Abdul Razak Nannekhan Pathan vs Police Commissioner, Ahmedabad & Anr on 27 July, 1989

Equivalent citations: 1989 AIR 2265, 1989 SCR (1) 890, AIRONLINE 1989 SC 166

Author: B.C. Ray

Bench: B.C. Ray, S.R. Pandian

PETITIONER:
ABDUL RAZAK NANNEKHAN PATHAN

Vs.

RESPONDENT:
POLICE COMMISSIONER, AHMEDABAD & ANR.

DATE OF JUDGMENT27/07/1989

BENCH:
RAY, B.C. (J)
BENCH:
RAY, B.C. (J)
PANDIAN, S.R. (J)

CITATION:
1989 AIR 2265 1989 SCR (1) 890
1989 SCC (2) 222 JT 1989 (1) 478
1989 SCALE (1)542
CITATOR INFO :
R 1989 SC2274 (11)
RF 1990 SC1202 (4)
RF 1991 SC1640 (12)
D 1991 SC2261 (5)

ACT:
Gujarat Prevention of Anti-SOcial Activities Act, 1985--Section 3 (1)--Detenu--Detention Order--Mention of Criminal cases registered under I.P.C.--Detenu had become dangerous person of the area--Held that reach and effect not so deep as to affect public at large-Detention Order quashed.

HEADNOTE:
By the present petition the Petitioner challenged the

legality and validity of the detention order passed by the Respondent against him under Section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985. The detenu was arrested and kept in Sabarmati Central Jail on 5.10.1988. The detenu immediately thereafter, made representation to the detaining authority as well as to the State Government as also to the Advisory Board against the detention order but he having not received any reply, he filed this Writ Petition.

The grounds of detention which were supplied to the detenu inter alia mentioned that by reason of various criminal acts committed by him with the help of his companions which included looting of persons, causing injuries by lethal weapons, he had become a terror in the area and as such a dangerous person within the meaning of s. 2(c) of the said Act. Grounds also enumerated seven criminal cases which had been registered against the detenu. The detenu was stated to have committed offences affecting haman body by holding deadly weapons such as razor, knife, Tamancha, Sword, Hockey stick etc. It was specifically mentioned that if the passers by refused to pay to the detenu the money as demanded by him, he used to threaten them of murder by showing weapons. It was also stated in the grounds that particulars of detenu's anti-social activities were given by four persons of the area, who did not desire that their names he disclosed which were accordingly not disclosed claiming: privilege in that behalf.

Taking into consideration all the aforesaid facts the detaining authority felt satisfied that the detenu has been committing offences punishable under I.P.C. and that due to those activities of the detenu, public order was disturbed, he having become a hurdle in the main-
570
tenance of public order. This is how the detention order referred to above came to be passed.

The Petitioner challenged the detention order principally on two grounds, viz.,. (i) that the grounds of detention are not germane and relevant as they are vague lacking in material particulars and (ii) that there has been complete non-application of mind by the detaining authority in making the order of detention.

The Court immediately after conclusion of the hearing of the Writ Petition pronounced an order on May 5, 1988 allowing the Writ Petition and stating that the written judgment shall follow later. These are the reasons given by the Court in support of the said order whereby the Court,

HELD: The averments made in the grounds of detention are absolutely vague inasmuch as no particulars as to which persons have been robbed or what offences have been committed by showing deadly weapons and at what place have not been mentioned. [577B]

There is also no mention when and where the detenu in a drunken condition demanded money from whom nor it has been

stated when the detenu threatened, whom to murder by showing razor or Rampuri knife. There is no particular instance also as to which peace loving citizens and in which area the Petitioner has beaten in public believing, that they are giving information of his criminal activities to the police. It is also a vague statement that the detenu is coming in the way of maintenance of public order. [575G, 576D-G]

The grounds and averments made in the grounds which were served on the detenu are vague and as such they are violative of Article 22(5) of the Constitution of India. [576H-577A]

Pushkar Mukharjee & Ors. v. The State of West Bengal,[969] 2 SCR 635 at page 641; and Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City & Anr., JT 1988 4 SC 703 at page 710.

An act may create a 'law and order' problem but such an act does not necessarily cause an obstruction to the maintenance of public order. [579A]

Dr. Ram Manohar Lohia v. State of Bihar & Ors., [1966] 1 SCR 709 at page 746.

