

(2000) 01 BOM CK 0020

In the Bombay High Court

Case No : Criminal Writ Petition No. 941 of 1999

Smt. Kusum Mangala Singh

APPELLANT

Vs

R.H. Mendonca and Others

RESPONDENT

Date of Decision : 12-01-2000

Acts Referred:

Arms Act, 1959 — Section 25, 3
Constitution of India, 1950 — Article 22(5), 226
Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders and Dangerous Persons Act, 1981 — Section 3(1)

Citation : (2000) CriLJ 2363 : (2000) 3 MhLj 370

Hon'ble Judges : Vishnu Sahai, J;P.V. Kakade, J

Bench : Division Bench

Advocate : U.N. Tripathi, for the Appellant; S.G. Deshmukh, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Vishnu Sahai, J.—Through this writ petition preferred under Article 226 of the Constitution of India, the petitioner who styles herself as mother of the detenu Rajesh Mangal Singh, has impugned the detention order dt. 18-5-1999 passed by the first respondent Mr. R.H. Mendonca, Commissioner of Police, Brihan Mumbai, detaining the detenu under Sub-section (1) of Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981 (No. LV of 1981) (Amendment 1996).

2. The detention order along with the grounds of detention also dt. 18-5-1999 was served on 18-5-1999 itself on the detenu. True copies of the detention order and grounds of detention order are annexed as Annexures A and B respectively to this writ petition.

3. We have heard learned counsel for the parties.

Although in this writ petition Mr. U.N. Tripathi, learned counsel for the petitioner has pleaded a large number of grounds numbered as ground No. 7A to 7G but, since in our judgment, this writ petition deserves to succeed on ground No. 7B, we are neither advertent to other grounds raised in the petition nor to the prejudicial activities of the detenu contained in grounds of detention.

Ground No. 7B in short is that since illegible or partly legible copies of some original documents were supplied to the detenu, his right to make a representation under Article 22(5) of the Constitution of India has been impaired.

4. Mr. U.N. Tripathi, learned counsel for the petitioner has strenuously urged that the law requires that not only the translated copies of documents supplied to the detenu should be legible but the originals should also be legible. He has urged that this is necessary because, unless eligible copies of the original documents are given, the detenu would not be able to ascertain whether the translation is faithful and correct. To support his submission. Mr. Tripathi invited our attention to paras 10 and 11 of the Division Bench decision of our Court, reported in *Moosa Velliat Vs. The Asstt. Secretary, Government of Maharashtra and Others*, .

5. Mr. S.G. Deshmukh, learned counsel for the respondent true to his customary fairness, admits that the original of the document at page 35 of the compilation which is bail application and bail order in a case under Sections 3 and 25 of the Arms Act, relating to ground No. 4(a) to 4(a)(iv) of the grounds of detention, is illegible in part.

6. In our view, on account of the circumstance, mentioned in paragraph 5 above, the detenu was prevented from ascertaining whether the translated copy given to him was a faithful translation of the original, and thus was deprived of his right to making a representation under Article 22(5) of the Constitution of India.

We wish to emphasise that in the obligation of the respondents to furnish copies of original documents is implicit the obligation that such copies should be legible.

7. Since the copy of the original bail application and the bail under was illegible in part, in our view, the detenu's right to make an effective representation under Article 22(5) of the Constitution of India was impaired.

8. Accordingly, we allow this writ petition; quash the detention order dt. 18-5-1999; direct that the detenu Rajesh Mangal Singh be released forthwith unless wanted in some other case; and make the rule absolute.