
(2005) 11 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 344 of 2005

Adishwar Jain

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 23-11-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 1 RCR(Criminal) 442

Hon'ble Judges : Rajive Bhalla, J

Bench : Single Bench

Advocate : Vikram Chaudhary, for the Appellant; M.S. Guglani, Addl. Central Govt. Standing Counsel and Ms. Meenakshi Chaudhary, Addl. C.G.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rajive Bhalla, J.—By way of the present Criminal Writ Petition, filed under Article 226 of the Constitution of India, the Petitioner prays for the issuance of a writ in the nature of Habeas Corpus for quashing the order of this detention, dated 5.4.2005, passed u/s 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

2. The Petitioner, pursuant to the aforementioned order, is under detention since 18.5.2005. The Petitioner is the Managing Director of M/s. Sundesh Spring Pvt. Ltd. Ludhiana. In the year 1997, the Government of India introduced the Duty Entitlement Passbook Scheme (hereinafter referred to as "DEPB Scheme") with the object of encouraging exports. Under the DEPB Scheme, an exporter was entitled to certain benefits with respect to goods exported by him. The Directorate of Revenue Intelligence, Regional Unit, Ludhiana, allegedly received information that the Petitioner was engaged in availing fraudulent credits under the DEPB Scheme by misdeclaration of the value and description of the goods exported. He was procuring fake and false bills through one Prabhjot Singh, Proprietor and partner of M/s. S.P. Industrial Corporation, M/s. Aaysons (India)

and M/s. P.J. Corporation, Ludhiana. The export proceeds were being arranged through Hawala Channel. Pursuant to the aforementioned information, the Directorate of Revenue Intelligence commenced investigation and conducted a search of the factory, as also residential premises of both Adishwar Jain and Prabhjot Singh. During the course of investigation, statements of Adishwar Jain, as also his employees, and Prabhjot Singh were recorded, wherein they allegedly admitted misdeclaration of the value and description of the good exported and use of Hawala channel for remittance as well as the over-valuation. Prabhjot Singh admitted that he had supplied fake bills to the units owned and controlled by Adishwar Jain on commission basis, without actually supplying any goods. Adishwar Jain is alleged to have misdeclared the goods exported as "alloy steel", whereas after a test conducted by the Central Revenue Control Laboratory, New Delhi, the goods were found to be "other than alloy steel" i.e. Non-alloy. The Counsel (Economic), Consulate General of India at Dubai confirmed the existence of a parallel set of export invoices. Invoices with a higher value were presented before the Indian Customs in order to avail DEPB incentives but invoices, with a lower value, were presented to Dubai Customs for clearance. Statements of major suppliers of raw materials of non-alloy steel as well as alloy steel, to the units of Adishwar Jain, were recorded and it was confirmed that the majority of the supplies related to non-alloy steel items and that the material purchased by Adishwar Jain was of much lower value than declared by him. In order to cover the bogus exports, the Petitioner procured false and fake invoices from the units of Prabhjot Singh and the amounts realized by the export proceeds over and above the actual values were routed through Hawala channel through one Raju. Show cause notice was issued to Adishwar Jain on 17.8.2004. A bank account of Prabhjot Singh was got opened in the Indian Overseas Bank where Adishwar Jain's firm's accounts existed. The accounts in the name of Prabhjot Singh's firms were actually operated by Adishwar Jain through his employees, namely, Amarjit Singh and Darshan Kumar, who confessed to the aforementioned facts. Four blank cheques, signed by Prabhjot Singh were recovered from Adishwar Jain. Inquiry from the production managers of M/s. Sundesh Springs, owned by Adishwar Jain, where the exported goods were reportedly processed, revealed that at no point in time, alloy steel had been processed and that no facility, whatsoever, existed in their factory for making alloy steel goods.

