

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8683 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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KAILASH LALCHANDBHAI DHOBI

Versus

COMMISSIONER OF POLICE

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Appearance:

MS DR KACHHAVAH for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of

preventive detention dated 27th August, 1998 made by the Commissioner of Police, Ahmedabad City, under the powers conferred upon him under Sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' within the meaning of Section 2 (b) of the Act and his activities are alleged to be prejudicial to the maintenance of 'public order'. An offence punishable under the Bombay Prohibition Act has been registered against the petitioner on 24th August, 1998 and a large quantity of foreign liquor was recovered from the petitioner. Besides, witnesses have given statements about the three incidents which occurred on 6th July, 1998, 10th July 1998 and 14th August, 1998. In each of the said incidents, the petitioner and his associates had beaten the concerned witness in public place and had administered threats to the witness and had pursued the crowd and had created terror and feeling of insecurity in the minds of the people. The petitioner is also alleged to be carrying lethal weapons with him.

4. It appears that one Amrabhai Kanjibai Naik is a co-accused of the petitioner in the above referred offence and also an associate and an accomplice in the other incidents referred to by the witnesses. The order of preventive detention made against the said Amrabhai Naik has been confirmed by this Court on 23rd June, 1999. The contention that the detenu's activities were not prejudicial to the public order and the other contentions raised therein were rejected.

5. The only contentions raised before me are : the representation made to the detaining authority did not reach the State Government for a long time and that the action of the detaining authority is not bonafide. It is argued that on 4th September, 1998, a representation was addressed to the detaining authority with a request to forward the same to the State Government. The said representation was received in the office of the detaining authority on 7th September, 1998 and was forwarded to the State Government on 8th September, 1998. However, the same was received by the State Government on 19th September, 1998. It is argued that there is an unusually long delay in transit. It does appear that there is an unduly long delay in transit period, however, the order of detention cannot be vitiated on such ground alone. I am informed that the representations received from the detenues are dispatched to the State Government by ordinary post. If the postal department has not been

able to deliver the despatched material expeditiously, neither the detaining authority nor the State Government can be blamed for the same. The same would not be fatal to the order of detention.

6. Further, merely because the detaining authority has acted fast after registering the offence against the petitioner and has immediately collected the evidence and verified the genuineness of the same, the detaining authority cannot be said to have acted without bonafide. The lack of bonafide requires something more than mere quick action. In the present case, there is nothing on the record to indicate that the action against the petitioner was actuated by mala fide or some extraneous reasons or oblique motive. The action cannot be vitiated for want of bonafide also. No other ground is urged before me.

7. The petition is dismissed. Rule is discharged.

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Prakash\*