

(2015) 08 DEL CK 0198
In the Delhi High Court
Case No : WP (Criminal) 1386 of 2015

Harpal Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 31-08-2015

Acts Referred:

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 — Section 3(3), 7, 7(1), 7(1)(b)
Constitution of India, 1950 — Article 22(5), 226, 32
Criminal Procedure Code, 1973 (CrPC) — Section 82, 83, 84, 85
Customs Act, 1962 — Section 124

Citation : (2015) 08 DEL CK 0198

Hon'ble Judges : Sanjiv Khanna, J; R.K. Gauba, J

Bench : Division Bench

Advocate : Sudhir Nandrajog, Senior Advocate, Amanpreet Singh Rahi and Kiran Bhardwaj, for the Appellant; Sanjay Jain, ASG, Kirtiman Singh, CGSC, Shreya Sinha, Waize Ali Noor, Gyanesh Bhardwaj and Akshay Sehgal, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J—Harpal Singh challenges at pre-detention stage his detention under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974 ("COFEPOSA, Act", for short). The detention order enclosed as Annexure P-1 to the writ petition is dated 31st of March, 2015 and the present writ petition was filed in this High Court on 4th July, 2015.

2. The petitioner contends that the detention order deserves quashing at the pre-detention stage, in the absence of "live link" due to time gap between the detention order dated 31st March, 2015 and the occurrence on 7th July, 2014, which is the substratum and foundation of the detention order. The "live link" snapped once the petitioner ceased to be an employee of M/s. Minar Travels Pvt. Ltd. in January, 2015. The monetary transactions in the year 2012 -13, by way of loans between the petitioner / his wife and Sheikh Mohammed Javid, were too

distinct in time to show any connection or involvement of the petitioner and the gold smuggling in 2014. The said transactions were duly disclosed in the income-tax returns. The "live link" also came apart due to delay in execution of the detention order dated 31st March, 2015, as the said detention order and grounds of detention were dispatched to the executing authority only on 5th May, 2015, after a gap of about 35 days and thereafter no attempt and effort was made to serve the order of detention and detain the petitioner. It is asserted that the petitioner had not absconded and in fact had appeared, on being summoned, before the Enforcement Directorate at Goa on 04.06.2015. Petitioner's wife had also fully cooperated and was questioned by the Enforcement Directorate on 02.06.2015. Lastly, on merits it is submitted that the petitioner had signed application forms for access to the airport as an employee of M/s. Minar Travels Pvt. Ltd., as he had the signing authority and not for any personal gains or advantage. Sheikh Mohammed Javid too was an employee of M/s. Minar Travels Pvt. Ltd., a company engaged in travel business. Similar applications were signed by the petitioner for other employees. As per the instructions of the Airport Authority of India, access passes were /are issued for three months and were/are renewable. The passes were /are scrutinized by AAI Pass Committee. On the recommendation of the said Committee, the Bureau of Civil Aviation issues all area entry pass. M/s. Minar Travels Pvt. Ltd. had applied for renewal of pass in the name of Sheikh Mohammed Javid, as entry to the airport was required and necessary even after the chartered flights had stopped for attending to the leftover passenger from Russia, who could be flying out on regular basis. Reliance is placed upon the decision dated 29.5.2015 of this High Court in Pankaj Kumar Shukla Vs. Union of India & Ors. [WP(CrL.) No. 827/2015]. Attention was also drawn to the decision of the Supreme Court in Additional Secretary to the Government of India and Others Vs. Smt. Alka Subhash Gadia and Another, (1991) 72 CompCas 336 : (1991) 53 ELT 481 : (1991) 1 JT 549 : (1990) 2 SCALE 1352 : (1992) 1 SCC 496 Supp : (1990) 3 SCR 583 Supp ; Subhash Popatlal Dave Vs. Union of India (UOI) and Another, AIR 2012 SC 3370 : (2012) CriLJ 3848 : (2012) 281 ELT 641 : (2012) 6 JT 314 : (2012) 6 SCALE 367 : (2012) 7 SCC 533 : (2012) AIRSCW 4267 [hereinafter referred to, as Subhash Popatlal Dave (1)] and also on Subhash Popatlal Dave Vs. Union of India (UOI) and Another, (2013) CriLJ 4166 : (2013) 298 ELT 3 : (2013) 3 RCR(Criminal) 858 : (2013) 9 SCALE 295 : (2014) 1 SCC 280 [hereinafter referred to, as Subhash Popatlal Dave (2)].

