

(1995) 08 BOM CK 0040
In the Bombay High Court
Case No : Criminal W.P. No. 267 of 1994

Sheikh Salim @ Guddu

APPELLANT

Vs

State of Maharashtra and others

RESPONDENT

Date of Decision : 11-08-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 161, 21, 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 359, 360, 361, 362, 363
Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 21, 27, 32, 32A, 33
Penal Code, 1860 (IPC) — Section 120B, 121, 122, 123, 124
Prisons Act, 1894 — Section 28, 3, 46, 59, 59(5)
Terrorist and Disruptive Activities (Prevention) Act, 1987 — Section 20(7)

Citation : (1995) 08 BOM CK 0040

Hon'ble Judges : R.M. Lodha, J;B.V. Wahane, J

Bench : Division Bench

Advocate : R.M. Patwardhan, for the Appellant; H. Ahmed, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

B.V. Wahane, J.—Petitioner Sheikh Salim alias Guddu son of Sheikh Gani, in this petition under Article 226 of the Constitution of India, challenged the vires of section 32-A of the Narcotic Drugs and Psychotropic Substances Act (in short N.D.P.S. Act), being discriminatory and violative of Articles 14 and 21 of the Constitution of India, as also it cannot override the Prisons (Bombay Furlough and Parole) Rules, 1959, and sought the relief to the effect that the petitioner be released on furlough for a period of 15 days in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959.

2. The petitioner was prosecuted by the Police in connection with an offence punishable u/s 21 of the N.D.P.S. Act. He was arrested on 10-1-1992, being found in possession of 4 packets of Brown Sugar. An offence was registered against the petitioner u/s 21 of the N.D.P.S. Act, vide Crime No. 11/92. The

petitioner was chargesheeted in the Court (Special Judge under N.D.P.S. Act), at Nagpur. The petitioner was tried in Sessions Trial No. 195 of 1992, by the Special Judge. The petitioner was found guilty and thus, was convicted and sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs. 1 lakh, in default to undergo further rigorous imprisonment for 2 years, vide judgment dated 17th September, 1993.

3. Being aggrieved by the findings of conviction and sentence, the petitioner preferred Appeal No. 360 of 1993 before this Court which is pending for disposal. The petitioner is in jail undergoing sentence for the offence punishable u/s 21 of N.D.P.S. Act. Since his arrest i.e. 10-1-1992, he is in jail as he was not released on bail.

4. The petitioner submits that the facilities which are made available to the prisoners according to Jail Manual and Prisons Act, the petitioner is also entitled to them. He further submitted that to keep the hopes of the prisoners alive for the purpose of leading happy life after completion of the sentence, the respondents have framed Rules known as Prisons (Bombay Furlough and Parole) Rules, 1959. According to the said Rules, in case of urgency as per the Rule 19, if the presence of the prisoner is required urgently to meet the urgent need of the family members, the prisoner can be extended the facility of Parole. Whereas in order to grant opportunity to the prisoners to mix with the family members, furlough leave is extended to the prisoners. The scheme or the purpose of the above referred Rules is to give the prisoners a second thought of the wrong which he has committed and secondly such prisoners should not be isolated.

According to Rules, a facility of furlough is made available for 15 days to the life convict after every two years of imprisonment till the prisoner completes seven years of imprisonment and thereafter, the said facility is available every year till the completion of the sentence. In case of the prisoners who have been sentenced for a period exceeding five years, but not with life imprisonment, are entitled to be released on furlough for a period of two weeks after completion of two years of actual imprisonment undergone.

In the case of petitioner, since he is in jail from 10-1-1992, he has completed more than two years" imprisonment. He has undergone actual sentence for a period of more than two years. Thereby the petitioner is entitled as of right to be released on furlough. However, though the petitioner approached the Competent Authority for his release on furlough, the respondents Nos. 1 and 2 did not consider his application in view of the provisions of section 32-A of N.D.P.S. Act.

5. Shri Patwardhan, the learned counsel for the petitioner, vehemently argued that the provisions of section 32-A of the N.D.P.S. Act, cannot override the Prisons (Bombay Furlough and Parole) Rules, 1959. In order to defeat the right of the petitioner, the respondents are taking recourse to the provisions of the said Rules. Rule 4 of the Prisons (Bombay Furlough and Parole) Rules, 1959, deals with category of prisoners who are not entitled to be released on furlough.

