Kirpal Mohan Virmani vs Tarun Roy And Ors. on 26 August, 1987

Equivalent citations: 1988(2)CRIMES196, 1987(14)ECC98, ILR1987DELHI554

JUDGMENT

M.K. Chawla, J.

(1) With a view to prevent Shri KirpalMohan Virmani, the present petitioner, from smuggling goods and abetting the smuggling of goods Shri Tarun Roy, Joint Secretary to the Government of India passed an order of his detention under the Cofeposa Act (hereinafter referred to as theAct) on 5/11/1986. The subjective satisfaction is based on the following circumstances :

(2) On a specific information that truck No. Del 3124 is carrying Hashish concealed inside the machinery items, the officers of the Customs Preventive Collectorate, West Bengal succeeded in intercepting the truck at Mogra on 12/07/1986and apprehended its three occupants, S/Shri Joginder Singh,and Shiv Raj Singh. drivers and Ranjit Singh, cleaner. On detailed examination, it was found to be carrying two consignments comprising of 30 cases, containing 660 pieces of front and rear engine mounting. M/s. Northern Exports, 116 HariNagar, New Delhi, was the consigner. This machinery was meant for export to M/s. Nazi Handi Altharthi Est. Jedda(Saudi Arabia). Another consignment comprising of four packages containing one power press and two pieces of hand-operatedpress consigned by M/s. Modern Machinery and Instruments,Parmanand Colony, Delhi was meant for export to International Traders Ltd., London. On close examination of the said machinery items, the Customs Officers recovered 743 kg. of Hashish concealed inside the machinery. The said consignment forexport, were meant to be cleared through M]s. Lee and Muir-head (P) Ltd. India and M/s. Sheikh and Pandit, Calcutta. The machinery Along with Hashish and the truck were seized under the provisions of the Customs Act, 1968 and Narcotic Drugs and Psychotropic Act. Later on, the business and residentialpremises of the clearing agents were searched but nothing incriminating was recovered.

(3) Shri Joginder Singh, driver of the truck in his statement disclosed that the seized truck belonged to Shri Gopal Singh,who was running the same with a Transport Company, in the name and style of Nice Goods Carriers, Azad Market, Delhi.He also disclosed that the owner of the said transport company is Harnam Singh, at whose instance he had gone to Mehrauli on 6/07/1986 to pick up the machinery items. The loading operation was supervised by one Gurdeep Singh along with another person named Nirmal. Shri Shiv Raj Singh and Shri RanJit Singh in their statements corroborated Joginder Singh in all its material particulars.

(4) On the next day, the officers of the Directorate of Revenue Intelligence, New Delhi located the farm house in Mehrauli from where the machinery items had been loaded into the truck.The search of the farm house resulted in the recovery of 976kgs. of Hashish concealed under-ground in one of the out-houses of the farm and another quantity of 348 kg. of Hashish from within the five power presses found lying in the compound.Besides, the Hashish and the machinery, a number of documents558including a blank letter-head of M/s. Virmani & Company, book-makers, Delhi Race Club, New Delhi was also recovered andseized. At the given address a firm by the name Radhey and Company was found operating by one Mahesh Mehra, brother in-law of the petitioner.

(5) On interrogation, Mahesh Mehra, disclosed that he was married to the sister of the petitioner. He had purchased a plot of land at D-1/56, Vasant Vihar in 1980 and had constructed a house thereon in the year 1981. In June, 1982, the petitioner shifted into the said house, while Mahesh Mehra came to occupy a part of the same house in 1985. However,in February, 1986, the whole of the house was let out to one Shri S. P. Rao, who in turn rented out the said house to the Russian Embassy on a monthly rent of Rs. 25,000. He also stated that the petitioner shifted to 101, Udai Park, New Delhi.Mahesh Mehra also identified the discarded household effects and furniture of the petitioner lying dump in the farm house.From there, quite a number of documents were also taken intopossession.