3. It is averred in the petition that the Petitioner was taken into custody on 11.10.2003 by the officials of the Directorate of Revenue Intelligence, Ludhiana, where he was tortured, threatened and coerced into suffering self incriminating statements. On 12.10.2003 and 13.10.2003, statements of the Petitioner and Prabhjot Singh were recorded. Formal arrest of the Petitioner and Prabhjot Singh was shown on 14.10.2003. The Petitioner claims to have sent telegrams of his illegal detention of the Chief Minister, Punjab, the Finance Minister, Government of India. On 16.10.2003, statement of the Petitioner was again recorded. On 17.10.2003, the Petitioner gave a hand written letter to the Directorate of Revenue Intelligence categorically stating therein that his statements were

obtained by the Directorate of Revenue Intelligence, under duress, threat, force and coercion. It was alleged that he was beaten with a baseball bat and third degree methods were adopted by the DRI, while recording statements, u/s 108 of the Customs Act. On 6.1.2004, the Petitioner was admitted to bail for failure of the prosecution to file a complaint within the stipulated period, as envisaged u/s 167(2) of the Code of Criminal Procedure. Vide order dated 13.8.2004, the Central Excise and Service Tax Appellate Tribunal, New Delhi allowed the appeal, filed by the Petitioner's company for release of goods. Thereafter, the Petitioner's company filed a civil suit, accompanied by an application, under Order 39, Rules 1 & 2 read with Section 151 of the CPC for grant of ad-interim injunction directing the Union of India to release its documents. Vide order dated 31.5.2004, the Civil Judge (Junior Division), Ludhiana allowed the application, filed by M/s. Siri Amar Exports and issued directions to the Respondents to release the bank accounts of the said firm. A similar order was passed on 7.5.2004 in the case of M/s. Girnar Impex Ltd. Despite the aforementioned orders, the documents were not released. The Petitioner thereafter made representations to the Respondents on 27.1.2005 and 11.2.2005 against his proposed detention, under the COFEPOSA Act. On 28.2.2005, show-cause notices were issued to M/s. Girnar Impex Limited, M/s. Siri Amar Exports, Kismat Complex, Ludhiana, M/s. Sundesh Springs Pvt. Ltd, and the Petitioner, inter alia calling upon them to show cause as to why action be not taken in terms of the said notices. The Petitioner and his companies, vide letters dated 24.3.2005, denied the allegations, levelled in the show-cause notices and prayed that the documents, relied upon in the notices, be supplied. On 6.4.2005, FIR No. 65 was registered, under Sections 380/381/409/120-B of the IPC, at Police Station Sarabha Nagar, Ludhiana complaining of certain documents being missing and tampered with. After the registration of the aforesaid case, the Petitioner applied for grant of pre-arrest bail, which was granted, by the Additional Sessions Judge, Ludhiana, vide order dated 22.4.2005. On 5.4.2005, the impugned order of detention was passed, u/s 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (for short hereinafter referred to as "the COFEPOSA Act"). The Petitioner was detained on 18.5.2005 and has been in detention ever since.

4. Counsel for the Petitioner contends that the impugned order is illegal, void, being violative of Article 21 of the Constitution of India and is, therefore, liable to be quashed. It is vehemently argued by counsel for the Petitioner that the order of detention is based upon a solitary instance of alleged "smuggling". There is no other material on record to infer that the Petitioner indulged in any such activity previously or after the aforementioned transaction. It is further contended that prior to the order of detention, the Petitioner was kept in illegal detention for three days, during which he was threatened, coerced and physically assaulted. The Petitioner was thereafter forced and coerced into making statements implicating him in the commission of the offences. However, on 17.10.2003, the statements were subsequently retracted by the Petitioner and consequently have

no value in law.

5. It is next contended by counsel for the Petitioner that there is an inordinate delay in the passing of the order of detention. The alleged prejudicial activity took place on 11.10.2003, while the order of detention was passed on 5.4.2005 i.e. after a period of one year and six months. During this period, the Petitioner appeared in various Courts of law, was granted anticipatory bail and orders were passed by Courts directing the return of his documents. No material has been placed on record to justify detention, after a period of one year and six months. It is contended that the detaining authority was required to consider the question of delay but a perusal of the impugned order does not disclose any such consideration.