571

The criminal cases in the instant case are confined to certain private individuals and it is merely a 'law and order' problem and it has nothing to do with "maintenance of public order". Its reach and effect is not so deep as to affect the public at large. It does not create or tend to create any panic in the mini of the people of a particular locality or public in general nor it affects adversely the maintenance of public order. There is nothing to show that the activities of the Petitioner have affected or tended to affect the even tempo of life of the community. [571G-572A]

It has been stated by the detaining authority that on relevant inquiry, it found the statements to he true and as such the names and addresses of those witnesses have not been given to the detenu as provided in Section 9(2) of the PASA Act, 1985. The Court did not enter into that controversy as in its opinion the detaining authority was satisfied not to disclose then names of those witnesses. [581G-582A]

Ashok Kumar v. Delhi Administration, [1982] 2 SCC 403; not applicable--distinguished.

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Crl.) No. 15 of 1989.

(Under Article 32 of the Constitution of India). T.U. Mehta and S.C. Patel for the Petitioner. G.A. Shah, M.N. Shroff and K.M.M. Khan for the Respond- ents.

The Judgment of the Court was delivered by B.C. RAY, J. We have already pronounced in Court on May 5, 1986 the order allowing the writ petition and stating there- in that the written judgment will

follow later on. Pursuant to this, are passing the judgment embodying reasons. This writ petition is directed against the order of detention made under s. 3(1) of Gujarat Prevention of Anti- Social Activities Act, 1985, mainly on the grounds that the grounds are not germane and relevant and there has been non-application of mind by the detaining authority in making the said order.

The detenu was arrested and kept in Sabarmati Central Jail on October 5,: 1988 under the impugned detention order made on October 5, 1988 by the respondent No. 1, Shri S.N. Sinha, Police Commissioner, Ahmedabad City and the grounds had been served on him.

The detenu immediately thereafter made representations to the detaining authority as well as to the State Govern- ment and also to the Advisory Board against the impugned order of detention questioning the legality and validity of the detention order. But uptil now he has not received any intimation in respect of his aforesaid representation. The detenu thereafter challenged the impugned order of detention before this Court by the instant Writ Petition No. 15 of 1989for quashing the same.

Before proceeding to consider on merit it is necessary to quote excerpts of the grounds of detention.

> "That in the Shahalam Chandola Tank area you, with the help of your companions, are committing acts affecting human body as shown in Chapter XVI of the Indian Penal Code with the help of Rampuri knife, Razor etc. You are creating atmosphere of terror and danger by causing injuries and by showing lethal weapons to innocent citizens. You are known as dangerous and terrible person in the said area. Therefore you are a 'dangerous person' as defined under s. 2(c) of the said Act and you are, by creating atmosphere of danger and terror, becoming hurdle in the way of maintenance of law and order in the said area. For such acts of yours the following criminal offences under the Indian Penal Code have been registered in the police record against you. The details thereof are as under:
>
> S. No. Police Stn. Crime R. No. Section Result
>
> 1. Kagdapith 96/85 324,504, 114 Compounded IPC, 135(1) B.P.
>
> 2. Maninagar 120/86 Secs. 336,337, Compounded 427, 114 IPC
>
> 3. Kagdapith 225/87 Sec. 135(1) B .P. Conviction
>
> 4. Maninagar 122/86 Secs. 307/451, 147, 148, 149,436, 440, 1208 IPC, 25C Arms Act, 3, 4, Explosive. Not proved.
>
> 5. Maninagar 33/88 Sec. 324, 504, Under in-
>
> 114 IPC, 135(1) vestigation. B.P. Act.

6. Kagdapith 51/88 307,232, 114 IPC Under in-

135(1) B.P. Act. vestigation.

7. Kagadapith 81/88 326, 114 IPC, Under in-

135(1) B.P- Act vestigation.

Thus, on scrutiny of the complaints, proposals and other papers therewith, it appears that you are committing of- fences affecting human body in the said area by holding deadly weapons such as knife, razor, tamancha, sword, hockey stick, iron pipes etc. Therefore, you are a dangerous person as defined in s. 2(c) of the said Act. Further, you are robbing persons who pass from there for business or service by showing deadly weapons. In the said area in drunken condition you are demanding money from those passing from there. If they do not give money you are threatening them of murder by showing razor of Rampuri knife. You are beating peace loving citizens in the said area in public believing that they are giving information of your activities to the police. By this you are coming in the way of maintenance of public order.