(6) On the same day, the residential and office premises of Harnam Singh were searched but no incriminating material came to their hand. In due course of time, the statements of Gopal Singh Bisht and Darshan Singh, employees of M/s. Nice Goods Carriers and Kamal Kishore, Manager of M/s. Nice Goods Carriers were also recorded.

(7) On 16/07/1986 the residential premises at 101,Udai Park, New Delhi were searched. The statements, of Smt.Sheel, wife of the petitioner, Miss Sapna Virmani and Miss Aparna Virmani, the daughters were recorded, who disclosed that the petitioner was engaged in the running of two firms by the name of M/s. Kumi Exports and Virmani Chit Fund &Trading Company. These witnesses also identified their items of household goods lying at Gadaipur Farm House.

(8) Enquiries with the Revenue authorities revealed that the farm house in Gadaipur from where the Hashish was recovered stand registered in the name of Shri S. P. Rao, resident of D-13/A-19, Model Town, Delhi, which is also the residential address of Harnam Singh. A number of summons were issued to Harnam Singh, S. P. Rao @ Nirmal and the petitioner to appear before the D.R.I. Officers but the same were nothonoured.

(9) The petitioner was apprehended on 28/09/1986. During interrogation, he admitted his involvement in smuggling Hashish out of India in association with

HarnamSingh, S. P. Rao and one Surinder Malhotra. He disclosed that Harnam Singh used to purchase Hashish from Pakistan and after concealing the same inside the engine mountings and other machinery items, it used to be exported to different countries under fictitious names. During the investigation, Shri Subhash Chander Narang was also interrogated who admitted having started the firms M/s. Northern Exports and M/s. Modern Machinery and Instruments under the instructions of HarnamSingh, S. P. Rao and the petitioner under the assumed name of Narinder Kumar. According to him the seized consignments were meant to be delivered to M/s. Lee and Muirhead India (P)Ltd. and M/s. Sheikh & Pandit Calcutta for exports.

(10) The samples of Hashish seized at Calcutta and Delhi were sent to the Chemical laboratory for examination and analysis. The report of the Chemical examiner is that the substance is the extract of plant 'cannibis sativa' (charas). From these facts, the detaining authority came to the conclusion that the petitioner has been smuggling and abetting the smuggling of goods and even though adjudication and prosecution proceedings under the Customs Act and N.D.P.S. Act, 1985 are likely to be initiated against him, he is satisfied that it is a fit case where the petitioner be detained under the Cofeposa Act the order of detention is dated 5/11/1986. It was duly served on the petitioner on 5/12/1986, through the Superintendent, Central Jail, Tihar while he was an undertrial prisoner. This very order of detention is under challenge in this petition.

(11) The first submission of the learned counsel for the petitioner is that it is a case of double detention. In this case the detaining authority has acted mechanically without due application of mind and in complete disregard of the provisions of Article 22 of the Constitution of India and Section 3(1) of the Act in making the impugned order, inasmuch as, the petitioner was already confined in jail as an under-trial prisoner in the criminal case, on the same facts and grounds set out in the impugned order of detention. According to the learner counsel the petitioner's application for his release on bail had already been rejected by the Court of Additional Chief Metro politan Magistrate and Additional Sessions Judge. New Delhi. There was no immediate I impending prospects of the petitioner coming out of jail custody and having any freedom for indulging in smuggling activities. The service of the impugned order on the petitioner under these circumstances is not warranted by law.This is a mala fide exercise of power inasmuch as the petitioner was already sufficiently prevented for the purpose for which the detention order was made. The impugned order does, not reflect the compelling necessity to detain the petitioner.

(12) The case of the respondent is that the detaining authority was fully aware of the fact of the petitioner in jail He,however, on the peculiar circumstances of this case, formed an opinion to detain the petitioner. The proceedings under the Customs Act are quite separate and independent from the action under N.D.P.S. Act. There is no bar to the passing of the detention order.