6. It is further contended that the impugned order was passed on 5.4.2005 and was only executed by the arresting Officer on 18.5.2005, after a delay of one month and thirteen days, during which period, the Petitioner appeared in various Courts in cases, instituted by him, against the Respondent. This delay is, thus, fatal to the order of detention.

7. Another argument, pressed into service, by counsel for the Petitioner, is that, in all three reports exist vis-a-vis the contents of goods, allegedly exported. Two reports, submitted by duly accredited government laboratories, reported that the goods were alloy steel. The Respondent, with mala fide intent, persisted and referred another sample to a third laboratory, which gave a report against the Petitioner. It is contended that the Respondent continued to submit samples of the material exported for analysis with the object of procuring a favourable report. There was no need to discard the two earlier reports and no cogent reasons, apart from the bald statement that the said reports were contrary to the evidence, have been set out.

8. The next contention, pressed into service, by counsel for the Petitioner, is that while serving the grounds of detention, all the documents, relied upon, have not been supplied. Instead of supplying the documents, his letter was treated as a representation and rejected, vide letter dated 26.5.2005. It is contended that the Petitioner did not prefer any representation but had only demanded material documents, in accordance with his rights, contained in Article 22(5) of the Constitution of India. Failure to supply the entire set of documents vitiates the impugned order. It is further argued that the allegations that the invoices presented to the Indian Customs were of higher value, as compared to the documents, presented to the Dubai Customs, is devoid of any substance. The Petitioner received full value of sale proceeds, as declared to the Indian Customs and, therefore, the said ground is incorrect. The mere fact that an invoice shows a lower value would not lead to an inference "smuggling". It is further contended that the impugned order suffers from factual errors, which cannot be justified as an a over sight and/or clerical errors. The Petitioner's name and his parentage is wrongly mentioned. Invoice No. 821, dated 11.7.2003 has been shown to be drawn for an amount of 1170 US dollars. As is apparent from the chart,

appended at page 635 of the relied upon documents, the said invoice is at Sr. No. 12 and is shown to be drawn for an amount of 6553 US dollars. To similar effect is invoice No. 704 at page 290 of the relied upon documents. These misstatements of facts clearly indicate a non-application of mind, passing an order in a casual manner, as also the fact that the detaining authority merely acted as a rubber stamp of the Directorate of Revenue Intelligence.

9. The last contention, raised by counsel for the Petitioner, on facts, is that a blatant attempt has been made to mislead this Court and to support the order of detention by making false statements. It is averred in the written statement, though not so stated in the grounds of detention, that the Directorate of Revenue Intelligence, gathered further information that Adishwar Jain had again started exports by adopting the same modus operandi. This fact is also averred in the additional affidavit filed by the Respondent. However, as this fact was not placed before the detaining authority, and no such evidence has been placed on record, it appears to be an attempt to mislead or to prejudice the mind of this Court.

10. Counsel for the Respondent, on the other hand, contends that the order of detention is legal and valid. It does not suffer from any illegality, infirmity or such perversity as would warrant interference by this Court, in the exercise of its jurisdiction, u/s 226 of the Constitution of India. It is further contended that the Petitioner is guilty of "smuggling". It is contended that the modus operandi, adopted by the Petitioner, and as has been referred to in detail, in the grounds of detention, clearly reveals that the Petitioner was guilty of "smuggling". The impugned order is not open to challenge. It is contended that the Petitioner has erroneously stated that he indulged in a single transaction and, therefore, could not have been detained. It is contended that a single transaction may also, in the facts and circumstances of the case, be sufficient to pass an order of detention. Though the cause to detain arises from the alleged act of "smuggling", the order of detention is always based upon the propensity of an individual, and upon his likelihood to commit a similar act in future.

