention in Nagpur Central Prison, Nagpur.

4. The Petitioner was served with the grounds of detention running into fifteen paragraphs. There are various averments in the grounds of detention. Paragraph-2 refers to his past history and, significantly, mentions that, thus, he was a 'Dangerous Person' as defined U/s.2(b-1) of the MPDA Act and his criminal activities were prejudicial to the maintenance of public order. Paragraph-3 gives a list of three offences registered at Samarth police station, as follows:

- i) C.R.No.42 of 2022 dated 19.03.2022 U/s.143, 147, 149, 352, 323, 504 and 506 of IPC.
- ii) C.R.No. 188 of 2022 dated 29.10.2022, U/s.326, 324 r/w. 34 of the IPC and U/s.75 of the Juvenile Justice Act.
- iii) C.R.No.95 of 2023 dated 16.04.2023, U/s.387, 326, 324, 427 r/w. 34 of the IPC and U/s.37(1) (3)/135 of Maharashtra Police Act.

5. Paragraph-3.2 refers to three previous preventive actions taken at the instance of Samarth Police station, as follows:

- i) Chapter case No.8 of 2022 dated 22.03.2022, U/s.107 of the Cr.PC., in which, the Petitioner had executed a bond of Rs.10000/- on 28.03.2022.
- ii) Chapter Case No.13 of 2023 dated 11.08.2023, U/s.56(1)(a)(b) of Maharashtra Police Act. The Petitioner was externed for one year from 11.08.2023.
- iii) Chapter Case No.45 of 2024 dated 04.11.2024, U/s.129(e)(g) of BNSS. The Petitioner had executed a bond of Rs.25000/- on 25.11.2024 with two sureties for two years. It is further mentioned that, during the bond period, the Petitioner had committed the offences vide C.R.No.160 of 2025 and C.R.No.250 of 2025 of Samarth Police station. Therefore, to initiate more effective action, the case was withdrawn U/s.141(1)(a)(b) of the BNSS.

It is mentioned that the preventive actions were insufficient to curtail his dangerous criminal activities, which continued to show an ascending trend and were prejudicial to the maintenance of public order. It is further mentioned that the preventive actions were shown only to highlight his desperate tendencies to commit violent crime.

6. Paragraph-4 mentions that, his involvement was noticed in the recent offences which would show that he was a 'Dangerous Person' as defined U/s.2(b-1) of the MPDA Act, and those activities were prejudicial to the maintenance of public order as defined U/s.2(a)(iv) of the MPDA Act. Those activities are mentioned in paragraphs-5 and 6. The paragraph-5 gives list of three registered offences at Samarth Police station, as follows:

- i) C.R.No.160 of 2025 dated 14.07.2025, U/s.118(2), 118(1), 125(a), 189(2), 189(4), 190, 191(3) of BNS, U/s.4(25) of the Arms Act, U/s.37(1)/135 of MPA and U/s.7 of Criminal Law Amendment Act.
- ii) C.R.No.250 of 2025 dated 11.11.2025, U/s.351(3) and 352 of BNS, U/s.4(25) of the Arms Act, U/s.37(1)(3)/135 of MPA and U/s.7 of Criminal Law Amendment Act.

iii) C.R.No.286 of 2025 dated 02.12.2025, U/s.4(25) of the Arms Act and U/s.37(1)/135 of MPA.

7. The first incident pertains to C.R.No.160 of 2025 was dated 13.07.2025, in which, the Petitioner had assaulted the complainant in that case with a sharp weapon. He was arrested on 14.07.2025 and was granted bail on 22.07.2025.

In the second offence i.e. C.R.No.250 of 2025, the incident was dated 24.10.2025, in which, the Petitioner had threatened the witnesses and the people in the locality. He was arrested on 11.11.2025 and was granted bail on 21.11.2025.

The third offence vide C.R.No.286 of 2025 was registered on the basis of information received by the police that the Petitioner and others were having iron *koyta* in violation of law. It was recovered at the instance of co-accused Hamza Shaikh. The Petitioner was arrested on 02.12.2025 and his bail application was pending when the Detention order was passed on 06.12.2025.

8. Paragraph-6 refers to two 'in-camera' statements of the witnesses 'A' and 'B'. The statement of the witness 'A' was recorded

on 13.11.2025 in respect of the incident dated 08.11.2025. The Petitioner had forcefully taken out Rs.7000/- to Rs.8000/- from the pocket of the Witness's shirt by showing a sharp iron weapon. The statement of witness 'B' was recorded on 15.11.2025 in respect of the incident dated 01.11.2025. Again by showing a knife, the Petitioner had taken out Rs.1200/- from this witness's shirt pocket.

9. Paragraph-7 mentions that from those facts, the Respondent No.1 was subjectively satisfied that the Petitioner was a 'Dangerous Person' as defined U/s.2(b-1) of the MPDA Act.

10. In paragraph-8 it is mentioned that the Respondent No.1 had relied upon the material mentioned in paragraphs-5.1, 5.2, 5.3, 6.1 and 6.2 of the grounds of detention to arrive at his subjective satisfaction that the Petitioner was a 'Dangerous Person' as defined U/s.2(b-1) of the MPDA Act and his criminal activities were prejudicial to maintenance of public order. It was also mentioned that, his bail application was pending in connection with C.R.No.286 of 2025 registered with Samarth Police Station,

but in future he was likely to be granted bail under the ordinary laws of land as the said offence was not compulsorily punishable with death sentence.