The said list does not include the convicts under the provisions of N.D.P.S. Act. It is further submitted that denial of furlough leave under the Prisons (Bombay Furlough and Parole) Rules, 1959, to the convicts for the offences punishable under N.D.P.S. Act, except u/s 27 of N.D.P.S. Act, amounts to discrimination when the convicts of life imprisonment are released or entitled for furlough leave under the Rules. The right to liberty as guaranteed to the citizen of India by Article 21 of the Constitution of India, being the most cherished right, in no case it should be curtailed. No doubt, it is permissible only when peace and tranquillity of the society and law and order as well as public order is not likely to be sustained without the detention of the person concerned. Thus, in the light of the aforesaid provisions of law, it can be safely said that provisions of section 32-A of N.D.P.S. Act are clearly violative of the principles of natural justice and right to equality and liberty guaranteed by Articles 14 and 21 of the Constitution of India. A reliance was placed on the case of Jagaram and others vs. State of Andhra Pradesh and others, 1986 Cri.L.J. 1424 (D.B.). In this case the petition was for issuance of a writ of habeas corpus, questioning the legality of the continued incarceration of four convicts as they were not entitled to be released in any event, in view of clause (3) of paragraph 3 of G.O.Ms. No. 580, Home Prisons, (O) Department, dated 20-10-1984, as void being arbitrary and violative of Article 14 of the Constitution of India. Clause (3) of paragraph 3 of the aforesaid G.O. reads as under :

"Prisoners convicted for offences under sections 120B, 121 to 130, 359 to 377 and 395 to 402, Indian Penal Code."

Lordships of the Andhra Pradesh High Court, considering various provisions and laws laid down by the Lordships of the Supreme Court, observed :

"The powers of suspension, remission and commutation of sentences of convicts conferred upon the Central and the State Governments by sections 432 and 433 are dehors the powers conferred upon the President by Article 72 and upon the Governor by Article 161. Section 432 expressly empowers the State Government to exercise the power of remission of sentences of convicts unconditionally or subject to conditions as it may think appropriate. Section 432 is an enabling provision and involves an element of discretion and it is open to the Government to say that it shall not exercise its powers of remission in the case of certain offences. But such exclusion if and when made, should answer the test of reasonableness and fairness which are the mandates of Article 14. In view of the punishments prescribed by the Legislature for the offences the only appropriate basis for determining the seriousness of the crime should be the measure of punishment provided therefor and on this basis the exclusion of offences mentioned in para 3(3) of the G.O. from remission of sentences while not excluding more serious offences like murder is discriminatory and arbitrary. There is no reason why murder is discriminatory and arbitrary. There is no reason as to why the particular offences enumerated in para 3(3) have been picked out of those

offences for exclusion from remission is arbitrary and the classification of offences for exclusion from remission in para 3(3) is not as void as being violative of Article 14."

6. In the case of Bhikhabhai Devshi Vs. State of Gujarat and Others, , the provisions of sections 28, 59, 48A of Prisons Act (9 of 1894) and the Rule 4(10) of Prisons (Bombay Furlough and Parole) Rules, 1959 and Bombay Jail Manual Rules 13, 16 and 1287 and Obiter Observation in Sp.Cri Appl Nos. 496 and 527 of 1981 dated 5-11-1982, have been considered. In para 13 of the judgment, the object of the furlough and parole rules have been enumerated, which reads as under:

"The parole and furlough rules are part of the penal and prison reform with a view to humanise the prison system. These rules enable the prisoner to obtain his release and to return to the outside world for a short prescribed period. The objects of such a release of prisoner can be read from para 101 of the report submitted by the All India Jail Manual Committee as also the objects mentioned in Model Prison Manual. These objects are :

(i) to enable the inmate to maintain continuity with his family life and deal with family matters.

(ii) to save the inmate from the evil effects of continuous prison life.

(iii) to enable the inmate to maintain constructive hope and active interests in life."