(13) This defense reveals the carelessness on the part of the detaining authority to handle the delicate and sensitive matter of detention where the liberty of an individual is involved. The order shows complete disregard to the well-settled propositions laid down in the various judgments of the Supreme Court. It is not disputed that immediately after his arrest on 29/09/1986, the petitioner filed an application for his release on bail before the Additional Chief Metropolitan Magistrate, NewDelhi. After contest, this application was rejected on 2 9/10/1986. The order of detention dated 5/11/1986 was served while he was in judicial custody. Normally,when a preventive order is passed against a person already confined to jail, the detaining authority must show awareness that the person sought to be detained is already in jail and yet a preventive detention order is a compelling necessity. Has this precaution been taken in this case or not is the proposition which requires a definite answer.

(14) The preventive action postulates that if preventive step is not taken, the person sought to be prevented may indulge into an activity prejudicial to the economy of the country. In other words, unless the activity is interdicted, by a preventive detention order, the activity which is being indulged into is likely to be repeated. Now, if it is shown that the person sought to be prevented by preventive order is already effectivelyprevented, the power under sub-section (2) of Section 3, ifexercised, would imply that one who has already been prevented is sought to be further prevented which is not the mandate of the Section.

(15) Furthermore, such an awareness must be revealed in the detention order itself. The Supreme Court in a cased as Biru Mahato vs. District Magistrate, Dhanbad, 1983 SCC(Cri.) 31(1) has gone to the extent of holding :- "WHERE a preventive order is to be made against a person already confined to jail or detained, the subjective satisfaction of the detaining authority must comprehend his awareness of the very fact that the person sought to be detained is already under confinement in respect of the same offence and yet a preventive detention is a compellingnecessity. If the subjective satisfaction is reached,without the awareness of this very relevant fact,the detention order is likely to be vitiated. Moreover, the detention order must show on the face of it that the detaining authority was aware of thesituation. Otherwise, the detention order would suffer from vice of non-application of mind."

(16) In this case the petitioner was apprehended on the basis of his involvement in a large scale smuggling of Hashish. It was a serious offence involving the maximum sentence of 10years and a fine of rupees one lakh. Before his arrest, the police had announced an award of Rs. 20,000 to the person giving an information of his whereabouts. The petitioner was apprehended under mysterious circumstances. These facts prevailed with the Additional Chief Metropolitan Magistrate in rejecting his bail application. The petitioner did not to date move the higher courts and remained contented to face thetrial. There was absolutely no possibility of his coming out of the jail during the pendency of the trial which was likely to take sufficiently

long time. The circumstances do indicate that there was no compelling necessity on the part of the detaining authority to pass the order of detention which has proved to bea case of double detention.

(17) In similar circumstances, the Supreme Court in case reported as Binod Singh vs. District Magistrate, Dhanbad, Bihar and others, held as under :- "WHERE the order of detention under S. 3(2) of the National Security Act was served upon the detenu,when he was already in jail in respect of a murder case and there was no indication that this factor or the question that the said detenu might be released or that there was such a possibility of his release,was taken into consideration by the detaining authority properly and seriously before the service of the order of detention, the continued detention of the detenu under the Act would not be justified.The power of directing preventive detention given to the appropriate authorities must be exercised in exceptional cases as contemplated by the various provisions of the different statutes dealing with preventive detention and should be used with great deal of circumspection. There must be awareness of the facts necessitating preventive custody of a person for social defense. If a man is in custody and there is no imminent possibility of his beingreleased, the power of preventive detention should not be exercised. And if that is the position, then,however, disreputable the antecedents of a person might have been without consideration of all the aforesaid relevant factors, the detenu could not have been put into preventive custody."

This very judgment was followed by this Court in case reported as Robert Lendi vs. K. K. Dwivedi and ors. (3) - "A detention order can be passed against a person who is in detention or in jail but the detention order or the grounds of detention served on the detenu must show that the detaining authority is aware of the fact that the person against whom the detention order is being passed is already in jail, and if still the detaining authority finds it necessary to pass the order of detention there has to be material before the detaining authority to reach the satisfaction. In arriving at the satisfaction an important fact would be antecedent history and the past conduct of the detenu. It would, naturally depend on the facts and circumstances of each case whether a detention order should or should not be made in the case ofa person who is already in jail."

