



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 3971 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and

HONOURABLE MR. JUSTICE VIMAL K. VYAS

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter 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 or any order made thereunder ?	

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SALMAN @MUFTI MOHAMMAD SALMAN AZHARI S/O MOHAMMAD
HASAN RAZVI
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR IA SYED, SR. ADVOCATE WITH MR AFTABHUSEN ANSARI(5320) for the Petitioner(s) No. 1
MR MITESH AMIN, AAG WITH MS. SS PATHAK, AGP for the Respondent No. 1
RULE SERVED for the Respondent(s) No. 3
RULE SERVED BY DS for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR. JUSTICE VIMAL K. VYAS



Date : 29/07/2024

**ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)**

1. This petition has been filed under Article 226 of the Constitution of India, by the petitioner Salman @ Mufti Mohammad Salman Azhari Mohammad Hasan Razvi – detenué, challenging the validity of the order of detention dated 16.02.2024 made by the detaining authority in exercise of powers conferred upon him under sub-section 1 of Section 3 of The Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as “PASA Act”).

2. Facts and circumstances giving rise to file the present petition are thus:
 - 2.1 The petitioner herein has challenged the validity of the order of detention dated 16.02.2024 made by the detaining authority namely District Magistrate, District: Junagadh. The Office of District Magistrate, Junagadh had received a proposal from the Crime Branch, Junagadh. The detaining authority had considered two FIRs registered against the petitioner and material placed in connection with the said offences and came to subjective satisfaction that the activity of the petitioner was prejudicial to the maintenance of public order. The order impugned



executed on 22.02.2024 and was detained in Vadodara Central Jail. He was furnished with the copies of grounds of detention and all other materials inclusive of the statements of the witnesses on the basis of which the subjective satisfaction for passing the detention order has been reached by the authority.

2.2 The grounds of detention, as communicated to the detenu by the District Magistrate, Junagadh are as follows:

- (i) That you are currently living in Vikroli, Mumbai and your original native place is Village: Shigav, District: Haveri, Karnataka;
- (ii) That you are holding religious meetings in different cities of India and used to give inflammatory speeches with implicit intention of shaking communal unity. Also you are trying to endanger public order by holding religious meeting in different cities of Gujarat State and under the guise of de-addiction program, gave provocative/inflammatory speeches, that causes disrupt public peace and social harmony;



- (iii) That the above anti-social activities are continued for long time and you are in the habit of committing offences punishable under Chapter-8, 17 and 22 of the Indian Penal Code. That due to your inflammatory speeches incite people which causes indirect threat to people of other communities and same creates animosity and/or enmity between the community in general which may endanger public safety and public order.
- (iv) In the aforesaid reasons, it seems necessary to prevent you with immediate effect in the interest of maintaining public order and/or social harmony which warranting your detention. The authority while arriving at a subjective satisfaction, has taken into account the following two offences:

Sr. No.	Police Station	C.R. No.	Sections
1	"B" Division Police Station, District: Junagadh	11203024240070 dated 02.02.2024	IPC - Section 153(b), 505(2), 188, 114, 447, 465, 471
2	Samakhiyari Police Station, District: Kachchh East-Gandhidham	11993001240032 dated 06.02.2024	IPC - 153(b), 505(2), 114, 295(a), 505(1)(c)



In the aforesaid two offences, so far as offence registered with Junagadh is concerned, the arrest was made on 04.02.2024 and later on i.e. on 07.02.2024, the Court concerned granted bail. So far as offence registered with Samakhiyari Police Station is concerned, the arrest was made on 08.02.2024 and thereafter, on 11.02.2024, the application for bail was allowed. In such circumstances, your activities being believed and treated as “Dangerous Person” as defined under Section-2(c) of the PASA Act and it is evident that, you are habitual in committing such kind of offences.