Particulars in support of your aforesaid anti-social activities have been given by four persons residing in the said area or doing trade or business in the said area in their statements. Copies thereof are given herewith. Being afraid of you. the aforesaid witnesses have asked not to disclose their names and addresses, because they are afraid of damage to their person and property and their safety and on reliable inquiry it is found to be true. Therefore, you are not given names and addresses of those witnesses as provided in s. 9(2) of PASA ACT, 1985 however contents of the facts states by them are given to you."

"..... ....."

"Taking into consideration all the aforesaid facts, I am fully satisfied that you are committing offences punishable under the Indian Penal Code and affecting to human body. You are a notorious, terrible and dangerous person. Due to such activities of yours public order is disturbed very often in the said area. By such activities you have become hurdle in maintenance of public order."

The respondent No. 1 has thus referred to seven criminal cases filed against the petitioner and also the statements of four persons residing in the area recorded by the police. The respondent No. 1 has also made averments in the grounds alleging various anti-social activities of the petitioner and after considering the same made the impugned order of detenu on forming an opinion that the petitioner is a dan- gerous person within the meaning of s. 2(c) of the said Act. The names and addresses of the four witnesses have not been disclosed claiming privilege under s. 9(2) of 'PASA' Act. As regards the seven criminal cases, the detenu has been acquitted of the charges ,in the first two cases that is, Kagdapith case No. 96/85 and Maninager case No. 120/86 which have been compounded, In the third case under s. 135 of the Bombay Police Act, that is, Kagdapith case No. 225/87, the detenu has been convicted. But it has no relevance for the purpose of forming an opinion that the petitioner is a

dangerous person .under s. 2(c) of PASA Act. As regards the case No. 4, that is criminal case No. 122/86, the petitioner has been acquitted. The other three criminal cases that is Maninagar case No. 33/88, Kagdapith case No. 51/88, & Kagda- pith case No. 81/88 are all under investigation and in these cases the petitioner has been enlarged on bail. It has also been stated that the grounds of detention supplied to the petitioner are vague and indefinite and as such the detenu could not make an effective and proper representation under Art. 22(5) of the Constitution. It has further been stated that out of the aforesaid seven criminal cases, the first two criminal cases are not proximate to the date of making the impugned order of detention. There is absolute non- application of mind by the detaining authority in coming to his subjective satisfaction that the impugned order was necessary to be made to prevent the detenu from acting in any manner prejudicial to the maintenance of public order. The respondent No. 1, filed an affidavit-in-reply stat- ing inter alia that the petitioner-detenu is indulging in criminal activities prejudicial to the maintenance of the public order and as such the order of detention was made against the detenu after considering that recourse to ac- tions under the provisions of ordinary law will not be adequate. It has been further denied in paragraph (d) of the said affidavit the statement that no effective representa- tion could be made due to non-supply of the names and ad- dresses of the so called witnesses and other relevant mate- rials as made in the petition. It has also been stated that on the basis of the apprehension expressed by those four witnesses whose statements have been recorded by the Police Inspector and verified by the Superintendent of Police that their names and addresses have not been disclosed by the detaining authority claiming the privilege available under s. 9(2) of the Gujarat Prevention of AntiSocial Activities Act, 1985. It has also been stated that the detaining authority has been subjectively satisfied that the petitioner is indulging in nefarious activities prejudicial to the maintenance of public order and as such the impugned order of detention was made by him against the detenu- It has also been stated that in Criminal Case No. 225/87, the detenu was found with razor and he was convicted in that particular case. It has also been. stated that from the cases registered against the detenu from 1985 to 1988 that the detenu is involved in prejudicial activities from 1985 to 1988 and as such it was inferred that the passing of detention order was the only remedy to restrain the petitioner from indulging in similar prejudicial activities.

It is evident from the grounds of detention that the impugned order of detention was made on the ground that the petitioner is a dangerous and terrible person in the area as defined in s. 2(c) of the PASA Act. The said section states:

> "dangerous person" means a person, who either by himself or as a member or leader of a gang, during a period of three successive years habitually commit, or attempts to commit or abets the commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code (XLV of 1860) or any of the offences punishable under Chapter V of the Arms Act, 1959 (54 of 1959)."