(18) The above said judgments are on all fours to the facts of the case in hand and on that score it can safely be said to bea case of double detention and non-application of mind to the relevant facts thereby making the order of detention bad in the eye of law.

(19) The next contention of the learned counsel is not lessweighty. The submission is that the petitioner sent his representation to respondent No. 2 on 23/12/1986 through proper channel. This representation so far has neither been considered nor any decision has been taken or communicated to the petitioner. The respondents have denied having received any such representation. In the alternative, their stand is thata copy of the representation which was annexed to the present petition was put up before the detaining authority and also the Minister concerned. On careful consideration of the same, it was rejected and communicated to the petitioner on 6/03/1987.

(20) This aspect needs deeper probe and thought. The present petition came up for hearing before the Division Bench of this Court on 21/01/1987. The respondents were served with the copy of the petition and the annexures on 5/02/1987. Even if, we take the stand of the respondent on its face value, the fact remains that for more than a month or so, the result of the representation was not communicated to the detenu. On these admitted facts, the law laid down by the Supreme Court that the representation must be considered and disposed of within a reasonable time, must prevail. In the case of Smt. lechu Devi Choraria vs. Union of India and others, , there was a delay of 15 days in disposing of the representation of the detenu. Even this short delay was held unreasonable and fatal. The relevant portion of the Judgment reads thus :-

> "ON a proper interpretation of clause (5) of Article 22.the detaining authority is under a constitutional obligation to consider the representation of the detenu as early as possible, and if there is unreasonable delay in considering such representation,it would have the effect of invalidating the detention of the detenu. The representation of the detenu dated 9/06/1980 was received by the Deputy Secretary on 14/06/1980 while the representation dated 26/06/1980 was received on 30/06/1980 and yet no decision was taken on these representations of the detenu until 1 4/07/1980.
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> Held that the detaining authority was guilty of unreasonable delay in considering the two representations of the detenu. This was sufficient to invalidate the continued detention of the detenu."

(21) It has repeatedly been observed by the Supreme Court and the various High Courts throughout India that the representation made by the detenu has to be considered without anydelay. The Supreme Court does not look with equanimity upon delays where the liberty of a person is concerned. Calling comments from other Departments, seeking the opinion of Secretary after Secretary, and allowing the representation to lie without being attended to is not the type of action which the State is expected to take in a matter of such vital import. It is the duty of the State to proceed to determine representations with the utmost expedition, which means that the matter must be taken up for consideration as soon as such a representation is received and dealt with continuously (unless it is absolutely necessary to wait for some assistance in connection with it)until a final decision is taken and communicated to the detenu.Where this is not done, the detention has to be declared unconstitutional. It was so observed in a judgment reported as Harish Pahwa v. State of U. P. and others, .

(22) In the above said two judgments, the respondent tried to explain the delay by giving sequence of dates and the persons who handled the file. In spite of that, the delay of less than one month has been held to vitiate the order of detention. In this case, the respondents have not cared to indicate the various authorities who handled the file and the circumstances which resulted in the delay.

(23) In the latest judgment of the Supreme Court reported as Mohinuddin @ Moin Master v. The District Magistrate,Beed & Ors. (6), the unsatisfactory explanation of delay of 25 days in disposing of and communicating the result of the representation of the detenu has been adversely commented upon in these words :- "6. It is somewhat strange that the State Government should have acted in

such a cavalier fashion in dealing with the appellants representation addressed to the Chief Minister. We are satisfied that there was failure on the part of the Government to discharge its obligation under Article 22(5). The affidavit reveals that there were two representations made by the appellant one to the Chief Minister dated 22/09/1986 and the other to the Advisory Board dated 6th October, 1.986. While the Advisory Board dated October commendable dispatch in considering the same at its meeting held on 8/10/1986 and forwarded its report together with the materials on 13/10/1986, there was utter callousness on the part of the State Government to deal with the other representation addressed to the Chief Minister. It was not till 17/11/1986 that the Chief Minister condescended to have a look at the representation. When the life and liberty of a citizen is involved, it is expected that the Government will ensure that the constitutional safeguards embodied in Art. 22(5) are strictly observed. We say and we think it necessary to repeat that the gravity of the evil to the community resulting from anti-social activities can never furnish an adequate reason for invading the personal liberty of a citizen, except in accordance with the procedure established by the Constitution and the laws. The history of personal liberty is largely the history of insistence on observance of the procedural safeguards."