In para 14 of the judgment, the Statement of Objects and Reasons for Bombay (Prisons Amendment) Act No. 27 of 1953, has been dealt which reads as under :

"In the Statement of Objects and Reasons for Bombay (Prisons Amendment) Act No. 27 of 1953, the Jail Reforms Committee had recommended and the Government accepted the recommendation that?

"there should be the system of release of prisoners on furlough under which well behaved prisoners of certain categories should, as a matter of right have a spell of freedom occasionally after they undergo a specified period of imprisonment, so that they may maintain contact with their near relatives and friends and may not feel uprooted from society. Government accepted these recommendations and also decided that the furlough period should count towards the prisoner's sentence.

The experience has shown that the system has worked satisfactorily. The Prisons Act, 1894 does not specifically provide for the grant of furlough and the remission of sentence, consequent upon it. In order to place the system on a permanent footing and to enable the Government to delegate its powers to the Inspector General of Prisons, it is necessary that the Prisons Act, 1894 should be amended in its application to the State of Bombay."

Para 16 of the judgment reads as under:

"In furtherance of these objects, the parole and furlough rules are framed in exercise of powers under sections 59(5) and 28 of the Prisons Act, 1894. Section 3 defines various terms in the Act and clauses (5A) and (5B) of section 3 define furlough system and parole system. Clause (5A) added by Bombay Act XXVII of 1953 reads as under:

(5A):

"furlough system means the system of releasing prisoners in jail on furlough in accordance with the rules for the time being in force." "

Section 59(5) reads as follows :?

"S. 59. Power to make rules. - The State Government may make rules consistent with this Act. ?

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(5) for the award of marks, the suspension or remission and consequent shortening of sentences, and the grant of release on parole or furlough and determining the conditions on which and the authority by which the sentences may be suspended or remitted and the prisoners may be released on parole or furlough."

Thus, the rules have to be consistent with the Act as section 59 expressly provides. One more relevant provision is section 48A (also added by Act 27 of 1953) which reads as follows :?

"S. 48A. Punishment for breach of condition of suspension or remission of sentence or of grant of furlough. - If any prisoner fails without sufficient cause to observe any of the conditions on which his sentence was suspended or remitted or furlough or release on parole was granted to him, he shall be deemed to have committed a prison offence and the Supdt. may, after obtaining his explanation, punish such offence by :

- (1) a formal warning as provided in clause (i) of section 46;
- (2) reduction in grade if such prisoner has been appointed an officer of prison;
- (3) loss of privileges admissible under the remission or furlough or parole system; or
- (4) loss of such other privileges as the State Government may by general or special order, direct."

In para 18 of the judgment, Lordships observed :?

"... Even if furlough is not an absolute right of the prisoner, nonetheless it is a right and privilege admissible and regulated under the rules and it can be granted; refused or withdrawn as per rules."

Their Lordships considered various provisions in the context of latter part of Rule

4(10) of the furlough rules and observed that in respect of the latter part of Rule 4(1), the word "shall" is required to be read as "may". The prison authority cannot reject the legible request for grant of furlough of the prisoners who have surrendered late in the past. The authority has to consider and to grant or refuse furlough in cases of prisoners who have surrendered late.

7. The learned counsel for the petitioner further submitted that the right to be released on furlough is a substantial and legal right conferred on the prisoner. This aspect has been dealt by this Court in the case of Sharad Keshav Mehta vs. State of Maharashtra and others, 1989 Cri.L.J. 681 (D.B.). Their Lordships observed as follows :?

"The right to be released on furlough is a substantial and legal right, conferred on the prisoner. Rule 17 cannot deprive the prisoner of the substantial right to be released on furlough provided the requirements of the rule are complied with. It is not open to the Home Department of the State Government to prescribe rules giving facility of release of the prisoner on furlough by one hand and then providing that the prisoner has no legal right to be released on furlough. The view that even if the conditions prescribed by the rules are satisfied the Government is not bound to release the prisoner on furlough overlooks the distinction between the right to be released on parole and the right to be released on furlough. Parole is granted for certain emergency and release on parole is a discretionary right while release on furlough is a substantial right and accrues to a prisoner on compliance with certain requirements. The idea of granting furlough to a prisoner is that the prisoner should have an opportunity to come out and mix with the society and the prisoner should not be continuously kept in jail for a considerable long period."