In the grounds, it has been stated that the detenu by creat- ing atmosphere of danger and terror has become hurdle in the way of maintenance of law and order in the said area. It has also been stated that for such acts as well as due to the following criminal offences under the Indian Penal Code registered against him, the detenu has become a dangerous person of the area. It has also been stated that the detenu has been robbing persons who pass from there for business or service by

showing deadly weapons. It has also been stated, "In the said area in drunken condition you are demanding money from those passing from there. If they do not give money you are threatening them of murder by showing razor or Rampuri knife. You are beating peace-loving citizens in the said area in public believing that they are giving informa- tion of your criminal activities to the police. By this you are coming in the way of maintenance of public order."

It has already been stated hereinbefore that offences under Chapter XVI of Indian Penal Code have been compounded. and the detenu has been acquitted. As regards the third case that is, Kagdapith case No. 225/87 under s. 135 of Bombay Police Act, the petitioner was convicted. This offence is not one of the offences falling within the offences men- tioned in s. 2(c) of the PASA Act and as such this case cannot be taken into consideration to hold the detenu a dangerous person. As regards the fourth case--Maninagar case no. 122/86, being not proved against the petitioner he has been acquitted of the offences charged in the said case. The other three remaining cases that is, Maninagar case no. 33/88, Kagdapith case no. 15/88 and 81/88 are all under investigation. Therefore, the fourth case in which the petitioner had already obtained acquittal could not be taken into consideration. For the purpose of determining the petitioner as a dangerous person, it is also very relevant to notice that s. 2(c) defines dangerous person as a person who habitually commits or attempts to commit offences pun- ishable under Chapter XVI or Chapter XVII of Indian Penal Code or any of the offences under Chapter V of the Arms Act. From the aforesaid seven criminal cases, two cases are of 1985 and 1986 which are not proximate to the date of the order of detention and so stale. Moreover, the petitioner being acquitted the said cases could not be taken into consideration. Similarly case No. 3 also fails outside the purview of the s. 2(c) of the said Act. Fourth case No. 122/86 can also not be considered as petitioner earned acquittal. Merely on consideration of the other three crimi- nal cases which are under investigation and are yet to be decided the detaining authority cannot come to his subjec- tive satisfaction that the detenu was a dangerous person who habitually indulges in committing offences referred in s. 2(c) of the PASA Act. The other averments made in the said grounds and referred to hereinbefore are absolutely vague in as much as no particulars as to which persons have been robbed or what offences have been committed by showing deadly weapons at what place have not been mentioned. There is also no mention when and where the detenu in a drunken condition demanded money from whom nor it has been stated when the detenu threatened whom to murder by showing razor or Rampuri knife. There is no particular instance also as to which peace-loving citizens and in which area the petitioner has beaten in public believing, that they are giving infor- mation of his criminal activities to the police. It is also a vague statement that the detenu is coming in the way of maintenance of public order. Similarly the statement of the said four witnesses mentioned in the grounds of detention are also very vague and without any particulars of the names of the four witnesses and their addresses were not dis- closed. These statements are also vague. In such circumstances, it is not at all possible for the detenu to make a proper and effective representation except merely denying the alleged grounds of detention as mandatorily required under Art. 22(5) of the Constitution of India. This ArtiCle confers on a detenu two fundamental rights namely, (1) that the detaining authority has to communicate to the detenu the grounds as early as possible on which the order of detention has been made and secondly the right to make an effective representation against the said order. This obviously requires that the grounds must not be vague but must be specific, relevant in order to enable the detenu to make an appropriate and effecting representation against the same before the Advisory Board as well as

before other authorities including detaining author- ity. The grounds and the averments made in the grounds which were served on the detenu are Vague and as such they are violative of the Art. 22(5) of the Constitution of India. It is pertinent to refer in this connection the decision re- ported in Pushkar Mukharjee & Ors. v. The State of West Bengal, [1969] 2 SCR 635 at page 641. "Similarly, if some of the grounds supplied to the detenu are so vague that they would virtually deprive the detenu of the statutory right of making a representation, that again may make the order of detention invalid."