- (v) That upon consideration of the details of the offences registered against you, you have undertaken such activities to incite religious sentiments in various Districts of Gujarat State. That, considering the today’s digital age, the inflammatory discourses made at various meetings are accessible to the general public which can easily reached to incalculable number of people and same can affect and create religious sentiments of the common man which is very danger and lead to breakdown of social harmony and also rise of



animosity between the people at large. Thus, after careful examination of the criminal complaints and documentary evidence appended there to, clearly reveals that, you are a “Dangerous Person” as defined under Section-2(c) of the PASA Act and therefore, I am satisfied and convinced that, your said activities have disturbed the maintenance of public order and public safety.

- (vi) That you have organized and participated in the meeting in the name of program of de-addiction and religious meetings and made inflammatory speeches inciting religious sentiments, which has caused disturbance of social harmony and created enmity between two classes of society and by using social media platform, you have spread animosity and hurt the sentiments of the people at large.
- (vii) That, you have participated in religious meeting at City Junagadh, Samkhiyari at Kachchh and Modasa at Arvalli which demonstrates that you are inciting people in the name of religion and in that view of the matter, the authority is of the view that to prevent such kind of activities in the name of



religion, the order of detention is necessary.

- (viii) That, pursuant to registration of aforesaid FIRs, you have been arrested from Mumbai and at the time of arrest, a mob of 900 to 1000 of your supporters gathered there and protested against your arrest and obstructed the police in discharging their duties, as a result of which, the police were forced to use force and also file a complaint with Ghatkopar Police Station under Section 353, 332, 333 of IPC which clearly demonstrates that you are influential person as people are influenced by your speeches and personality.
- (ix) That, the persons who have attended your meeting at Junagadh, have stated that, they attended and listened your speech whereby they felt the atmosphere of enmity between two communities and because of fear, they did not file a complaint. That, if the witnesses filed complaints publicly, then, they might face the life threats from the people who are supporting you.
- (x) That, after careful study of the statements made by above witnesses, reveals that, you



are fundamentalist and common people are afraid to complaint against you in public because of your influence on the larger community of a particular religion. Thus, in view of your anti-social activities and criminal offences, you are a 'Dangerous Person' and it is impossible to control your antisocial activities under general law.

- (xi) That, all the witnesses are afraid of you and your activities and same has been carefully examined to verify the details and thereafter, as an authority, we are fully convinced and satisfied that, your criminal activities are prejudicial to the public order and public safety and against the religious tolerance and the spirit of mutual brotherhood.
- (xii) That, copies the statements are also part of the documents and considering the declaration made by the witnesses not to disclose their identity, the true names have not been disclosed because of your influence and fear.
- (xiii) That, you have committed the acts of disturbing public order by making



inflammatory speeches and engaging in anti-social activities that disturb communal unity and public peace in the area of Gujarat State and there is all apprehension that, in future, you may continue the illegal activities and inflammatory speeches under the guise of religious meetings after release on bail.

- (xiv) That, apart from the aforesaid offences and activities as described above, the offence registered with Modasa Town Police Station under Section 295(A), 153(A) etc. has been considered and other offences which were registered with Hubli Dharwad Police Station.
- (xv) In the consideration of the overall view of the matter, by participating in a public meeting and giving inflammatory and provocative speeches and by circulating on the social media to it, is harmful to the communal harmony, public peace and safety which has created animosity between the people at large.
- (xvi) Thus, as a preventive measure, it is necessary to prevent you from the said anti-social activities with immediate effect as the



common law is not effective to control your activities and in order to maintaining public order, public peace and security, the authority is fully satisfied to detain you under the PASA Act.

- (xvii) In view of mandate of Section 9 of PASA Act, you have been informed about your detention with the reasons above. That, you have a constitutional right to defend your detention and for that, you are entitled to make a representation either to this authority i.e. District Magistrate, Junagadh or Deputy Secretary, Home Department, State of Gujarat, Block No.2, New Sachivalaya, Gandhinagar or before the Advisory Board (PASA), Block No2, 1st floor, Gandhinagar.
- (xviii) That, if the aforesaid order is approved by the Government, then, same will be reviewed by the Advisory Board as per the timeline mentioned in the Act.