11. In reply to the arguments raised as regards the delay in the passing of the impugned order and the delay in its execution, counsel for the Respondent contends that the delay is merely procedural. As is apparent from the facts of the case, the Directorate of Revenue Intelligence had to conduct a detailed investigation into the matter, pursuant whereunto a large number of statements were recorded. The statements of the Petitioner, his employees and of various individuals, involved in the chain, leading to the act of "smuggling" were recorded. The material exported was required to be tested. Thereafter, the Petitioner initiated various suits against the Directorate of Revenue Intelligence, which were being defended. The Courts also directed return of documents and all these cases were being defended by the Directorate of Revenue Intelligence. The delay is natural and not intentional and is, therefore, not fatal to the impugned order.

12. In so far as the fact that two reports were received that the material

exported by the Petitioner was alloy steel, it is contended that as these reports were contrary to the evidence available with the Respondent, and the statements, made by others, a third report was sought, which finally reported that the material, exported by the Petitioner, was non-alloy steel. There is no illegality in the aforementioned procedure and there is no mala fide intent. The entire object was to arrive at the truth and, therefore, no fault can be found with this method.

13. In so far as errors in the impugned order vis-a-vis the documents, the said errors are merely typographical and have no bearing upon the merits of the case. It is contended that an order of preventive detention, by its very nature, is an attempt to pre-empt the commission of an offence, the jurisdiction of the authority is subjective. The subjective satisfaction of the authority, the conclusions arrived at, on the basis of material before the authority, cannot be examined by this Court in the exercise of its jurisdiction, under Article 226 of the Constitution of India. This Court can only examine the sufficiency of the evidence, the presence or absence thereof, and not the actual merits of the decision. This Court cannot examine the facts, as an appellate forum. In this view of the matter, the present criminal writ petition merits dismissal.

14. I have heard learned Counsel for the parties and perused the record.

15. It would be appropriate to briefly recapitulate the facts that led the authority to record its satisfaction that the Petitioner's detention was warranted.

16. The Directorate of Revenue Intelligence, Regional Unit, Ludhiana, received information that the Petitioner, Managing Director of M/s. Sundesh Springs Pvt. Ltd., Ludhiana, was engaged in fraudulently availing DEPB benefits by wrong declaration of value and description of the goods exported. The information was specific to the effect that non-alloy steel forgings bars and rods etc., valued at Rs. 15 to 17/- per kgs, were exported as alloy steel by declaring the value thereof at Rs. 110/- to Rs. 150/- per kgs. The Petitioner's premises, as also the premises of M/s. Siri Amar Exports, its office premises, situated at Kismat Apartments, Miller Ganj, Ludhiana, residential premises of the Petitioner, M/s. SP Industrial Corporation, M/s. P.J. Sales, and M/s. Aaysons (India) were also searched. During these search, blank letter heads of the State Bank of Bikaner and Jaipur, and the alleged foreign buyer i.e. M/s. Azhad Trading Co., as also rubber stamps of various departments, parallel sets of invoices, retrieved from the computer, were recovered. Containers Nos. TTNU 3641182-2 and BW YU 214139-1 were detained at Gandhidham and Nhava Sheva ports, respectively for investigation. Statements of Adishwar Jain, Prabhjot Singh, Rajesh Chopra, Amarjit Singh, R.S. Dhiman, D.S. Narang, D.K. Sharma, Sandeep Jain, D.P. Jain, Rajinder Kumar, Gurdarshan Singh, Kuldeep Goel, Sailesh Jain, Sachin Jain, Rajesh Lakhanpal and Smt. Sunita Jain were recorded on various dates. The aforementioned statements, as also the material, collected by the Directorate of Revenue Intelligence, led to a conclusion that the Petitioner had indulged in an act of "smuggling" by wrongly declaring the value of the goods and, thus, illegal

availing of credits under the DEPB Scheme. The Directorate of Revenue Intelligence also examined the invoices, the records, maintained by the banks, the records of the importing company at Dubai, the accounts, maintained by the Petitioner, and arrived at a conclusion that money had been received by the Petitioner through Hawala transactions. These facts are detailed in the order of detention. Various statements, made by the Petitioner, and the invoices, referred to herein before, their admissions etc., have been detailed in the order of detention. The fact that the material exported was non-alloy steel was confirmed by the report, submitted by the Chemical Examiner of the CRCL, New Delhi, despite two other reports to the contrary, submitted by the Research and Development Centre for Bicycle and Sewing Machines, Ludhiana and the CRCL, Mumbai.