That has been referred to have been relied upon in the subsequent decision in the matter of Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City & Anr., JT 1988(4) SC 703 at page 710.

> "It was held by this Court that the ground was extremely vague and gave no particulars to enable the petitioners to make an adequate representation against the order of deten- tion and it infringed the constitutional safeguard provided under Art. 22(5) of the Constitution of India."

In the case of Pushkar Mukharjee, the ground no. 2 states:

> "You have become a menace to the society and there have been disturbances and confusion in the lives of peaceful citizens of Barnset and Khardah P.S. areas under 24 Parganas District and the inhabitants thereof are constant threat of disturbances of public order." It was held in this case that, "It is manifest that this ground is extremely vague and gives no particulars to enable the petitioner to make an adequate representation against the order of detention and thus infringes the constitutional safeguard provided under Art. 22(5)."

The second crucial question that fails for consideration in this case is whether the grounds of detention particular- ly referring to the seven criminal cases are relevant and germane grounds for passing of an order of detention under s. 3(1) of the PASA Act. All the seven criminal cases men- tioned relate to problem of law and order and not public order in as much as they disclose cases relating to particu- lar persons which has nothing to do with the maintenance of public order. As has already been said hereinbefore that out of the seven criminal cases, two have been compounded and in the fourth case the criminal charges have not been proved against the petitioner as such he was acquitted. The third case being under s. 135 of the Bombay Police Act does not fall within the purview of the s. 2(c) of the Act and it is' confined to a private individual. The other three cases which are under investigation also relate to assault to private individuals and they have nothing to do with the disturbance of even tempo of the life of the community or of men of a particular locality nor does it affect the even flow of life of the public as a whole. Section 3(1) clearly mandates that the order of detention can be made only when the State Government or its authorised officer has come to a subjective satisfaction that a person is required to be detained in order to prevent him from acting in any manner prejudicial to the maintenance of the public order. Sub- section 4 embodies a deeming clause to the effect that a person should be deemed to act in any manner prejudicial to the maintenance of public order when such person is engaged in any activities as a dangerous person which affect ad- versely or are likely to affect adversely the maintenance of public order. Explanation

2 clause 4 further provides that for the purpose of this sub-section public order shall be deemed likely to be affected adversely or shall be deemed likely to be affected adversely inter alia if any of the activities of any person referred to in this sub-section directly or indirectly, is causing or is likely to cause any harm, danger or alarm or feeling of insecurity among the general public or any section thereof or a grave or wide- spread danger of life, property or public health. Coming to this particular case, the criminal cases mentioned in the grounds do not refer to any dangerous, harmful or adverse act or alarm which gives rise to a feeling of insecurity for the general public amongst the persons of a locality. The criminal cases are confined to certain private individuals and it is merely a law and order problem and it has nothing to do with maintenance of public order. Its reach and effect is not so deep as to affect the public at large. It does not create or tend or create any panic in the mind of people of particular locality or public in general nor it affects adversely the maintenance of public order. There is nothing to show that the above activities of the petitioner have affected or tended to affect the even tempo of fife of the community. An act may create a law and order problem but such an act does not necessarily cause an obstruction to the maintenance of public order. The difference between 'the law and order and public order has been very succinctly stated by this Court in Dr. Ram Manohar Lohia v. State of Bihar & Ors., [966] 1 SCR 709 at page 746 wherein it has been stated that:

> "It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State" "law and order" also comprehends disor-

ders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State. But using the expression, "maintenance of law and order" the District Magistrate was widening his own field of action and was adding a clause to the Defence of Indian Rules."

In Pushkar Mukharjee v. State of West Bengal, (supra), it has been stated that:

> "It is manifest that every act of assault or injury to specific persons does not lead to public disorder. When two people quarrel and fight and assault each other inside a house or in a street, it may be said that there is disorder but not public disorder. Such cases are dealt with under the powers vested in the executive authorities under the provisions of ordinary criminal law but the culprits cannot be detained on the grounds that they were disturbing public order. The contravention of any law always affects order but before it can be said to affect public order, it must affect the community or the public at large. In this connection we must draw a line of demarcation between serious and aggravated forms of disor- der which directly affect the community or injure the public interest and the relatively minor breaches of peace of a purely local significance which primarily injure specific individuals and only in a secondary sense public interest. A mere disturbance of law and order leading to.