SUBMISSIONS MADE BY MR. ASHRAF SHAIKH, LEARNED COUNSEL FOR THE PETITIONER:

11. Learned counsel for the Petitioner submitted that the averments in paragraph-2 show that the Respondent No.1 has relied on the Petitioner's past activities and registered offences to arrive at his subjective satisfaction that he was a 'dangerous person' as defined U/s.2(b-1) of the MPDA Act, and that his activities were prejudicial to maintenance of public order as defined U/s.2(a)(iv) of the MPDA Act. However, that particular averment is directly contrary to the averment made in paragraph-8 of the grounds of detention, where, he has based his similar subjective satisfaction on the three registered offences mentioned in paragraph-5 and two 'in-camera' statements. These are two contrary stands and that has affected the Petitioner's right to make earliest effective representation. He further submitted that the preventive action under section 129(e)(g) of the BNSS was still in

operation as a bond executed on 25.11.2024 was in subsistence for the period of two years, therefore, the normal laws of land were sufficient to curtail his dangerous criminal activities. The police could have taken recourse to take action for breach of bond instead passing the Detention order and, therefore, taking the drastic action of passing the preventive detention order was not necessary. He submitted that the Detaining Authority had shown awareness that the Petitioner's bail application in respect of the last offence was still pending. But it was mentioned that, there was a possibility that he would be released on bail because that offence was not compulsorily punishable with death sentence.

12. Learned counsel submitted that a Division Bench of this Court in the case of *Aman Yusuf Pathan @ Khan Versus Commissioner of Police and ors. in Criminal Writ Petition No.1722 of 2024*, vide the order dated 06.08.2024 has dealt with this issue and has held that, merely by saying that the offence was not compulsorily punishable with death sentence and, therefore, he is likely to be released on bail in future is not sufficient. He relied on the Judgment of another Division Bench in the case of *Aman*

Shakir Shaikh Versus State of Maharashtra and Anr. passed in Criminal Writ Petition No.6037 of 2024 dated 21.02.2025 for similar observations.

SUBMISSIONS MADE BY MR. S. V. GAVAND, LEARNED APP FOR THE STATE

13. Learned APP, on the other hand, submitted that the Respondent No.1 clearly mentioned in paragraph-8 that he was relying only on last three registered offences and two 'in-camera' statements to pass the Detention order. He submitted that, it was the Authority's subjective satisfaction that the Petitioner was likely to be released on bail because that offence was not compulsorily punishable with death sentence and, therefore, no fault can be founded with such observation. He submitted that the preventive actions proved to be insufficient and, therefore, the Detention order had to be passed.

REASONS AND CONCLUSION

14. We have considered these submissions. As rightly submitted by the learned counsel for the Petitioner, paragraph-2 of the grounds of detention takes a contrary stand with that

mentioned in paragraph-8 of the grounds of detention. In paragraph-2, it is mentioned that the Petitioner and his accomplices moved, armed with deadly weapons such as iron pipe, wooden stick, koyta and did not hesitate to use the same while committing the offences such as attempt to murder, grievous hurt, extortion by putting the person in fear of death, hurt, riot and possessing illegal arms etc. In the same paragraph it is mentioned that the Petitioner had been habitually committing property and body offences under Chapters XVI and XVII of the IPC, under chapters VI and XVII of the BNS, as well as, under Chapter V of the Arms Act, and, the Petitioner was 'thus', a "Dangerous Person" (*emphasis supplied*), as defined U/s.2(b-1) of the said Act, and his criminal activities were prejudicial to the maintenance of public order. This particular averment is clearly the subjective satisfaction of the Respondent No.1 that the Petitioner was a 'dangerous person' and his criminal activities were prejudicial to the maintenance of public order. These past activities were reflected in three registered offences i.e. C.R.No.42 of 2022, C.R.No.188 of 2022 and C.R.No.95 of 2023.

15. Learned counsel for the Petitioner also rightly submitted that paragraph-2 refers to the offence of attempt to commit murder, however, in none of the offences either in the past or in the offences mentioned in paragraph-5 there is an offence of attempt to commit murder. Therefore, this is clear non application of mind. Also the contrary stands reflected in paragraphs-2 and 8 of the grounds of detention have affected the petitioner's right to make earliest effective representation.

16. Though, the Respondent No.1 has stated that the preventive actions were shown only to highlight his desperate tendencies to commit violent crime, the Chapter case No.45 of 2024 resulted in Petitioner's executing a bond for two years on 25.11.2024. That bond was in operation when the Detention order was passed. There is no reason as to why action U/s.141(1)(a)(b) of the BNSS was not taken by the police authorities. The grounds of Detention in English do not mention the date on which that chapter case was withdrawn. However, in the grounds of detention in Marathi, it was mentioned that the chapter case was withdrawn on 21.11.2025. This is yet another discrepancy.

17. As rightly submitted by the learned counsel for the Petitioner, the Judgments in the cases of ***Aman Yusuf Pathan @ Khan and Aman Shakir Shaikh*** are applicable to the facts of the present case. In both these judgments, it was observed that, merely by saying that since the offence was not compulsorily punishable with death sentence, the Petitioner was likely to be released on bail; was not sufficient. In the present case also, the Respondent No.1 has based his subjective satisfaction that the Petitioner was likely to be released on bail only on the assumption that the offence was not compulsorily punishable with death sentence. It is not based on cogent material relating to that investigation. Therefore, as the benefit was given in both the above cases, the same benefit will have to be given to the Petitioner in the present case, as well.

18. As a result of the above discussion, the impugned Detention order is not sustainable and is required to be set aside.

19. Hence, the following order:

O R D E R

- i) The Detention order dated 06.12.2025 passed by the Respondent No.1 directing the detention of the Petitioner is set aside.
- ii) The Petitioner be released forthwith, if not required in any other case.
- iii) Rule is made absolute in the aforesaid terms.
- iv) The Petition is disposed of.

(RANJITSINHA RAJA BHONSALE, J.) (SARANG V. KOTWAL, J.)