3. We begin with the note of caution and specifically highlight that the challenge to the detention order under COFEPOSA Act, is at the pre- detention stage. The Supreme Court in Smt. Alka Subhash Gadia (Supra) had examined whether a person is entitled to challenge a detention order without submitting or surrendering to it, by filing a writ petition under Article 32 or 226 of the Constitution of India. The Supreme Court rejected the contention that at the pre-detention stage a person or a detenu against whom detention order is passed, is entitled to a copy of the detention order or the grounds of detention, observing

that this would be contrary to the provisions of Section 3(3) of the COFEPOSA Act and Article 22(5) of the Constitution, which stipulates that ordinarily grounds of arrest would be communicated within maximum period of five days of detention and in exceptional circumstances and for reasons to be recorded in writing within fifteen days from the date of detention. Similarly, a detenu does not have any entitlement to be given a copy of the order of detention without first surrendering or at the pre-execution stage, for there is no provision in the Constitution or law under which such right can be established. Secondly, the courts in exercise of writ jurisdiction in genuine cases can quash a detention at the pre-execution stage, but they are not obliged to do so, nor would it be proper for them to do so, save in exceptional cases. Exercise of Writ Jurisdiction, though wide and untrammelled by external restrictions, is by very nature discretionary, extra-ordinary and an equitable jurisdiction. It is to be used sparingly and in circumstances where no other efficacious remedy is available. Self-evolved judicial proclamation requires that the aggrieved person must first follow the concerned law and exhaust all statutory remedies before approaching the Supreme Court or the High Court under Articles 32 or 226 of the Constitution. The self- imposed internal restraints are firmly ingrained and ensure that the extraordinary power is used sparingly and not in routine. Thus, the Superior Courts have necessary power, and in proper cases can strike down and interfere at the pre-detention stage, albeit the said power or discretion should not be exercised except when the said courts are satisfied: (i) the impugned order is not passed under the Act, under which it is purported to have been passed; (ii) is sought to be executed against the wrong person; (iii) is passed for a wrong purpose; (iv) is passed on vague, extraneous or irrelevant grounds; or (v) the authority which has passed the order had no authority to do so. Refusal of the court to exercise the extraordinary power of judicial review under two Articles prior to execution of the detention order, does not amount to abandonment of power of judicial review or denial of right of the proposed detenu, for no unfettered right can be claimed.

4. The aforesaid five grounds mentioned in Smt. Alka Subhash Gadia (Supra) were treated as sacrosanct in Sayed Taher Bawamiya Vs. Joint Secretary to the Govt. of India and Others, (2002) CriLJ 259 : (2004) 2 SCALE 543 : (2000) 8 SCC 630 wherein the five exceptions or grounds were held to be exhaustive. However, in Subhash Popatlal Dave (1) (Supra), three Judges of the Supreme Court observed:

"45. Nowhere in Alka Subhash Gadia case has it been indicated that challenge to the detention order at the pre-execution stage, can be made mainly on the aforesaid exceptions referred to hereinabove. By prefacing the five exceptions in which the courts could interfere with an order of detention at the pre- execution stage, with the expression "viz." Their Lordships possibly never intended that the said five examples were to be exclusive (sic exhaustive). In common usage or parlance the expression "viz." means "in other words". There is no aura of finality attached to the said expression. The use of the expression suggests that the five

examples were intended to be exemplars and not exclusive (sic exhaustive). On the other hand, the Hon"ble Judges clearly indicated that the refusal to interfere on any other ground did not amount to the abandonment of the said power.

47....The exercise of powers vested in the superior courts in judicially reviewing executive decisions and orders cannot be subjected to any restrictions by an order of the court of law. Such powers are untrammelled and vested in the superior courts to protect all citizens and even non-citizens, under the Constitution, and may require further examination.

48. ... There are various pronouncements of the law by this Court, wherein detention orders have been struck down, even without the apprehension of the detenu, on the ground of absence of any live link between the incident for which the detenu was being sought to be detained and the detention order and also on grounds of staleness. These are issues which were not before the Hon"ble Judges deciding Alka Subhash Gadia case"

5. Referring to this judgment, with specific reference to the quotation from paragraph 48, Mr. Sanjay Jain, learned Additional Solicitor General has submitted and in our opinion erroneously that the court can only examine whether any "live link" exists between the incident for which the detenu is sought to be detained and the detention order. In other words, a detention order at pre-detention stage can be only challenged on the ground of staleness i.e. delay. This is not the purport of the observations made by the Supreme Court in the case of Subhash Popatlal Dave (1) (Supra). This contention of the respondents relying upon their "understanding" of the observations recorded in the concurring majority judgments in Subhash Popatlal Dave (2) (Supra) is erroneous and misconceived. The two concurring majority judgments have held that the term "live link" can refer to merits, the incident(s) which was the pre-cursor to the detention order and the date of the detention order and lastly, to the time period or gap between the date of detention order and the execution of the detention order.