2.3 The order of detention approved and confirmed by the State Government on 22.02.2024. Upon being reference to the Advisory Board, the Board vide its order dated 15.03.2024, did not interfere with the



detention order and found that, there was sufficient cause for the authority to made an order.

- 2.4 The brother of the petitioner Mohammad Zuber Mohammad Razvi made a representation in detail, on 28.02.2024 addressed to Deputy Secretary, Home Department, Gandhinagar. Another representation to the same authority was made by Social Worker Imtyaz Pathan. The State Government after examining the grounds mentioned in the representations, did not agree with the submissions and rejected the same on 11.03.2024 and same was informed in writing to the petitioner on 01.04.2024.
3. In the aforesaid background facts, the petitioner has challenged the validity of the detention order and has prayed to quash the order impugned on the grounds mentioned in the petition.
4. Mr. I.H. Syed, learned senior counsel assisted by Mr. A.A. Ansari, learned counsel appearing for and on behalf of the petitioner urged the following submissions:
- (i) That, the petitioner-detenué does not know the Gujarati language and it is an admitted fact that he is knowing and understanding only Hindi,



English, Arabic and Urdu languages. The entire material supplied to the petitioner is in Gujarati language and the documents are also in Gujarati language and Gujarati language is not understandable to the petitioner and in that view of the matter, the detaining authority was under obligation to explain the order of detention and other material to the petitioner in the language he fully understands and also under obligation to supply all the materials and grounds of detention in the language understandable to the petitioner. Thus, there is non-compliance of Article 22(5) of the Constitution of India as detenu could not properly make his representation as he was unaware or having no sufficient knowledge of the basic facts of the grounds and thereby, he was restrained to make effective representation and on this ground alone, the order as well as proceedings is vitiated.

- (ii) That, in the two offences as referred in the grounds, wherein the petitioner was granted bail in both the cases and after granting bail in one of the matter, State has filed an application for cancellation of bail. In these circumstances, it can be said that, the ordinary law is sufficient to take care of the situation and in the bail order, the



concerned court has imposed the conditions, “not to indulge in the same kind of offence etc.”, to prevent the petitioner in indulging in same kind of offences. If the detaining authority could have taken into consideration the bail condition, he would not have invoked the stringent action under the preventive law. That, the non-consideration of the bail conditions in its proper perspective shows the non-application of mind on the part of the detaining authority and the powers have been exercised improperly with malafide intention.

- (iii) That, the detaining authority has relied on the past offences registered with Dharwad, Hubli Police Station, Karnataka State. That, in all cases number in 8, as referred in para-12 in grounds of the detention order, the competent Court acquitted the petitioner. The Sponsoring Authority failed to brought to the notice of the detaining authority that, the 8 cases referred have been resulted into acquittal. If the order of acquittal brought to the notice of the detaining authority, it could weight in the mind of the authority while arriving at a subjective satisfaction. Thus, the very important aspects were not brought to the notice of the detaining authority and on the same ground, the order is vitiated.



- (iv) That, the grounds of detention are vague and there is nothing to show that, the activities of the petitioner either affects or likely to affects adversely the maintenance of public order as the offences that have been alleged to have been committed, have no bearing on the question of public order as it could be said to be prejudicial only to the maintenance of law and order. In this issue, it was submitted that, while registration of FIR, the complainant-police authority chosen a particular line of the speech to show that the speech is allegedly provocative. On reading of the FIR, it was submitted that, couplets of the renowned poems were referred by the petitioner. Other materials referred in the FIR are in general which cannot be termed as prejudicial to the either national or state interest and it cannot be said that, the assertions made by the petitioner with intention to promote enmity between the two communities, on grounds of religion and race etc.
- (v) That, the detaining authority has mechanically exercised the powers conferred upon him as there was no material available with him to arrive at the subjective satisfaction that the alleged activities as mentioned in the criminal offences have created a



sense of insecurity, hatred, enmity which led to disrupt public peace and social harmony amongst the members of the society at large, disturbing the maintenance of public order.

