

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17362 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  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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ARJUNBHAI CHHAGANBHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 17362 of 2003  
MS S G PATEL for MR UTPAL M PANCHAL for Petitioner No. 1  
MS Mita S Panchal AGP for Respondent No. 1-3  
RULE SERVED for Respondent No. 1-3

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CORAM : HON'BLE MR.JUSTICE D.P.BUCH

Date of decision: 31/03/2004

ORAL JUDGEMENT

The petitioner above named has preferred this petition under Article 226 of the Constitution of India

for appropriate writ, order or direction, for quashing and setting aside an order dated 11/10/03, passed by respondent no.2 for detaining the petitioner u/s.3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985, (for short, "the Act").

2. It was alleged against the petitioner that one prohibition offence was registered against him before Olpad Police Station at C.R.No.689/2003 on 24/08/03 and two witnesses had given statements against the petitioner saying that the petitioner was involved in certain illegal activities. On the strength of the above registered and unregistered cases, the petitioner was treated as a "bootlegger" and was detained as aforesaid.

3. Feeling aggrieved by the said order of his detention, the petitioner has preferred this petition before this Court. It has been contended that the petitioner was not supplied with copies of statements and that the representation of the petitioner was not decided promptly. That, therefore, the order of detention is illegal and it is required to be quashed and set aside.

4. On receipt of the petition, Rule was issued and in response to the service of notice of Rule, Ms.Mita S Panchal learned AGP appeared on behalf of the respondents. I have heard the learned advocates for the parties and have perused the papers.

5. During the course of hearing, it has been pointed out that the present petitioner was a co-accused in the aforesaid offence with one Ganpatbhai alias Guniyo Chhanabhai Patel in S.C.A.No.17361/2003. It has also been contended that the unnamed witnesses have referred the petitioner as well as the detenu in the aforesaid matter. Therefore, the case of the petitioner is on par with the detenu in the aforesaid petition. By order dated 31/03/04, this Court had found that the detention order against the detenu in S.C.A.No.17361/2003 was illegal and therefore, the detention order against the said detenu was quashed and set aside. Therefore, on the principle of parity, this petitioner is also entitled to the same treatment. In other words, the detention order against the present petitioner is also required to be quashed and set aside holding it to be illegal on the grounds stated in the order in S.C.A.No.17361/2003.

6. For the foregoing reason, this petition is allowed. The impugned order of detention dated 11/10/03 passed by respondent no.2 against the petitioner, is ordered to be quashed and set aside. Detenu, Arjunbhai

Chaganbhai Patel, is ordered to be set at liberty forthwith, if no longer required in any other case. Rule is made absolute with no order as to costs. Direct service permitted.

(D. P. Buch, J.)

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