6. The "live link" or connection between the incident and the date on which the detention order is passed and thereafter from the date when the detention order was passed till it is executed are the cornerstone and edifice which sustains the act and mandate of detention. Unreasonable and unexplained delay can vitiate the act of detention, for an order in the latter case would ceased to be an order of preventive detention. When there is a long lapse of time between the acts and the order of detention or between the order of detention and its execution, it violates law for every detention order is based on the prognosis that the past record justifies the apprehension that such conduct would be repeated in future. Inordinate delay at any of the two stages would lead to the quashing of the detention order for the reason that such orders are not punitive but preventive in nature, and when there is unexplained time-gap and delay there is no justification to hold that the subjective satisfaction of the detaining authority meets the Constitutional requirements. Further, there must be a "live link" and connection which should permeate and be discernible from the reasons or ground

of detention consistent with the satisfaction of the State that the preventive detention order is required to be passed.

7. On the question of "live link" on merits, J. Chelameswar, J. in his opinion in Subhash Popatlal Dave (2) (Supra) has observed as under:

"35. This Court consistently held that preventive detention "does not partake in any manner of the nature of punishment" but taken "by way of precaution to prevent mischief to the community". Therefore, necessarily such an action is always based on some amount of "suspicion or anticipation". Hence, the satisfaction of the State to arrive at a conclusion that a person must be preventively detained is always subjective. Nonetheless, the legality of such subjective satisfaction is held by this Court to be amenable to the judicial scrutiny in exercise of the jurisdiction conferred under Articles 32 and 226 of the Constitution on certain limited grounds.

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38. It is the settled position of law declared by this Court in a number of cases that absence of live nexus between material forming the basis and the satisfaction (opinion) of the State that it is necessary to preventively detain a person is definitely fatal to the preventive detention order. All those cases where the courts have quashed the orders of preventive detention on the theory of lack of "live nexus" are cases where the detention orders were executed but not cases of non-execution of the detention orders for a long lapse of time after such orders came to be passed."

Observations in paragraph 35 and first part of paragraph 38 are with specific reference to the "Live Link" with the reason i.e. the formation of belief and the order of detention. Reliance by the respondents on the last portion of paragraph 38 is misconceived. The argument overlooks that invoking writ jurisdiction and exercise of, and success in a writ jurisdiction are two separate aspects.

The question raised in Subhash Popatlal Dave (2) (Supra) was somewhat different as is clear from paragraph 29 and 39 of the judgment of J. Chelameswar, J., which are as under:

"29. The core question in these matters is whether this Court would be justified in exercising its jurisdiction to examine the legality of the action of the State in seeking to execute preventive detention orders (passed long ago) at the pre-execution stage on the claim of each one of the petitioners herein that such execution would violate the fundamental rights of the proposed detenu.

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39. Whether the test of live nexus developed by this Court in the context of examining the legality of the order of preventive detention can be automatically applied to the question of the legality of the execution of the preventive detention orders where there is a considerable time-gap between the passing of

the order of preventive detention and its execution is the real question involved in these matters."

This is also lucid and beyond doubt, when we refer to paragraph 3 of the judgment authored by Gyan Sudha Mishra, J. the relevant portion of which reads:

"3. However, the next important question that has cropped up in all these petitions/appeals is as to whether the proposed detenu having absconded or evaded the execution of the detention order, who subsequently challenged the order of their detention even at the pre-execution stage after a long lapse of time could take advantage of non-execution and challenge the detention order which remained unexecuted.."

Thus, the specific issue and question raised was whether at the pre- detention stage a detention order can be quashed on the test of "live nexus" when there is a considerable time gap as the proposed detenu had absconded or evaded execution of the detention order.