Applying the said ration to the facts of the case in hand, I have no hesitation to hold that the detaining authority has not,acted as swiftly as it should have in disposing of the representation. There is no worthwhile explanation for this delayedaction. On this ground alone, the petition must succeed.

(24) The last and the most forceful submission of the learned counsel for the petitioner is that some of the most material documents concerning this case were either not placed before the detaining authority and if placed, were not given due importance and were intentionally ignored from consideration. It isa case of suppression material facts by the sponsoring authority Had the following documents, which have material bearing, been forwarded and placed before the detaining authority, there was every possibility that it would have influenced its mind the other way.

(I)Copy of the petition dated 18/07/1986 filed by Shri S. P. Rao in the Court of Shri V. B.Bansal, Additional Sessions Judge, Delhi for seeking his anticipatory bail, admitting therein that the farm from where the contrabana Hashish was recovered belonged to him.

(II)The application dated 30/09/1986 of the petitioner before the learned Additional Chief Metropolitan Magistrate by which he retracted his alleged confessional statements recorded by the D. R. I.Offices shows between 28th to 30/09/1986under torture, duress and illegal confinement.

(III)Copies of the orders on various bail applications moved by the petitioner and other accomplices in the Court of Additional Sessions Judge, New Delhi.

(IV)Copies of the application moved- in the Court of Shri Bharat Bhushan, Additional Chief MetropolitanMagistrate, New Delhi dated 30/09/1986praying for his medical examination and the orders passed thereon.

(V)Medico-legal report of Dr. Tripathi, Central Jail,Tihar, New Delhi dated 30/09/1986,showing homicidal injuries on the person of the petitioner during his illegal confinement.

(25) The stand of the respondents, as disclosed in the counter, is that the copies of all these documents were placed before the detaining authority and were also considered. However,the same were not relied upon by the detaining authority and as such these copies were not supplied to the petitioner.

(26) In the additional affidavit of the detaining authority, it is alleged "that in regard to the complaint made in ground (X)that there has been suppression of material facts by the sponsoring authority from the detaining authority, I beg to state that the documents mentioned in the grounds No. (X), namely, documents except documents at serial No. 1,2,4,6,7, and 10 of Ground X were placed before me and those documents though reported to be in favor of the accused were considered by me along with documents which were incriminating to the detenu and on overall consideration of both the sets of documents and the pros and cons, I came to the subjective satisfaction that the documents complained of in ground X were not enough to displace the effect of the other two incriminating documents onwhich I have relied upon and, therefore, the documents mentioned in ground X were not relied upon by me in favor of the detenu". In support of this stand, the submission of the learned Additional Solicitor General appearing on behalf of the State is that the detaining authority is required to furnish only the copies of those documents which formed part of the grounds of detention on the basis of which the subjective satisfaction has been arrived at and no other document. According to him the 'grounds' under Article 22(5) means all the basic facts and materials which have been taken into account by the detaining authority in making the order of detention and on which,therefore, the order of detention is based. Nothing less than all the basic facts and materials which influenced the mind of the detaining authority in making the order of detention need be communicated to the detenu. This is the plain requirement of the first safeguard in this article. Reliance is placed on the judgment reported as Vakil Singh vs. State of Jaminu & Kashmir and another, A.I.R. 1974 S. C. 2237 (7), wherein the term'grounds' has been explained in these words :- 'GROUNDS' within the contemplation of Section 8(1)means materials on which the order of detention is primarily based. Apart from the conclusions of facts 'grounds' have a factual constituent also.They must contain the pith and substance of primary facts but not subsidiary facts or evidentialdetails."