5. In view of the submissions made hereinabove, it was submitted that, the alleged activities and grounds of detention, do not fall within the definition of activities prejudicial to the maintenance of public order as explained under Section 3(4) of the PASA Act and considering the violation of fundamental right of the petitioner to make representation as enshrined under Article 22(5) of the Constitution of India, the order impugned is liable to be quashed.
6. On the other hand, opposing the submissions made hereinabove, the learned Additional Advocate General Mr. Mitesh Amin assisted by Ms. Shruti Pathak, learned APP contended that, a bare perusal of the material along with the grounds of detention, is sufficient to establish that, the petitioner had addressed huge gathering at Junagadh and made provocative and/or inflammatory speeches with intention to incite the people belongs to minority community so as to create enmity between the two communities and anti-patriotism against the Government. Referring to the statements of witnesses, it was submitted that, the



persons who attended the meetings were under the fear of the petitioner and considering the gravity of offence and the wordings of the speeches, they felt that it would hurt the spirit of communal harmony for which they could not file the complaint because of fear. It was further urged that, after the arrest of the petitioner at Mumbai, the supporters of the petitioner restrained the police and the police were forced to use their power, which has resulted into registration of the offence against the supporters which shows the influential character of the petitioner.

7. In view of the aforesaid submission, the learned A.A.G. Mr. Amin contended that, the commission of an act creating communal disharmony as alleged in the grounds of detention is sufficient for satisfaction of detaining authority regarding the apprehension that detenu will indulge in criminal activities affecting public order as explained under Section 3(4) of the PASA Act and thus, considering the impact on the society which disturb the public tranquility by provocative speeches made by the petitioner which has caused the disturbance of public order and same has been taken into consideration by the detaining authority while arriving at a subjective satisfaction.
8. Lastly, it was submitted by learned A.A.G. Mr. Amin



that, there is no breach of Article 22(5) of the Constitution of India so far as right to make a representation is concerned. The petitioner was informed about his right to make a representation. He was provided with the translated copy of the detention order. He made a representation to the Government Advisory Board through his brother and one social worker and same facts have been suppressed by the petitioner which itself disentitled him to claim the discretionary relief. Thus, when there was an effective representation made by the petitioner and same was dealt with, now he cannot raise the issue of violation of Article 22(5) of Constitution of India, more particularly, when he made an effective representation against the detention order.

9. Having regard to the facts and circumstances to the present case, the issue arise for our consideration as to whether the order of detention dated 16.02.2024 passed by the District Magistrate, Junagadh in exercise of his powers under the provisions of the PASA Act, 1985, is sustainable in law?
10. Before advertng to the issue raised by the respective parties, let us see the statutory provisions.
11. In the grounds of detention, it has been alleged that



the petitioner is a 'dangerous person' and he is continuous his activities as a 'dangerous person'. A 'dangerous person' has been defined in Section 2(c) of the Act, which says that a person who either by himself or as a member or leader of gang habitually commits or attempts to commit or abates the commission of any offences punishable under Chapter VIII, XVII and XXII of the Indian Penal Code, or any offence is punishable under Chapter V of the Arms Act, 1955.

12. We may also refer to Section 3 of the Act, which provides for making order of detention. Section 3(1) empowers the State Government to make an order directing to detain such person. It provides that the State Government may if satisfy with respect to any person that, with a view to preventing him from acting in any manner, prejudicial to the maintenance of public order, it is necessary to do, make an order, directing that such person be detained. Section 3(2) authorized the District Magistrate or Commissioner of Police, they may by order in writing upon satisfaction, as provided under Section 3(1) exercised the powers conferred by said sub-section.
13. The term 'acting in any manner prejudicial to maintenance of public order' is defined under sub-



section (4) of Section 3 of the Act. It says that, for the purpose of this Section, a person shall be deemed to be 'acting in any manner prejudicial to the maintenance of public order', when such person is engaged in or is making preparation for engaging in any activities, whether as a 'bootlegger' or 'dangerous person', which affect adversely or likely to affect adversely the maintenance of public order.