8. In the immediately preceding paragraph i.e. paragraph 2, Gyan Sudha Mishra, J. has made it clear and explicit that the Supreme Court in Subhash Popatlal Dave (1) (Supra) had held that an order of preventive detention can be challenged beyond or for reasons other than the five grounds enumerated in Smt. Alka Subhash Gadia (Supra) even at the pre-execution stage. This position is also clarified by J. Chelameswar, J. in paragraphs 48 and 49 of the judgment [Subhash Popatlal Dave (2) (Supra)], which record:

"48. This Court in Alka Subhash Gadia, emphatically asserted that "it is not correct to say that the courts have no power to entertain grievances against detention order prior to its execution". This Court also took note of the fact that such an inquiry had indeed been undertaken by the courts in a very limited number of cases and in circumstances glaringly untenable at the pre-execution stage.

49. The question whether the five circumstances specified in Alka Subhash Gadia case are exhaustive of the grounds on which a pre-execution scrutiny of the legality of preventive detention order can be undertaken was considered by us earlier in the instant case. We held that the grounds are not exhaustive. But that does not persuade me to hold that such a scrutiny ought to be undertaken with reference to the cases of those who evaded the process of law."

9. We would also reject the contention of Mr. Sanjay Jain, Additional Solicitor General that the majority judgment in Subhash Popatlal Dave (2) (Supra) holds that if an order under Section 7(1) Clauses (a) and (b) has been passed, this would per se bar and prohibit the proposed detenu from claiming any relief in a writ petition at the pre- detention stage. We must elaborate and explain. J. Chelameswar, J. in Subhash Popatlal Dave (2) (Supra) paragraph 40 has analyzed probable reasons for delay in execution of a preventive detention order as; (a) abscondence of the proposed detenu and (b) apathy of the authorities

responsible for implementation of the preventive detention order. The aforesaid distinction between the two is significant, for they may have different consequences when a proposed detenu files a writ petition at the pre detention stage. In cases which fall in the first category, the proposed detenu would indeed face an uphill, if not an impossible task. But in the second case, when facts justify exercise of extraordinary power by a writ court, a detention order can be quashed at the pre-detention stage.

10. J. Chelameswar, J. in paragraph 41 to 47 has referred to the powers of the State in relation to absconding persons under Section 7(1) clauses (a) and (b) and explained the ambit of the said section, observing that under Clause (a) of Sub-section 1 to Section 7, the Government may report the matter to the magistrate concern for invoking provisions of Sections 82 to 85 of the Code of Criminal Procedure, 1973 for attachment of the property of the proposed detenu and perhaps even its confiscation in an appropriate case. Under Clause (b) the State can issue notification in the official gazette for directing the proposed detenu to appear before an officer specified in the notification at such place or time and on failure to comply with the notified direction without reasonable cause, an offence punishable with imprisonment for a term of upto one year or fine or both is committed. Abscondence could be established even when proceedings under Section 7 of the COFEPOSA Act, have not been specifically initiated. The aforesaid observations in the judgment of J. Chelameswar, J. highlight that the court should not come to the rescue and offer a protective hand to a proposed detenu, who is evading arrest for such recalcitrant or refractory conduct itself is illegal and deplorable. Any protection to such absconders would belittle and negate the exercise of writ jurisdiction and convert it into a haven for those, who do not have any respect for law. In such cases delay in execution of the detention order does not snap or break the link. This is exactly the reason and the core of the judgment by Gyan Sudha Mishra, J. Thus, abscondence by the proposed detenu from the process of law, would entail rejection of the plea or ground that the "live link" has severed because of the long time gap between the date of detention order and its execution. Deliberate or intentional abscondence would have adverse consequences and could result in rejection of the writ petition at the pre-detention stage. However, whether or not there is abscondence is another aspect and has to be first deciphered and decided before the said negative conclusion follows.

11. While deciding the issue whether the proposed detenu has absconded, the courts would have to examine the factual matrix. When an order under any of the two clauses of Sub-section 1 of Section 7 has been passed, it must be noticed. An order under Clause (a) and (b) to the Sub-section 1 of Section 7 carries with it, necessary sanctity and consequences. However, we would observe and hold that in a given case in spite of an order under Clauses (a) and (b) of Sub-section 1 to Section 7, the proposed detenu can show and establish that he had not absconded from due process of law. To this extent when the proposed detenu belies and contests that he had not absconded, he would not be

foreclosed or denied his right to urge that he had not absconded or evaded service / arrest. We also observe that abscondence can be established and proved, even if orders under Section 7(1) of COFEPOSA Act have not been made.

