

(2026) 08 BOM CK 3015

In the Bombay High Court, Aurangabad Bench

Case No : CRIMINAL WRIT PETITION NO. 688 OF 2026

Vishnu Bhimrao Rathod

APPELLANT

Vs

The State Of Maharashtra & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

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 — Section 3, 2(b-1)
Constitution of India — Article 226
Maharashtra Prohibition Act, 1949 — Section 65 (f), 65 (e), 66(e) (f), 93
Excise Act

Citation : (2026) 08 BOM CK 3015

Hon'ble Judges : Sandipkumar C. More, J;Vaishali Patil-Jadhav, J

Bench : Division Bench

Advocate : Adv. Ashwini A. Lomte, Govind A. Kulkarni

Final Decision : Allowed

Judgement

FINAL ORDER (PER SANDIPKUMAR C. MORE, J) :-

1. Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the petitioner and learned A.P.P. at the stage of admission.

2. The petitioner who is a bootlegger, has challenged the order of detention dated 07.05.2026 passed by respondent No.2/The District Magistrate, Beed in exercise of powers under Section 3 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 (hereinafter referred to as "MPDA Act") as well as the approval order of the State Government dated 18.05.2026 and the confirmation order dated 12.06.2026, by invoking the power of this Court under Article 226 of the Constitution of India.

3. The learned counsel for the petitioner submits that, the following offences are

registered against the petitioner and one preventive action is also taken against the petitioner.

Sr. No.	Police Station	C.R. No. & Under Section	Date of Registration	Present status
1.	Bardapur	133/2022 u/s 65 (f) Maharashtra Prohibition Act, 1949	08/09/2022	Pending trial
2.	Bardapur	166/2023 u/s 65 (e) Maharashtra Prohibition Act, 1949	15/10/2023	Pending trial
3.	Bardapur	196/2023 u/s 65 (e) Maharashtra Prohibition Act, 1949	12/12/2023	Pending trial
4.	Bardapur	272/2024 u/s 66(e) (f) of Maharashtra Prohibition Act, 1949	09/12/2024	Pending trial

5.	Bardpur	183/2025 u/s 65 (e) Maharashtra Prohibition Act, 1949	19/07/2025	Pending trial
6.	Parali Rural	540/2025 u/s 65(e) Maharashtra Prohibition Act, 1949	30/12/2025	Pending trial
7.	Bardapur	58/2026 u/s 65 (e) Maharashtra Prohibition Act, 1949	20/02/2026	Under Investigation

Preventive Action				
Sr.	Police Station	Chapter Case No. & U/s	Date of Registration	Present Status
1	Bardapur	03/2025 u/s 93 Maharashtra Prohibition Act, 1949	12/02/2025	Final bond

However, the detaining authority has considered mainly two offences viz. C.R. No. 540 of 2025 under Section 65(e) of the Maharashtra Prohibition Act, 1949 registered with Parali Rural Police Station, District Beed on 30.12.2025 and Crime No. 58 of 2026 under Section 65 (e) of Maharashtra Prohibition Act registered with Bardapur Police Station, Dist. Beed on 20.02.2026. According to the learned counsel for the petitioner, though the petitioner is shown to be involved in selling illicit "Hatbhatti"-liquor, but the investigating officer did not consider the fact that there was no poisonous material found in the liquor. Moreover, the statements of

secrete witnesses indicate that those statements are stereotype in nature and there was no disturbance to the public order and at the most could reflect a breach of personal security. The learned counsel for the petitioner also relied on the following judgments :-

(i) *Criminal Writ Petition No. 112 of 2024 (Supadu Bandu Tadvī Vs. District Magistrate Jalonga*

(ii) *Dattatray Baswant Jagtap Vs. Commissioner of Police, Solapur & others 2019 SCC Onlien Bom 4275*

4. Per contra, the learned A.P.P. strongly opposed the submissions made on behalf of the petitioner by filing affidavit-in-reply of respondent No.2. According to him, the petitioner is definitely a "Bootlegger" within the meaning of Section 2(b-1) of the M.P.D.A. Act. He submitted that the detention order under challenge, is not merely based on two offences and the statements of the secret witnesses, but the criminal history of the petitioner has also been taken into consideration, for passing the same. According to him, despite filing of similar cases against the petitioner, the petitioner continued his business of production of "Hatbhatti" and other types of liquors. Such activities, not only disturb the public order, but also adversely affect the health of public at large. Moreover, people are hesitant of lodging complaints against the petitioner due to terror created by him in the area. Thus, he prayed for dismissal of the petition. He placed reliance on following judgments :-