17. After taking into consideration the material, referred to in detail, in the grounds of detention, as also the facts, narrated above, the detaining authority recorded its satisfaction that the Petitioner's activities, amounted to "smuggling", as defined in Section 2(39) of the Customs Act, 1962 and Section 2(e) of the COFEPOSA Act and held that considering the nature and gravity of the offence, the well planned manner in which the Petitioner had engaged himself in prejudicial activity, a conclusion could be drawn that the Petitioner had a high potential and propensity to indulge in such prejudicial activities in future and, therefore, a need to prevent the Petitioner from indulging in such activities, by ordering his detention. The impugned order also states that the potentiality and propensity to indulge in prejudicial activities has not diminished with the passage of time, namely, between the dates of incident and the passing of the detention order. The impugned order also refers to the allegations, made by the Petitioner, against the officials of the Directorate of Revenue Intelligence and holds them to be baseless. The impugned order has also taken note of the incident dated 3.3.2005, wherein, certain documents were tampered with. On the basis of the aforementioned facts, the detaining authority arrives at a conclusion that the Petitioner's preventive detention was warranted.

18. From the facts, stated herein before, it is apparent that the Petitioner is accused of misusing the concession, granted by the Government of India, under the DEPB scheme. The modus operandi, adopted by the Petitioner, was to export "non-alloy goods", showing them to be manufactured from "alloy steel", and valuing them far above the market value, while making a declaration before the export authorities in India. Two sets of invoices were maintained, one for the Indian Customs and one for the Customs authorities at Dubai where the value of the goods received was shown to be far below the declaration made before the Indian Customs. Money for these transactions was received by Hawala transactions. The ramifications of the conspiracy were unraveled by the Directorate of Revenue Intelligence, after a search of the Petitioner's commercial, industrial and residential premises, as also after recording the statements of various witnesses, as detailed in the order of detention. In sum and substance, the allegations are wrong declaration of value of the goods and,

thus, fraudulently availing benefits under the DEPB scheme, receiving money through Hawala transaction, and causing grave and serious economic loss to the country.

19. In order to put the present controversy in its correct perspective, it would be appropriate to notice the observations of the Hon"ble Supreme Court of India, in a judgment reported as Union of India v. Amrit Lal Manchanda and Anr. 2004 (1) RCR (Cri) 996, wherein the nature, intent and purpose of preventive detention has been succinctly explained. A relevant extract thereof is reproduced hereinafter:

Before dealing with rival submissions, it would be appropriate to deal with the purpose and intent of preventive detention. Preventive detention is an anticipatory measure and does not relate to an offence, while the criminal proceedings are to punish a person for an offence committed by him. They are not parallel proceedings. The object of the law of preventive detention is not punitive but only preventive. It is resorted to when the Executive is convinced that such detention is necessary in order to prevent the person detained from acting in a manner prejudicial to certain objects which are specified by the concerned law. The action of Executive in detaining a person being only precautionary, normally the matter has necessarily to be left to the discretion of the executive authority. It is not practicable to lay down objective rules of conduct in an exhaustive manner, the failure to conform to which should lead to detention. The satisfaction of the Detaining Authority, therefore, is considered to be of primary importance, with great latitude in the exercise of its discretion. The Detaining Authority may act on any material and on any information that it may have before it. Such material and information may merely afford basis for a sufficiently strong suspicion to take action, but may not satisfy the tests of legal proof on which alone a conviction for offence will be tenable. The compulsions of the primordial need to maintain order in society without which the enjoyment of all rights, including the right to personal liberty of citizens would lose all their meaning provide the justification for the laws of preventive detention. Laws that provide for preventive detention posit that an individual's conduct prejudicial to the maintenance of public order or to the security of State or corroding financial base provides grounds for satisfaction for a reasonable prognostication of possible future manifestations of similar propensities on the part of the offender. This jurisdiction has at times been even called a jurisdiction of suspicion. The compulsions of the very preservation of the values of freedom of democratic society and of social order might compel a curtailment of individual liberty. "To lose our country by a scrupulous adherence to the written law," said Thomas Jefferson "would be to lose the law itself with life, liberty and all those who are enjoying with us thus absurdly sacrificing the end to the means." This, no doubt is the theoretical jurisdictional justification for the law enabling preventive detention. But the actual manner of administration of the law of preventive detention is of utmost importance. The law has to be justified by striking the right balance between individual liberty on the one hand and the needs of an