12. Indeed in the present case we have to acknowledge that the order under Clause (b) to Section 7(1) of the COFEPOSA Act, was approved on the file by the competent authority on 24th June, 2015 without a single report or intimation from the implementing or execution agency regarding abscondence or conduct of the petitioner. This we say with regret is not justified and is completely unacceptable. An exercise or approval without report and details as to the cause and reason for non-execution of the detention order would be an arbitrary exercise and contrary to the Rule of Law. It would reflect non-application of mind. Non compliance of an Order under Section 7(1)(b) has penal consequences and can constitute an offence. In the present case, we record that the competent authority had received the report from the executing authority i.e. Goa police on 26th June, 2015, which is after draft order under Section 7(1)(b) of COFEPOSA Act had already been approved on 24th June, 2015. However, the order under Section 7(1)(b) was published in the official gazette on 30th June, 2015 and in the newspaper only on 13th July, 2015. It will be appropriate and proper for the respondents to take care and act with caution in future.

13. The contention on behalf of Union of India, Department of Revenue, Ministry of Finance that abscondence would be established, even if the is lapse or fault is entirely on the part of the executing authority or the sponsoring authority in ensuring enforcement is mis-placed and has to be summarily rejected. Such pleas cannot be countenance and accepted in view of the authoritative pronouncement of the Supreme Court in Subhash Popatlal Dave (2) (Supra), wherein distinction is drawn between apathy of the authorities responsible for execution of the detention order or abscondence on the part of the proposed detenu. A detention order may become bad and can be struck down for failure on the part of the sponsoring or executing authority even when the detaining authority is not responsible and at fault. If and when, adverse consequences would justify quashing of the detention order at pre-detention stage, is a different aspect relating to finding on the issue of abscondence.

14. We would now like to examine question of abscondence, without taking into account the order under Clause (b) of Sub-Section 1 to Section 7 of the COFEPOSA Act. The detaining authority i.e. Union of India, Department of Revenue, Ministry of Finance by the letter dated 13th May, 2015 had asked the sponsoring authority i.e. the Commissioner of Customs, Goa to inform them about the efforts made by them to execute the detention order dated 31st March, 2015. The Superintendent of Police (South Goa) vide his letter dated 16th June, 2015, which was received by the detaining authority on 26th June, 2015, had informed that they had visited the residence of the petitioner at Villa No. 04, Karma Garden, Chicalim, Vasco on 1st June, 2015 and 2nd June, 2015, but he was not found at the given address. The wife of the detenu was contacted and

had disclosed that the petitioner was at Delhi taking care of his ailing parents. Goa Police had then visited the residence of the petitioner on 6th June, 2015 and 9th June, 2015, when the house at Goa was found to be locked. We have no doubt in our mind that the aforesaid report establishes that the petitioner was aware and knew about the detention order dated 31st March, 2015 and was trying to conceal and remain underground so that he is not detained and served with the detention order. Possibly he was taking legal advice to move the court, which took him about a month as the present writ petition was filed on 4th July, 2015. It has been highlighted and brought to our notice that Subhash Popatlal Dave (1) (Supra) and Subhash Popatlal Dave (2) (Supra), the period of abscondence was between two to ten years, whereas the period in the present case would be about a month. We have referred to the aforesaid period to point out the time gap or difference, but would un- hesitantly observe that abscondence cannot always be judged and decided on the basis of the time gap. Even a person fleeing from the spot when he is sought to be detained, absconds. A long time period of concealment would necessarily show and indicate greater culpability. Abscond means to go away secretly or illegally and hurriedly to escape from custody or avoid arrest. In the context of the issue raised in Subhash Popatlal Dave (2) (Supra) and the present case, as would be in other cases, the question of abscondence would have to be examined and determined on facts of each case.

15. We are also not impressed with the argument on behalf of the petitioner that the abscondence is contra-indicated for the petitioner and his wife had appeared before the Enforcement Directorate at Goa on 4th June, 2015 and 2nd June, 2015 respectively. The said appearance before the concerned authority was meaningless, as there is no document or material to suggest that the Enforcement Directorate, Goa was aware that a detention order under COFEPOSA Act had been passed.

