

(1990) 03 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 3403 of 1989

Gulzar Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 07-03-1990

Acts Referred:

Citation : (1990) 1 AICLR 912 : (1990) 2 RCR(Criminal) 334

Hon'ble Judges : Jai Singh Sekhon, J

Advocate : S.S. Saraon, P.S. Hundal, Advocates for appearing Parties

Judgement

Jai Singh Sekhon, J. (Oral)

1. In this writ petition filed under Article 226 of the Constitution of India, the detenu challenges the order Annexure P1 passed under section 3 read with section 14A of the National Security Act, 1980 (as amended upto date) passed by the District Magistrate, Amritsar, on 27/10/1988, ordering the detention of the petitioner on the ground that he is likely to indulge in prejudicial activities and to prevent him from acting in any manner prejudicial to the security of the State and maintenance of public order and interfering with the efforts of the Government in coping with the terrorists and disruptive activities.

2. A brief resume of facts relevant for the disposal of this writ petition is that on the basis of secret information, S.I. Gajan Singh of Police Station Ramdas arrested the petitioner on 26/4/1988. The petitioner on interrogation got recovered one A.K. 47 rifle along with 25 live cartridges. A case under section 25 of the Arms Act read with section 3/4 of the Terrorist and Disruptive Activities (Prevention) Act was registered against the petitioner at Police Station Ramdas. During interrogation, the detenu also admitted that he was indulging in the smuggling of firearms from Pakistan and that this gun was brought by him from Pakistan for supplying the same to Malkeet Singh Ajnala who had already given him Rs. 10,000.

3. Apart from other grounds, the petitioner challenges his detention on the

ground of nonapplication of mind by the detaining authority to the facts of the case contending that the grounds of detention served upon the petitioner are verbatim copy of the grounds of detention proposed by the sponsoring authority i.e. Senior Superintendent of Police, Police District Majitha.

4. In reply filed by respondents No. 1 and 2 it is maintained that the detention order was passed by, respondent No. 2 after full application of mind and keeping in view the future propensities of the detenu to indulge in acts prejudicial to the security of the State and maintenance of public order.

5. I have heard the learned counsel for the parties besides perusing the original file.

6. A perusal of letter dated 2672 NSA/S dated 2861988 written by the Senior Superintendent of Police, Police District Majitha, to the District Magistrate shows that he had appended the proposed grounds of detention along with this letter. A perusal of the proposed grounds of detention reveal that the grounds of detention Annexure P2 now served upon the detenu are verbatim copy of each other. Thus there is no escape but to conclude that the District Magistrate, Amritsar, i.e. the detaining authority has passed the detention order in a mechanical manner and without application of mind. The apex Court in *Jai Singh and others v. State of Jammu & Kashmir*, 1985(2) Recent Criminal Reports 39 : 1985(1) Criminal Law Journal 527 , under similar circumstances had quashed the detention of the detenu by holding as under :

"First taking up the case of Jai Singh, the first of the petitioners before us, a perusal of the grounds of detention shows that it is a verbatim reproduction of the dossier submitted by the Senior Superintendent of Police, Udhampur to the District Magistrate requesting that a detention order may kindly be issued. At the top of the dossier, the name is mentioned as Sardar Jai Singh, father's name is mentioned as Sardar Ram Singh and the address is given as village Bharakh, Tehsil Reasi. Thereafter it is recited. "The subject is an important member of..... Thereafter follow various allegations against Jai Singh, paragraph by paragraph. In the grounds of detention, all that the District Magistrate has done is to change the first three word "the subject is" into "You" Jai Singh s/o Ram Singh, resident of village Bharakh, Tehsil Reasi." Thereafter word for word the police dossier is repeated and the word "he" wherever it occurs referring to Jai Singh in the dossier is changed into you in the grounds of detention. We are afraid it is difficult to find greater proof of nonapplication of mind. The liberty of a subject is a serious matter and it is not to be trifled with in this casual, indifferent and routine manner."

Thus in view of the above referred circumstances, the order of detention of the petitioner is quashed on this sole ground of nonapplication of mind by the detaining authority by accepting this writ petition. The detenu be set forth at liberty forthwith, if not required in any other case.