

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 8070 of 2021

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ASPAK HANIFBHAI PANJA (PATNI)
THROUGH ANIS HANIFBHAI PANJA (PATNI)
Versus
STATE OF GUJARAT

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Appearance:
DENISH V MAVADHIYA(9207) for the Petitioner(s) No. 1
MR ADITIYASINH JADEJA, AGP for the respondents

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CORAM: HONOURABLE MR. JUSTICE PARESH UPADHYAY

Date : 29/06/2021

ORAL ORDER

1. Challenge in this petition is made to the order passed by the District Magistrate, Gir-Somnath dated 12.05.2021, whereby the petitioner is treated as 'a cruel person' and is detained under the Gujarat Prevention of Anti Social Activities Act, 1985.

2. Learned advocate for the petitioner has submitted that, mere filing of two FIRs is no ground for the detaining authority to arrive at the conclusion that the activities of the petitioner are prejudicial to the maintenance of public order. It is further submitted that, mere reading of two FIRs in question would make it clear that the impugned order is unsustainable. It is submitted that the impugned order be quashed and set aside.

3. Learned Assistant Government Pleader for the respondent Authorities has supported the detention order passed by the detaining authority and has submitted that the

impugned order is based on sufficient material and the detaining authority has rightly arrived at the conclusion that the activities of the petitioner are prejudicial to the maintenance of the public order. It is submitted that this petition be dismissed.

4. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds that the detaining authority has exercised the powers, treating the petitioner as a 'cruel person' within the meaning of Section 2(bbb) of the Act. Two FIRs, which is the basis to treat the petitioner as such a person is referred to in the impugned order and further details in that regard are on record. Said two FIRs and other material which is on record is considered by this Court. On conjoint consideration of the material and the arguments of the contesting parties, prima facie, the impugned order is not sustainable.

5. Opportunity is granted to the detaining authority, to file reply inter alia mentioning therein, whether the care which is claimed to have been taken on behalf of the State for *gauvansh* in the present case, similar care is being taken for citizens in the area under his jurisdiction. If any such reply is filed by the detaining authority before the next date of hearing, that shall also be taken into consideration by this Court while recording the final order. Until that exercise is done, the petitioner needs to be protected. Further execution of the impugned detention order therefore needs to be suspended.

6. For the reasons recorded above, the following order is

passed.

6.1 The execution of the impugned order passed by the District Magistrate, Gir-Somnath dated 12.05.2021 is suspended until further order.

6.2 The petitioner / detenu is ordered to be set at liberty forthwith, if not required in any other case.

6.3 Registry to communicate this order by way of FAX / E-mail to the concerned Authority.

List for further consideration on 23.07.2021. To be heard with Special Civil Application No.8092 of 2021.

(PARESH UPADHYAY, J)

MOBHATI/PS/96