16. However, in the facts of the present case we would not like to dismiss the present petition only on the ground of abscondence. We would like to dismiss the writ petition primarily for the reason that the petitioner has not been able to make an exceptional ground, to accept the present writ petition at the pre-detention stage. We do not agree with the counsel for the petitioner that there is lack of perceptible live nexus and link between the events on 7th July, 2014 and the detention order dated 31st March, 2015 for the connection snapped on account of the time gap between the two dates and delay in execution of the detention order dated 31st March, 2015, which was attempted to be first served on 1st June, 2015. We record and notice that the respondents in the reply have set out in detail the material which had to be first collected in the investigation to ascertain involvement of different persons in the smuggling of gold. The persons involved had to be discerned and evidence collated. This as per the respondents took time as statements had to be recorded, facts had to be verified and documentary material collected. Each stage required application of mind and examination. Detention order cannot be passed in haste and hurry without

evidence justifying such action. The detention order would not become stale because of the time gap between the occurrence which becomes the substratum of the detention order, if the authorities can explain the reason and cause for the period in question. The respondents have explained the time between 31st March, 2015 to 5th May, 2015 as 3000 papers had to be photocopied and CDs and other electronic evidence prepared. 10 detenus had to be served, and this was a time consuming exercise. We have noted these facts and assertions made by the respondents to hold and observe that a case for quashing the detention order at the pre-detention stage is not made out. It is certainly not an exceptional case, which would justify interference and exercise of writ jurisdiction without recourse to the normal and mandated statutory procedure. The aforesaid facts including the question of "live link" etc. could be appropriate and properly examined and decided first under the normal statutory provisions. Case for interference at the pre-detention stage under the exceptions is not made out.

17. Similarly we do not think that there is any justification and reason for us to interfere at the pre-detention stage under exception No.(iv) as per Smt. Alka Subhash Gadia (Supra). Exception (iv) as carved out, stipulates that interference is possible if the impugned order is passed on vague, extraneous or irrelevant grounds. We have already quoted relevant portions of the judgment of J. Chelameswar, J. on the question of ambit and scope when a writ court exercises its power of judicial review, challenging the detention order. The courts exercise a limited power, for the satisfaction of the detaining authorities is always subjective. The power of judicial review is restricted to legality of the subjective satisfaction. In other words, the courts do not examine the sufficiency of the reasons, but existence of the reasons and their connect and nexus with the statutory and constitutional preconditions which justify preventive detention. The said exercise is undertaken in a limited way for the order of preventive detention does not partake character of punishment, but is by way of pre-caution to prevent future mischief and, therefore, to some extent would always depends upon suspicion or anticipation. Power of interference under exception (iv) of Smt. Alka Subhash Gadia (Supra) at pre-detention stage would be even narrower and more restrictive. Interference would be only justified in cases where the order is perverse or absurd. Interference at this stage would be correct in apparently wanton and manifestly malevolent and arbitrary cases. Pertinently, at this stage, the grounds of detention are not served and in all probability the petitioner would rely on his alibi and justification. The present case we notice and observe would not fall in said exception. We refrain from elaborating and noting in detail the assertions made in the grounds of detention order as the same has not been served on the petitioner. However, we note and record what we have before us are the contentions raised by the petitioner, show cause notice issued by the Customs Authorities under Section 124 of the Customs Act, 1962 and the petitioner's response. The contentions and the pleas raised by the petitioner do not carve out an overtly exceptional case, which would justify quashing of the detention order at this stage. We have deliberately refrained and not referred to

the assertions made by the petitioner and the respondents for it may cause prejudice and would possibly affect the case of the petitioner when issues and contentions of similar nature are raised after the detention order is executed. Suffice, if we notice and record that the respondents assert that; the petitioner was an employee of M/s. Minar Travels Pvt. Ltd.; there were financial transactions between petitioner / his wife and Sheikh Mohammed Javid; there are allegations that Sheikh Mohammed Javid was instrumental and the kingpin involved in smuggling of gold through the Goa Airport and thus the petitioner was involved as a participant or an abettor when he had signed applications for procurement of AAI pass, which allowed and permitted Sheikh Mohammed Javid to enter and have access to the Airport, interact with passengers and other participants, who were involved in the smuggling activity. As recorded by us, at this stage the enquiry is very restrictive and limited to; whether prima facie palpable grounds and reasons exists, and we need not go into elaborate and perspicacious examination, as the said exercise is mandatory and required at the post detention stage. At the said stage, the enquiry though confined to the objective element in the subjective satisfaction, is more profused, sharper and pronounced.

18. In view of the aforesaid discussion, the present writ petition has to be dismissed. We order accordingly. The order directing stay of arrest is accordingly withdrawn. The respondents are at liberty to proceed and execute the detention order dated 31st March, 2015 in accordance with law.