orderly society on the other.

20. Preventive detention is, thus, a measure, invoked to prevent an individual from indulging in acts that may be prejudicial to the maintenance of public order to the security of State or corrode its financial base. The power of preventive detention, by its very nature being anticipatory and preventive does not necessarily relate to the commission of an offence. As held above, it is also called a jurisdiction of suspicion.

21. The words "preventive detention" inhere in them a pre-emptory power to detain, with an object to prevent injury. It is the duty of the Government to pre-empt an anticipated injury to public order, security of the State or its financial stability. This power, however, is to be exercised sparingly, in rare cases and only when the detaining authority, on the basis of material, placed before it, records a subjective satisfaction, that if not detained the individual concerned would indulge in acts prejudicial to the security of the State, public order or its financial stability. To arrive at such a conclusion, the authority is required to objectively analyse the material placed before it and upon an appraisal thereof record its subjective satisfaction that detention is imperative.

22. This Court, while exercising jurisdiction under Article 226 of the Constitution of India, does not exercise powers of an appellate authority. Its powers are confined to an appraisal of the material placed before it, with an object to ascertain whether there was sufficient material before the authority to enable it, to arrive at a subjective satisfaction that preventive detention was warranted.

23. The first contention, pressed into service, by counsel for the Petitioner is that a single act of "smuggling" would not constitute a ground sufficient to warrant preventive detention. I am unable to accept the aforementioned contention. The jurisdiction of preventive detention is one of suspicion, being anticipatory and preventive in nature. While considering a case of preventive detention, the starting point is whether the alleged offence would give rise to a reasonable and rational suspicion that if not detained, the Petitioner would in all likelihood repeat the acts of "smuggling" to warrant his detention. Facts and circumstances of each case would have to be considered. In a given case, a single act may not be sufficient to warrant preventive detention but in another case, on a different set of facts, a single act may warrant detention. This Court, while exercising jurisdiction under Article 226 of the Constitution of India, is to examine the sufficiency of the material on record. An examination of the material on record, in my considered opinion, does not, in any manner, impinge upon the correctness of the conclusions, recorded by the detaining authority. As referred to herein before, in the narration of facts, there was sufficient material to warrant the conclusion that the Petitioner had indulged in an act of "smuggling" and would in all probability repeat the said act, if not detained.

24. The next contention, raised by counsel for the Petitioner, is the inordinate delay in passing the order of detention. As noticed herein before, the Petitioner