> disorder is thus not necessarily sufficient for action under the Preventive Detention Act but a disturbance which will affect public order comes within the scope of the Act. A District Magistrate is therefore entitled to take action under s. 3(1) of the Act to pre- vent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances."

It has also been observed in a recent decision of the Supreme Court in Piyush Kantilal Mehta v. The Commissioner of Police, Ahmedabad City, (supra) that:

> "The allegations made against the petitioner may give rise to a question of law and order but, surely, they have nothing to do with the question of public order. A person may be very fierce by nature, but so long as the public generally are not affected by his activities or conduct, the question of maintenance of public order will not arise. In order that an activity may be said to affect adversely the maintenance of public order, there must be materials to show that there has been a feel- ing of insecurity among the general public. If any act of a person creates panic or fear in the minds of the members of the public upset- ting the even tempo of life of the community, such act must be said to have a direct bearing on the question of maintenance of public order. The commission of an offence will not necessarily come within the purview of 'public order'."

Our attention has been drawn to the decision in the case of Ashok Kumar v. Delhi Administration, [1982] 2 SCC 403. In that case in the grounds of detention thirty six criminal cases have been referred to showing the prejudicial activi- ties of the detenu leading to public disorder. This Court in considering these series of criminal cases committed by the detenu held that the detenu appears to have taken a life of crime and become a notorious character. The fact that the petitioner and his associates are facing trial or the mat- ters are still under investigation only shows that they are such dangerous characters that people are afraid of giving evidence against him. The armed holdup gangsters in an exclusive residential areas of the city where persons are deprived of their belongings at the point of knife or re- volver reveal organised crime. The particular acts enumerat- ed in the grounds of detention clearly show that the activi- ties of the detenu, cover a wide field and fall within the contours of the concept of public order. The grounds furnished were also neither vague nor irrelevant or lacking in particulars or were not inadequate or insuffi- cient for the objective satisfaction of the detaining au- thority. Considering these, this Court held in the particu- lar facts and circumstances of that case that the order of detention made by the detaining authority after being sub- jectively satisfied that the acts of the detenu hinder the maintenance of public order.

The facts and circumstances of that case are distin- guishable from the facts of the present case and as such it has got no application. There is nothing in this case to show that the petitioner was a member of a gang which are engaged in criminal activities systematically in a particu- lar locality and those create a panic and a sense of insecu- rity amongst the residents of that particular area in con- sideration of which the impugned order was made. Considering the above decisions, we are unable to hold that the criminal cases mentioned in the grounds and the statements of the witnesses referred to in the vague and irrelevant grounds of detention do not in any way pose a threat to the

maintenance of public order nor it disturbs the even tempo of public life as envisaged in s. 3(1) of PASA Act. So there has been complete non-application of mind by the detaining authority before reaching a subjective satisfaction to make the im- pugned order of detention.

It has been urged on behalf of the detenu that there has been no consideration by the detaining authority of the relevant facts and circumstances before making an order under s. 9(2) of the PASA Act in not disclosing the names and addresses of the witnesses on whose statements the subjective satisfaction has been arrived at. It has also been stated in this connection that in the grounds of deten- tion it has merely been stated, "Being afraid of you the aforesaid witnesses have asked not to disclose their names and addresses because they are afraid of persons. It has been urged with force that this ground does not refer that the detaining authority has himself considered and satisfied that the disclosure of their names and addresses are likely to cause damages to their person and properly. It has been stated by the detaining authority that on relevant enquiry, it found those statements to be true and as such the names and addresses of those witnesses have not been given to the detenu is provided in s. 9(2) of the PASA Act, 1985. It has been contended on behalf of the petitioner that there is nothing to show that the detaining authority has himself considered that in public interest the names and addresses of these persons should not be disclosed and so such non-disclosure is vague. We do not want to enter into this controversy and decide the same as in our opinion the detaining authority has been satisfied not to disclose the names of those witnesses under s. 9(2) of the said Act. No other grounds have been urged before us on behalf of the petitioner.

For the reasons aforesaid, we hold the order of deten- tion is legal and bad and as such we allow the writ peti- tion. The order of detention is quashed and set aside and the detenu is set free forthwith.

Lal Petition allowed.