

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12120 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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

RAKESHBHAI JETHRABHAI MORI

Versus

STATE OF GUJARAT

Appearance:

MS BANNA S DUTTA for Petitioner
MR SAMKR DAVE for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/01/2001

ORAL JUDGEMENT

#. This petition, under Article 226 of the Constitution of India, is directed by the petitioner Rakeshbhai Jithrabhai Mori, at present under detention in Sabarmati Central Jail, Ahmedabad, against the order dated 16.9.2000 of the District Magistrate, Dahod, in exercise

of powers conferred under sub-section 1 of Section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985, ordering to detain the petitioner as a 'dangerous person'.

#. Challenging this order the learned counsel for the petitioner raised manifold contentions but as this petition deserves to be allowed only on one ground, it is not necessary to refer, discuss and give decision on all those contentions. In paragraph - 20 of the special civil application, the petitioner made a grievance that the investigating officers have placed copies of abstract of chargesheet before the detaining authority and not placed all the statements of witnesses and panchas mentioned in the above abstract of chargesheets and in this view, the subjective satisfaction of the detaining authority is vitiated. It has next been complained that not only it is the case of non application of mind on the part of the detaining authority but the petitioner was not supplied the copies of the documents and it adversely affects his right to make effective representation.

#. Reply to the special civil application has not been filed. In this paragraph, the petitioner has not very specifically mentioned the details of those documents/ evidence copy of which has not been given to him by the respondents. However, in the representation which has been filed by him to the District Magistrate, Dahod, in paragraphs 12, 13 and 14, the details of those documents have been given. The averments made in these paragraphs in the representation read as under:

(12) Kindly supply copies of statements of Rajubhai Bachubhai Bharia, Shanubhai Marubhai, Vasnabhai, and Bharatbhai Ratansing Ninaa, Rajubhai and Nanabhai Galabhai, P.R.Gelot, M.J.Laxaniya in Dahod(T) FIR No.28/2000 dated 21.3.2000

(13) Kindly supply cokpies of statements of Rajubhai Bachubhai, Shanubhai Mirubhai, Vasnabhai Titaria, Bharatbhai Ransing, Rajubhai and Nanabhai Galabbhai, P.R.Gelot and M.J.Laxmaniya in Dahot (T) Police Station FIR No.29/2000 dated 21.3.2000

(14) Kindly supply copies of statements of Rajubhai bachubhai Bhuriya, Rajubhai Marubhai, Vasnabhai Titri Hitiyabhai, Bharatbhai Ratansing, Rajubhai Pratap, Nanabhai Galabhai, P.R.Gehlote, M.J.Laxaniya in Dahod (T) Police Station FIR No.30/2000 dated 23.3.2000.

#. Reply to the special civil application has not been filed. So the averments made in the special civil application, more particularly, in the representation, have not been controverted. Otherwise also, the learned counsel for the respondents has not seriously contested this position. It is a case where the petitioner has not been furnished the copies of the statements of the persons whose statements have been recorded in all the three criminal cases which are there against him and non supply of the same has resulted in deprivation of valuable right of making representation against the detention order as conferred under Article 22(5) of the Constitution of India.

#. As a result of aforesaid discussion, this special civil application succeeds and the order dated 16.9.2000 passed by the District Magistrate, Dahod, detaining the petitioner as a 'dangerous person' is quashed and set aside and the petitioner - Rakeshbhai Jithrabhai Mori, detenu, at present detained at Sabarmati Central Jail, Ahmedabad, be set at liberty forthwith if he is not required in any other case. Rule is made absolute. No order as to costs.

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(sunil)