14. The term 'public order', has also been explained in sub-section(4) of Section 3 of the Act, which says that, for the purpose of this sub-section, public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely, *inter-alia*, if any of the activities of any person referred to in this sub-section, directly or indirectly is causing or is likely to cause any harm, danger or alarm or feeling of insecurity, amongst the general public or any section thereof or a grave or wide spread danger to life, property or public health.
15. Section 9 of the Act mandates to provide ground of order of detention, which says that the authority shall communicate to the detinue the grounds on which the order has been made and shall afford him the earliest opportunity of making representation against the order of the State Government.



16. Section 11 of the Act further mandates that, the Government shall within 3 weeks from the date of detention, placed the case before the Advisory Board and the representation, if any made by the person, affected by the order. Upon reference made by the Government, as provided under Section 12 of the Act, decide the matter without stipulated time and in any case, the Advisory Board make a report to the Government that, in their opinion, there is sufficient cause for the detention of the detenu may confirm the order of detention order and continue the detention for the period not exceeding the maximum period of 1 year.
17. In view of the aforesaid statutory provisions and the submissions advanced by learned Senior Counsel Mr. I.H. Syed, the principal contention raised is that, the grounds for the detention has no nexus to the public order but it is a matter of law and order and there is nothing to show that the activities of the petitioner as alleged in the two criminal cases either affect or are likely to affect adversely the maintenance of public order.
18. Before advertng to the principal contention, it is apt to refer to a decision of the Apex Court in **Pushkar**



Mukharji Vs. State of West Bengal, (1969) 1 SCC p-10), where, the distinction between 'law and order' and 'public order' has been laid down. The necessary observation on this aspect reads thus:

"Does the expression `public order' take in every kind of infraction of order or only some categories thereof? It is manifest that every act of assault or injury to specific persons does not lead to public disorder. When two people quarrel and fight and assault each other inside a house or in a street, it may be said that there is disorder but not public disorder. Such cases are dealt with under the powers vested in the executive authorities under the provisions of ordinary criminal law but the culprits cannot be detained on the ground that they were disturbing public order. The contravention of any law always affects order but before it can be said to affect public order, it must affect the community or the public at large. In this connection we must draw a line of demarcation between serious and aggravated forms of disorder which directly affect the community or injure



the public interest and the relatively minor breaches of peace of a purely local significance which primarily injure specific individuals and only in a secondary sense public interest. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Preventive Detention Act but a disturbance which will affect public order comes within the scope of the Act."

19. In **Ashokkumar Vs. Delhi Administration, (1982) 2 SCC 403**, it was observed that, "it is the potentiality of the Act to disturb the even tempo of the life of the community, which makes it prejudicial to the maintenance of public order."

20. In **Ayya Vs. State of U.P., (1989) 1 SCC 374**, the Apex Court, on the subject ' public order' observed that, even a single instance of activity tending to high public order might, in the circumstances of its commission, reasonably supplied justification for the satisfaction as to legitimate apprehension of a future repetition of similar activity to the detriment of 'public order'.



21. In the case of **Smt. Angoori Devi Vs. Union of India, (1989) 1 SCC 385**, the Apex Court, while interpreting the term 'public order', has observed that, the impact on 'public order' and 'law and order', depends upon the nature of the act, the place where it is committed and motive caused behind it. If the act is confined to the individual without directly or indirectly affecting the tempo of the life of the community, it may be matter of 'law and order' only. But where the gravity of the act, is otherwise, and likely to endanger, the public tranquility, it may fall within the orbit of 'public order'. What might be an otherwise, simple law and order, situation, might assume the gravity and mischief of a 'public order' problem by reason alone to the manner or circumstances in which or the place at while it is carried out. Necessarily, much depends upon the nature of the act, the place where it is committed and the sinister significant to it.
22. On the question whether the offences in question has any effect on 'public order' or not, the Apex Court in **Superintendent Central Prison, Fatehgarh, Vs. Ram Manohar Lohia, AIR 1960 SC 633**, observed as follows:

"But in India under Article 19(2) this wide concept of public order is split up under



different heads. It enables the imposition of reasonable restrictions on the exercise of the right to freedom of speech and expression in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality. or in relation to contempt of court, defamation or incitement to an offence. All the grounds mentioned therein can be brought under the general head public order" in its most comprehensive sense. But the juxtaposition of the different grounds indicates that, though sometimes they tend to overlap, they must be ordinarily intended to exclude each other. "Public order is therefore something which is demarcated from the others. In that limited sense, particularly in view of the history of the amendment, it can be postulated that 'public order is synonymous with public peace, safety and tranquility."