The learned counsel for the petitioner further relied on the case of Sharad Bhiku Marchande Vs. State of Maharashtra and others, . This Bench concurred with the view taken by the Division Bench in the case of Sharad Keshav Mehta (cited supra), and, therefore, observed that :

".....under the furlough rules the prisoner has got a substantial and legal right subject to rule 17 and whenever the prisoner makes an application for furlough under the furlough rules, the authority must consider the said application on merits and pass appropriate orders."

8. Further a reliance has been placed on the case of Abdul Hamid Haji Mohammed vs. State of Maharashtra, 1994 (2) Mah.L.R. 7. In the case, the petitioner-Abdul Hamid Haji Mohammed filed the writ petition invoking extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India inter alia praying for quashing the proceedings initiated against him under Terrorist and Disruptive Activities (Prevention) Act (28 of 1987) (hereinafter referred to as "the TADA Act"), on the ground that the provisions of the said Act are not applicable to the facts which are alleged against him. The petitioner also prayed for grant of bail. Scrutinizing the facts and circumstances

of the case, Their Lordships in para 31, declared that the provisions of TADA Act are not applicable to the case of the petitioner and consequently, the prosecution pending against him before the Designated Court under TADA Act were quashed. However, the petitioner's prosecution under the Arms Act was to continue, but not before the Designated Court. Therefore, Designated Court was directed to transfer the case of the petitioner to the Court of Session for the purpose of taking cognizance of the offence under the Arms Act.

9. The object of parole and furlough rules is to humanise penal system and to enable the prisoner to maintain continuity with his family life and to deal with the family matters and to save him from evil effects of continuous jail life and to enable him to gain self confidence and to maintain constructive hopes and active interest in life. Since these are the clear objects of furlough

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system, denial of the benefit or privilege of furlough to the petitioner is nothing but a discrimination and against the guarantee envisaged under Articles 14 and 21 of the Constitution of India. Consequently, according to the learned counsel for the petitioner, the provisions of section 32 of N.D.P.S. Act deserve to be declared ultra vires.

10. Section 32A of the N.D.P.S. Act reads as under :

"32A. No suspension, remission or commutation if any sentence awarded under this Act - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force but subject to the provisions of section 33, no sentence awarded under this Act (other than section 27) shall be suspended or remitted or commuted."

The provisions of section 32A makes it clear that the sentence of a person convicted under the provisions of this Act, shall not be suspended or remitted or commuted. No doubt, under the Prisons (Bombay Furlough and Parole) Rules, 1959, even the person who has been sentenced for the offence punishable u/s 302 of the Indian Penal Code, is entitled for suspension or remission or commutation of the sentence. However, the provisions of section 32A of the N.D.P.S. Act deprives the convicts or prisoners of the above facility, even if they are sentenced for a lesser period. It is submitted that sentencing for lesser period indicates the less seriousness of the offence. Superficially though it appears a discrimination amongst the similarly situated persons, giving benefits to the person involved in the more serious offences and punished severely to the extent of life imprisonment, but without considering the object of the Legislature behind enactment of N.D.P.S. Act, denying equal treatment to the convicts under the provisions of N.D.P.S. Act, the provisions u/s 32A of the N.D.P.S. Act cannot be said as violative of Article 14 or Article 21 of the Constitution of India. The offences enumerated under the N.D.P.S. Act squarely fall into a separate and special class. The legislative history leading to the passing of the Narcotic Drugs and Psychotropic Substances Act, 1985 which may enlighten us to be more alive