(i) *Vinod Dhannulal Jaiswal Vs. District Magistrate, A'bad 2024(2) ABR(Cri)91: AIR Online 2024 Bom. 105*

(ii) *Gobibai V.Ghanavat Vs. State of Maharashtra and Others 2003(2) Mh.L.J.*

5. On going through the impugned order of detention, it can be seen that there are as many as seven crimes registered against the petitioner during the period from 2022 to 2026. Moreover, a prohibitory action in the form of Chapter Case No. 3 of 2025 under Section 93 of the Maharashtra Prohibition Act, 1949, had also been initiated wherein final bond has been taken. After going through the impugned order of detention, the Detaining Authority appears to have considered last two crimes, but there is no material to show that the authority had arrived at the subjective satisfaction, regarding the dangerous nature of the petitioner towards public at large.

6. Admittedly, in the case of *Badal Manoj Sahare Vs. State of Maharashtra (supra)* this Court at Nagpur Bench held that there was high percentage of ethyl alcohol in the liquor prepared by the petitioners therein. However, in the cases which are considered for passing the detention order, there are no C.A. reports placed on record. It is extremely important to note that nothing is there to show that, any poisonous material detected in the "Hatbhatti" liquor prepared by the petitioner. Though as per the observation of this Court in cases of *Vinod Dhannulal Jaiswal Vs. District Magistrate, Aurangabad and Gobibai Vs. State of*

Maharashtra (supra), the bootleggers activities disturb the public order, but in the judgments relied upon by the learned counsel for the petitioner, in cases of *Supadu Bandu Tadvī Vs. District Magistrate Jalgaon and Dattatraya Jagtap Vs. Police Commissioner, Solapur* it is clearly held that the bootleggers activities cannot disturb the public order, though a issue of law and order may arise.

7. In the judgment of Hon'ble Apex Court in *District Collector, Ananthapur Vs. Laxmanna*, [reported in 2005 Mh.L.J. OnLine (Cri.) Supreme Court 49] it is observed as follows:

"7. We do not think this argument of the learned counsel can be accepted. If the detention is on the ground that the detenu is indulging in manufacture or transport or sale of arrack then that by itself would not become an activity prejudicial to the maintenance of public order because the same can be effectively dealt with under the provisions of the Excise Act but if the arrack sold by the detenu is dangerous to public health then under the Act, it becomes an activity prejudicial to the maintenance of the public order, therefore, it becomes necessary for the detaining authority to be satisfied on material available to him that the arrack dealt with by the detenu is an arrack which is dangerous to public health to attract the provisions of the Act and if the detaining authority is satisfied that such material exists either in the form of report of the Chemical Examiner or otherwise copy such material should also be given to the detenu to afford him an opportunity to make an effective representation.

8. Therefore, while holding that dealing with arrack which is dangerous to public health would become an act prejudicial to the maintenance of public order attracting the provisions of the Act. It must be held that it is obligatory for the detaining authority to provide the material on which it has based its conclusion on this point. Therefore, we are in agreement with the High Court that if the detaining authority is of the opinion that it is necessary to detain a person under the Act to prevent him from indulging in sale of goods dangerous for human consumption the same should be based on some material and the copies of the such material should be given to the detenu."

8. Thus, in the light of the aforesaid observation, it is for the Detaining Authority to determine as to whether the act of preparing/ selling illicit country liquor is dangerous to the public health, on the basis of Chemical Analyzer's report. In the instant case, no C.A. report is placed on record and no poisonous substance is found in the aforesaid illicit liquor. As such, it cannot be said that the said liquor was injurious to the public at large.

9. Under such circumstances, it appears that the petitioner, at the most, must have created law and order situation by indulging into business of producing "Hatbhatti" liquor, but certainly not a disturbance to the public order, as no poisonous material was found in the C.A. report. Moreover, the petitioner has not even arrested by the concerned Police Stations, in the cases considered for passing this order. Under such circumstances, the impugned order appears to be passed without adequate supportive material and without proper subjective satisfaction. Thus, the impugned order and its confirmation cannot sustain. In the result, we pass the following order.

ORDER

(i) The Writ Petition stands allowed.

(ii) The detention order dated 07.05.2026 passed by respondent No.2 The District Magistrate Beed, under Section 3 of the M.P.D.A. Act, 1981 as well as the approval order of the State Government dt. 18.05.2026 and the confirmation order 12.06.2026 are hereby quashed and set aside.

(iii) Petitioner- Vishnu Bhimrao Rathod shall be released forthwith, if no required in any other offence.

(iv) Rule is made absolute in aforesaid terms.