

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8753 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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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 concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

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DILIPSINH ISHWARSINH DEVADA

Versus

COMMISSIONER OF POLICE  
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Appearance:

1. Special Civil Application No. 8753 of 2002  
MS DR KACHHAVAHA for Petitioner No. 1  
MR KAMLESH KACHHAVAHA for Petitioner No. 1  
MR VM PANCHOLI, AGP for Respondent No. 1-3
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/02/2003

ORAL JUDGEMENT

#. By filing this petition, the petitioner-detenu has

challenged his detention order dated 26.6.2002. By the impugned order, the petitioner-detenu is detained in exercise of the powers under section 3(1) of the Gujarat Prevention of Antisocial Activities Act, 1985 (hereinafter referred to as "the PASA" for short), as, the detaining authority found that the detenu is a "bootlegger" and is required to be detained under the preventive detention, so that, he may not continue with such type of illegal activities.

#. Along with the detention order, the detenu was also served with the grounds of detention. In the said grounds, there is a reference of one criminal case, which is filed under the provisions of the Bombay Prohibition Act. The said order is challenged by the petitioner on various grounds.

#. At the time of hearing of this petition, the main ground advanced by the learned advocate for the petitioner is that, some of the documents given to the petitioner are absolutely not legible. It is required to be noted that, ofcourse, this point is not taken in the petition, but the learned advocate for the petitioner submitted that, on the similar ground of supplying very same bunch of the documents, other co-detenu is released by this Court on the ground that the documents are not legible. She has taken me to various documents, one which is at page 1 in the compilation. The said document is the FIR, which is absolutely faint and not readable at all so far as earlier part of that document is concerned, i.e. description of giving the name of the complainant, name of the accused etc. Even the entire document is written in such a manner that it is difficult to read and understood the same.

#. Considering the fact that one of the documents supplied to the petitioner is not legible, the order of detention is required to be quashed and set aside, as, the authority is required to give all the documents in such a manner that one can read it and give reply properly. The supplying of document is not mere formality and that the document at page 1 in the compilation is not readable and as such the said aspect is not in dispute.

#. In view of what is stated above, the petition is allowed. The order of detention dated 26.6.2002 is quashed and set aside. The detenu Dilipsinh Ishwarsinh Devada is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly.

(P.B.Majmudar,J)  
(pathan)