to our pious duty of discharging judicial functions to serve and do justice to the people for whom the Courts are meant and not look to the individual liberty of a few who are a nuisance to the society. Prior to the enactment of the N.D.P.S. Act, 1985, the statutory control over narcotic drugs was exercised in India through a number of Central and State enactments, like the Opium Act, 1857, the Opium Act, 1978 and the Dangerous Drugs Act, 1930 (Central Acts). With the passage of time and the developments in the field of illicit drug traffic and drug abuse at national and international level, many deficiencies in these laws were noticed. Similarly, during recent years, new drugs of addiction which have come to be known as psychotropic substances have appeared on the scene and posed serious problems to national governments. There was no comprehensive law to enable exercise of control over psychotropic substances in India, the Central Government : thought an urgent need for the enactment of the comprehensive legislation of the narcotic drugs and psychotropic substance which, inter alia should consolidate and amend the existing laws relating to narcotic drugs, strengthen the existing controls over drugs of abuse, considerably enhance the penalties particularly for trafficking offences, make, provisions for exercising effective control over psychotropic substances and make provisions for the implementation of international conventions relating to narcotic drugs and psychotropic substances to which India has been a party and as a result, the present Act was enacted in the year 1985.

The object of the N.D.P.S. Act of 1985 reads as under:

"An Act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances and for matters connected therewith."

11. In the case of Department of Central Excise vs. Rajesh Tulsidas, 1989 Mh.L.J. 304 = 1989 (1) CriL.C. 346 (Bombay), Chief Metropolitan Magistrate, Bombay, released four accused under the provisions of section 439 of Criminal Procedure Code for the offence punishable u/s 27 of N.D.P.S. Act. The suo motu action was taken by the Lordship of the Bombay High Court under its inherent powers u/s 482 of Criminal Procedure Code, 1973 and the supervisory writ jurisdiction vested in it under Article 227 of the Constitution of India. While cancelling the bail application u/s 439(2) of the Criminal Procedure Code, 1973, the Judge of this Court observed as follows :

"One should not be oblivious of the menace of drug trafficking. Its disastrous consequences are difficult to be described in words. In a grave offence like this, a Magistrate should think twice before granting bail. One should bear in mind that these offences are of very grave type where the minimum punishment is 10 years with a fine of a lakh of rupees and the maximum may extend to 20 years

with a fine of rupees two lakhs and for the special reasons even more than two lakhs. Although the accused persons for this sort of an offence cannot be visited with a penalty of death sentence of imprisonment for life, but such offences are not less serious than those punishable with death or imprisonment for life.

The instant case does not merely involve an economic offence but worse than that being an offence against humanity. Such offences adversely affect the national and international health. Apart from unfortunate victims of drug addiction, innocent children in thousands and perhaps in lakhs in the world may ruin their lives by consuming drug like brown sugar and, therefore, anyone who indulges in such heinous crime has to be dealt with a very heavy hand if humanity is to be served. In this case, there is a well founded apprehension that if put on bail, the present accused persons may indulge in similar offences or may abscond and may not be available for trial."

12. Though Shri Patwardhan, the learned counsel for the petitioner, submitted that the classification made u/s 32A of the N.D.P.S. Act, is unreasonable, as also it deprives the personal liberty granted to the petitioner when other similarly circumstanced persons getting benefits of the provisions of the Prisons (Bombay Furlough and Parole) Rules, 1959. The N.D.P.S. Act is a central and special enactment. The citations on which a reliance has been placed by the learned counsel for the petitioner, are not at all applicable in the instant case, as also of no assistance because in those cases, the notifications or circulars issued by the State Governments were involved. The learned counsel for the petitioner could not substantiate as to how the provisions are unreasonable and encroached upon the personal liberty of the petitioner by the enactment of section 32A of the N.D.P.S. Act.

For the purpose of application of Article 14 of the Constitution of India, the laws made by different legislations cannot be taken together for the purpose of comparison or contrast to show that the provisions of the one, are discriminatory, when read with the provisions of the other. Each law must be dealt specifically. The provisions of Article 14 of the Constitution of India prohibits class legislation and not reasonable classification for the purpose of legislation. If the Legislature takes care, to reasonably classify the person for legislative purpose and if it deals equally with all the persons belonging to a "well defined class", it is not open to charge of denial of equal protection on the ground that the law does not apply to other person. The legislative classification is not expected to be scientifically perfect or logically complete. Unless the classification results in pronounced inequality, the Court would not interfere. Similarly, the reasonableness is to be judged with reference to the object of the legislation and not moral consideration. Considering the object of the enactment of the N.D.P.S. Act as reproduced earlier, it is a reasonable prohibition in respect of the persons who are convicted under the provisions of N.D.P.S. Act.