23. In **Ram Manohar Lohia Vs. State of Bihar, AIR 1966 SC 740**, the Apex Court pointed out the distinction between 'public and law and order' in the following words :

"One has to imagine three concentric circles.



Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State."

24. In **Kanu Biswas Vs. State of Bengal, 1972 3 SCC 831**, the Apex Court on the issue of public order opined that,

"The question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order, ... is a question of degree and the extent of the H .. reach of the act upon the society. Public order is what the French call "ordre publique" and is something more than ordinary maintenance of law and order. The test to be adopted in determining whether an act affects law and order or public order, as laid down in the above case, is: Does it lead to disturbance of the current of life of the community so as to amount to a disturbance of the public order or does it affect merely an



individual leaving the tranquillity of society undisturbed?"

25. In **Ashokkumar Vs. Delhi Administration, (1982) 2 SCC 403**, the Apex Court, reexamined the issue of public order and observed that,

"The true distinction between the areas of 'public order' and 'law and order' lies not in the nature of quality of the act, but in the degree and extent of its reach upon society. The distinction between the two concepts of 'law and order' and 'public order' is a fine one but this does not mean that there can be no overlapping. Acts similar in nature but committed in different contexts and circumstances might cause different reactions. In one case it might affect specific individuals only and therefore touch the problem of law and order, while in another it might affect public order. The act by itself therefore is not determinant of its own gravity. It is the potentiality of the act to disturb the even tempo of the life of the community which makes it prejudicial to the maintenance of public order.



26. In **Subhash Banderi Vs. District Magistrate, Lucknow, (1987) 4 SCC 685**, it is observed that

"A solitary act of omission or commission can be taken into consideration for being subjectively satisfied, by the detaining authority to pass an order of detention if the reach, effect and potentiality of the act is such that it disturbs public tranquillity by creating terror and panic in the society or a considerable number of the people in a specified locality where the act is alleged to have been committed. Thus it is the degree and extent of the reach of the act upon the society which is vital for considering the question whether a man has committed only a breach of law and order or has acted in a manner likely to cause disturbance to public order."

27. In view of the aforesaid law laid down by the Apex Court in various judgments, the Apex Court again in case of **Harpreet Kour Vs. State of Maharashtra, (1992) 2 SCC 177**, in para-18, clarified and observed that,

"From the law laid by this Court, as noticed above, it follows that it is the degree and extent



of the reach of the objectionable activity upon the society which is vital for considering the question whether a man has committed only a breach of 'law and order' or has acted in a manner likely to cause disturbance to 'public order'. It is the potentiality of the act to disturb the even B tempo of life of the community which makes it prejudicial to the maintenance of 'public order'. Whenever an order of detention is questioned, the courts apply these tests to find out whether the objectionable activities upon which the order of detention is grounded fall under the classification of being prejudicial - to 'public order' or belong to the category of being prejudicial only to 'law and order'. An order of detention under the Act would be valid if the activities of c a detenu affect 'public order' but would not be so where the same affect only the maintenance of 'law and order'. Facts of each case have, therefore, to be carefully scrutinized to test the validity of an order of detention."

