

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.12482 OF 2000

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

JABBARSING KASTURSING BRAHMBHATT (RAO)
VERSUS
STATE OF GUJARAT & ORS.

Appearance:

MR HR PRAJAPATI for petitioner
MR RC KODEKAR for respondents

Coram: MR.JUSTICE S.K. Keshote,J
Date of decision: 30/04/2001

C.A.V. JUDGMENT

#. Challenging the validity, propriety and correctness of the detention order dated 12.10.2000 passed by

respondent No.2, in purported exercise of powers under sub-section 2 of Section 3 of the Gujarat Prevention of Antisocial Activities Act, 1985, the learned counsel for the petitioner raised manifold contentions but as this petition deserves acceptance only on one ground, I do not consider it to be necessary as well as in the interest of saving of valuable and precious judicial time of the court to make reference to all those contentions and to give decision thereon.

#. In paragraph-4(r) of the petition, the petitioner averred:

"(r) The petitioner respectfully states that the petitioner does not know Gujarati and he only knows Hindi and Marvadi. The petitioner has born and brought up at Rajasthan. The petitioner was alleged to have driving the truck from which the stock of liquor was found out. The petitioner submits that the grounds of detention and other materials supplied to the petitioner are in Gujarati. The petitioner states that on behalf of the petitioner, the detaining authority was requested to supply the translation of the said Gujarati documents in Hindi but the same are not supplied to the petitioner and therefore, continued detention of the petitioner has become violative of Art.22(5) of the Constitution of India."

#. From the grounds of detention, I find that undisputedly the petitioner is resident of Ravonavas, Taluka: Sanchor, Dist.: Jalor, Rajasthan. The petitioner does not know Gujarati. He knows only Hindi and Marvadi language as he is permanent resident of Rajasthan State. Before making his grievance in this court in this petition, in the representation which has been filed by him against the detention order to the respondent No.2, this grievance has been made and reference here may have to paragraph-3 at page No.20 of the compilation of the special civil application which reads as under:

"I say that according to my client, he does not know Gujarat and he only knows Hindi and Marvadi languages as he is permanent resident of Rajasthan. However, entire grounds of detention are in Gujarati. Therefore, it is violative of Art.22(5) of the Constitution of India. The requirement of law is that the detenu should be supplied with all the grounds of detention in the

language known to him. I say that there is infraction of law and therefore, continued detention is bad in law. However, you are requested to supply to my client all the grounds of detention and materials in the Hindi language so as to enable him to make an effective representation."

#. This special civil application was admitted on 6.12.2000. Rule was made returnable on 8.1.2001. The respondents were directed to file detailed affidavit as to the grounds stated in the petition by returnable date. That has not been done. The matter has then come up for hearing in the court on 1.3.2001. Request has been made by learned counsel for the petitioner for short adjournment. The learned counsel for the respondents prayed for three weeks' time to file reply. This request has been opposed by counsel for the petitioner but despite of the same, this court has granted indulgence to respondents and three weeks' time was granted to file reply to the special civil application, but this opportunity given to the respondents has not been availed of. This matter has come up for hearing on 3.4.2001. On this date also, further three weeks' time has been granted to the respondents but the reply to the special civil application has not been filed. From these facts, it can safely be inferred and accepted that either it is a clear case where the respondents are extending helping hand to the petitioner so that he may get himself released of this detention or the respondent No.2 and the officers of the State of Gujarat who are concerned with this matter are negligent, careless and unaware of their duty which they owe to the public. Be that as it may, for want of reply, the averments made by petitioner in the special civil application stand uncontroverted and the same are to be taken to be correct. It is not in dispute that the petitioner does not know Gujarati. It is also not in dispute that the petitioner is supplied with Gujarati documents, meaning thereby, translation of Gujarati documents in Hindi has not been given to the petitioner. It is also not in dispute that the petitioner has made this grievance in the representation which has been filed by him to respondent No.2 but respondent No.2 has not bothered and cared to appropriately pass the order. Lastly, the petitioner has made this grievance before this court which has also not been controverted. In the presence of this undisputed fact, for want of translation of Gujarati documents, the petitioner has been deprived of his right to make effective representation against his detention. This constitutional right which has been guaranteed to the

petitioner under Article 22(5) of the Constitution has been violated. This matter is squarely covered by Division Bench decision of this Court reported in 1988 (2) GLR 1239 in the case of Brijlal Ambaram v. Commissioner of Police, Surat. The learned counsel for the petitioner placed reliance on the decision of the Apex court in the case of Powanammal v. State of Tamil Nadu and anr., reported in AIR 1999 SC 618. This judgment also supports the contention raised by learned counsel for the petitioner.

#. In the result, this petition succeeds and the same is allowed and the order of detention of the petitioner dated 12.10.2000 is quashed and set aside. The petitioner - Jabbarsing Kastursing Brahmbhatt (Rao), the detenu, at present at Jamnagar Jail, Jamnagar, 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)