13. The Apex Court in the case of Narcotics Control Bureau vs. Kishan Lal and others, 1991 I SVLR (Cr.) 51, while dealing with the amended section 37 of the

N.D.P.S. Act and that of section 439 of the Criminal Procedure Code, considered the preamble of the Act and observed :

"The N.D.P.S. Act is a special enactment and as already noted it was enacted with a view to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances. That being the underlying object and particularly when the provisions of section 37 of N.D.P.S. Act are in negative terms limiting the scope of the applicability of the provisions of Criminal Procedure Code regarding bail, in our view, it cannot be held that the High Court's power to grant bail u/s 439, Criminal Procedure Code are not subject to the limitation mentioned u/s 37 of N.D.P.S. Act. The non-obstante clause with which the section starts should be given its due meaning and clearly it is intended to restrict the powers to grant bail. In case of inconsistency between section 439, Criminal Procedure Code and section 37 of the N.D.P.S. Act, section 37 prevails."

Further Lordships observed :

"It can thus be seen that when there is a special enactment in force relating to the manner of investigation, enquiry or otherwise dealing with such offences, the other powers under Criminal Procedure Code should be subject to such special enactment. In interpreting the scope of such a statute, the dominant purpose underlying the statute has to be borne in mind."

In the case of Lt.-Col. Prithi Pal Singh Bedi and Others Vs. Union of India (UOI) and Others, , Lordships considered the mode of interpretation and observed as follows :

"The dominant purpose in construing a statute is to ascertain the intention of Parliament. One of the well recognised canons of construction is that the Legislature speaks its mind by use of correct expression and unless there is any ambiguity in the language of the provision, the Court should adopt literal construction if it does not lead to an absurdity."

14. The Hon'ble Supreme Court in the case of AIR 1995 1198 (SC) , while considering the appeals against the Judgment and Order dated 25-3-1994 of the High Court of Madhya Pradesh in the petition under Article 227 of the Constitution of India wherein the respondent No. 1 had challenged the constitutional validity of certain provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, considered the object of the enactment of the Act in para 6 and observed :

".... A special legislation to check and deter crimes against them (SCs and STs) committed by non-Scheduled Castes and non-Scheduled Tribes has. therefore become necessary."

Their Lordships further observed :

"The above statement graphically describes the social conditions which motivated

the said legislation. It is pointed out in the above Statement of Objects and Reasons that when members of the Scheduled Castes and Scheduled Tribes assert their rights and demand statutory protection, vested interests try to cow them down and terrorise them. In these circumstances, if anticipatory bail is not made available to persons who commit such offences, such a denial cannot be considered as unreasonable or violative of Article 14, as these offences form distinct class by themselves and cannot be compared with other offences."

Their Lordships further observed in para 10 as under :

"It was submitted before us that while section 438 is available for graver offences under the Penal Code, it is not available for even "minor offences" under the said Act. This grievance also cannot be justified. The offences which are enumerated u/s 3 are offences which to say the least, denigrate members of Scheduled Castes and Scheduled Tribes in the eyes of society, and prevent them from leading a life of dignity and self respect. Such offences are committed to humiliate and subjugate members of Scheduled Castes and Scheduled Tribes with a view to keeping them in a state of servitude. These offences constitute a separate class and cannot be compared with offences under the Penal Code."

Their Lordships also in para 8. described the section 20(7) of the Terrorist and Disruptive Activities (Prevention) Act, 1987, which was considered by the Supreme Court in the case of Kartar Singh vs. State of Punjab, 1994 Cri.L.J. 3139, holding that there was nothing wrong in not extending the benefit of section 438 of Criminal Procedure Code to the accused and thereby upheld section 20(7) of the Terrorist and Disruptive Activities (Prevention) Act, 1987.

15. In view of the discussion above, the provisions of section 32A of the N.D.P.S. Act, being special statute with special object, according to us, cannot be" said to be unreasonable or affecting the life and liberty of the petitioner and thereby violative of Article 14 and Article 21 of the Constitution of India. In the result, the instant petition, deserves to be dismissed.

16. The petition is dismissed. Rule stands discharged. No costs.