28. Now coming to the facts of the present case, the authority while making order, relied on the two offences registered under Section 153(b), 505(2), 295A and 505(1) of the Indian Penal Code. It is not in dispute that, on 31.01.2024, the petitioner being a

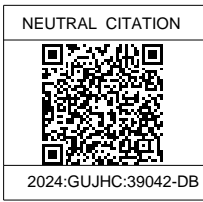


cleric was invited to address the gathering at Junagadh, Gujarat State. The organizers obtained a permission from the local government that, they intend to organize the de-addiction program at the school ground Junagadh. On that day, in noon i.e between 11-00 to 1-30 the petitioner had addressed the public gathering at Samakhayani, Dist.: Kutch. In the grounds of detention, it is alleged that, the petitioner was in habit to give provocative and/or inflammatory speeches with an intention to incite the people belonged to minority community, which has created animosity and/or enmity between the community in general and same lead to the breakdown of social harmony. The authority while making the order, was satisfied that, the people who wants to file a complaint on this aspect are living in fear, as the persons who are under influence of the petitioner, would not spare them. The Detaining Authority had taken into account the circulation of the speeches on social media like You-tube and private channel managed by private persons and satisfied that, the activities of the petitioner by delivering such kind of speeches would promoting enmity between different groups on the ground of religion and same is prejudicial to the maintenance of harmony and the imputation as well as assertions also prejudicial to the national integration. In such circumstances, in our



opinion, the activities of public speeches and the material collected and placed before the authority, is sufficient material for the subjective satisfaction of the Detaining Authority that there was disturbance of tranquility and harmony of public life. The order of detention seems to be based on requisite satisfaction and while making the order, there was proper application of mind to all relevant circumstances and power has not been exercised for improper purpose and has acted independently. It needs to be noted that, the speeches delivered by the petitioner cannot be confined to an individual and considering the repercussions of the addressing, it would lead to the public disorder.

29. For the reasons recorded, we have no hesitation to hold that, the material available on record in the present case are sufficient and adequate for holding that the alleged prejudicial activities of the detenu have either affected adversely or likely to affect adversely the maintenance of public order within the meaning of Section 4(3) of the Act.
30. In these circumstance, we are not agree with the submission that, the alleged illegal activities mentioned in the grounds of detention imputed to the



detenue, cannot be said to have either affected adversely or are likely to affect adversely to the maintenance of public order.

31. The second contention raised is that, the petitioner does not know Gujarati language and he known only Hindi, Urdu and Arabic. It is no doubt true that, the applicant belongs to Karnataka State and has settled at Mumbai, Maharashtra. In the grounds of detention are in Gujarati language. On this aspect, it is contended that, the Gujarati language is not understandable to the petitioner and in absence of any translated copy, either in Hindi or in a language understandable to him, he could not make effective representation. We are conscious about the constitutional right of the petitioner to make representation under Clause 5 of Article 22 of the Constitution of India. The object of furnishing grounds in the language understandable to the petitioner, is to enable the detenue to make a representation I..e to give him an opportunity to put for his objection against the order of detention, so that he can make his purposeful and effective representation. In the facts of the present case, the brother of the petitioner, made detailed representation to the Deputy Secretary, Home Department, Gandhinagar and also to the Advisory Board. The social worker Mr. Pathan had also



submitted another representation to the Government. The Government, after examining the contents of the representation, did not agree with the representation and same was rejected in a stipulated time and petitioner was informed in writing about the decision. The Advisory Board, had also given due opportunity of being heard to the petitioner and after considering it, the Advisory Authority did not find sufficient cause to interfere with the decision of the detention. It need to be noted that in the petition, it is pleaded that, due to language barrier, he could not make representation. The facts of representation submitted by his brother has been suppressed by him. In such circumstances, when the petitioner availed his right and submitted representation, now he cannot plead that, due to language barrier he could not make effective and proper representation.

32. As discussed, the contentions that proper opportunity to make representation as mandated under Article 22(5) of the Constitution of India, has not been given, having no any merits, as despite of language barrier the petitioner made effective representation through his brother as well as social worker and therefore, considering the peculiar facts and circumstances of the present case, merely, non-supplying the documents and grounds of detention in the language



understandable to him, would not vitiate his detention order.

33. For the foregoing reasons, we find no ground to interfere with the order of detention passed by the District Magistrate, Junagadh. Accordingly, the application stands dismissed. Rule discharged.

(ILESH J. VORA, J)

(VIMAL K. VYAS, J)

P.S. JOSHI