was initially arrested on 11.10.2003, thereafter released and eventually the order of detention was passed on 5.4.2005. The question, to be examined, is whether on account of a lapse of one year and six months, there still existed a close and proximate link between the act, complained of, and the act, sought to be prevented by passing the order of detention. Delay, per se, cannot be a circumstance to quash an order of detention. What is required to be examined is whether the detaining authority was conscious of the delay and after taking into consideration the delay, recorded a finding that there continues to exist a close and proximate link between the acts, allegedly committed by the Petitioner, and the object, sought to be achieved, namely, preventing him from committing such and similar acts in future. Delay, if unwarranted, unexplained and not taken into consideration by the detaining authority, would be a significant circumstance. Preventive detention, being anticipatory in nature, this Court cannot traverse the field of presumptions, raised by the detaining authority. As argued by counsel for the Respondent, the delay was occasioned by the nature of the offence, complained of. The ramifications of the investigation involved a large number of witnesses, recording of statements, recovery of documents, physical examinations of the goods exported, their reports, chemical analysis, documents recovered from the banks and the investigations regarding the nature of the companies to which the goods were exported. Another incident that led to the delay, is the tampering of the original statements, which led to the lodging of an FIR. The delay was further occasioned by numerous suits, filed by the Petitioner, leading to the orders directing return of his original documents, as also proceedings for violation of the aforementioned orders. All these facts, taken together, led to the delay. A perusal of the impugned order reveals that the detaining authority has taken into consideration these facts and while considering the question of delay, has recorded a finding that the nexus between the act, complained of, and object sought to be achieved, continued to exist. In this view of the matter, I am of the considered opinion that the authority was conscious of the delay and after taking into consideration the reasons for delay, recorded its satisfaction that the propensity of the Petitioner to commit acts of "smuggling" had not diminished with the passage of a period of one year and six months. The correctness of the aforementioned conclusion cannot be examined, by the very nature of the jurisdiction exercised and on account of powers, vested in the authority, to order preventive detention.

25. In so far as delay in the implementation of the order of detention, no argument has been addressed as to what prejudice has been caused to the Petitioner. Mere delay of a month or so in implementing the order, in my considered opinion, would not enure to the benefit of the Petitioner, in the facts and circumstances of the present case. The arrest had to be effected by the Punjab Police and the delay on their part, in implementing the order, cannot enure to the benefit of the Petitioner.

26. The next contention, raised by counsel for the Petitioner, that the mala fides of the Respondent are writ large, on the face of the detention order and are

discernible from the fact that they continued to submit the material exported by the Petitioner for analysis till they received a favourable report, in my considered opinion, does not merit acceptance. The statements, made by the Petitioner, his witnesses and the evidence collected by the Respondent clearly indicates that the Petitioner has not exported alloy steel. Two reports received after chemical analysis were in stark contrast to the statements and the evidence collected. In this view of the matter, the Respondent sought a third report, which report was in consonance with the evidence collected and the statements made by the Petitioner and the other witnesses, referred to herein before. The act of seeking a third report, in my considered opinion, cannot be said to be an act of mala fide. This matter has also been considered by the detaining authority with reference to the three reports, one in favour and two against the Petitioner. Counsel for the Petitioner has lost sight of the act that while examining an order of preventive detention, this Court is not required to examine the merits of the case, as it does not discharge appellate jurisdiction. This Court merely examines the sufficiency of the material placed on record and as to whether, on the basis of material on record, the conclusions, arrived at, could have been so recorded. In this view of the matter, I have no hesitation in holding that as the detaining authority was conscious of the existence of three reports, perused all three and thereafter recorded its conclusions. It did not commit any illegality in arriving at conclusion, so arrived at.

27. Another contention, pressed into service, by counsel for the Petitioner, namely, that the impugned order suffers from numerous errors of facts, first as regards the name of the Petitioner and the other with respect to the amounts, mentioned in the order, in my considered opinion, would not confer any benefit upon the Petitioner. These errors appear to be typographical in nature. Such minor errors, as to the amounts etc. would not detract from the conclusions, arrived at by the authority concerned.

28. Another contention, raised by counsel for the Petitioner, that requisite documents were not supplied to him, alongwith the grounds of detention, in my considered opinion, does not merit acceptance. The Petitioner has not detailed the documents, which were not supplied to him, and, therefore, it cannot be said that any prejudice has been caused to him. It is no doubt true that the non-supply of documents, appended with the grounds of detention, is a ground sufficient to quash the order of detention. However, in the fact and circumstances of the present case, as no such documents have been indicated, I find no reason to accept the contention, raised by counsel for the Petitioner.

29. No other point has been pleaded or argued by counsel for the Petitioner.

30. In view of what has been stated above, the present petition is dismissed, being devoid of any merit.

Petition dismissed.