On the basis of the above said judgment, the submission is that none of the documents which have been mentioned in THE petition have been ignored. Rather they have been examined,but not relied upon while drafting the grounds of detention.According to the learned counsel, the detaining authority has only to communicate the grounds of detention and the documents which have been made the basis and the authority is not bound to supply all the documents even if they go in favor of the detenu.

(27) From the rival contentions of the parties, the position boils down to this. Admittedly, some of the very important documents and circumstances which have a material bearing or could have influenced the subjective satisfaction of the detaining authority either way, were not considered and if examined were not thought relevant by the detaining authority and for thatpurpose, its copies

were supplied to the detenu. What is its effect ?

(28) On giving my careful consideration to this aspect. Iam not inclined to agree with the submission and to travel so far as learned Additional Solicitor General wants this Court to go.It is true that at the time when the order is to be passed, it is for the detaining authority to consider as to what are the relevant circumstances and then to form his opinion thereon. But once an order of detention is challenged in a Court of law then the Court certainly has the jurisdiction to go into the question and to decide as to whether all the relevant documents/circumstances have been considered by the detaining authority or not.If the argument is taken to its logical conclusion, then the detaining authority can play havoc with the liberties of the individuals and bypass the safeguards provided by Article 22 (4) and (5)of the Constitution of India. It will confer a very wide discretion on the detaining authority to ignore the material documents/evidence and rely upon and inconsequential and worthless evidence to base his subjective satisfaction and pass the order ofdetention. Take the case where the sponsoring authority has come into possession of numerous important and valuable documents on the basis of which a prudent person would definitely conclude that it is not a case for passing a detention order. If these documents are not placed before the detaining authority,it will be a case of withholding of material documents vitiating the order of detention and if these documents are forwarded to the detaining authority then in such a situation the detaining authority would either ignore those documents or look into those documents and consider them irrelevant or unreliable.He would then base his subjective satisfaction to detain the person without the help of these material documents eventhough to some extent or to a large extent go in favor of the accused. Such a situation cannot be allowed to exist nor the liberty of an individual can be put to peril at the whims of the detaining authority.

(29) It is a fundamental duty of a responsible Officer of the Central Government, like the present one, to weight the documents and if he does not consider them to be relevant, then atleast refer the same in the grounds of detention so that if his order is ultimately challenged in a Court of law, the Court can look into those documents and express its opinion eitherway.

(30) Take the case in hand. For 112 days after his arrest,the petitioner remained in the custody of the officers of theD.R.I. On 30/09/1986, when he was produced before triturated his alleged confessional statements but also moved an application for his medical examination as according to him,while in custody, he had been given beating and tortured. The request was acceded to. The report of the Medical Suprinten-dent, Tihar Jail indicates that there were about four in jurieson this person which appeared to be homicidal. From the perusal of these documents, prima fade, one could conclude that the so called statements of the petitioner were obtained under duress. So the refracted confession assumes importance and become relevant piece of evidence worth consideration.The other application of Shri S. P. R.ao, prima facie, would indicate that the petitioner has nothing to do with the Gadaipur farm from where the contraband Hashish was recovered. In fact no other document connects him with any of the persons allegedly connected with the farm or the smuggling of Hashish. Similarly,the bail applications and the orders passed thereon cannot lightly be snored or considered irrelevant by the detaining authority.

(31) All the documents, list of which is referred to above,arc very important and relevant to the subjective satisfaction of the detaining authority, and the non-consideration of which has been held to be fatal by the Supreme Court and other High Courts of India. In a case reported as Asha Devi vs. Shiv Raj and another, A.I.R. 1979, Sc 447 (8) the question whether the confessional statement recorded earlier was voluntarily statement or was the statement which was obtained from the detenu under duress or whether the subsequent retraction of the said statement by the detenu was in the nature of an after thought were held primarily for the detaining authority to consider before deciding the issue of detention order but since, admittedly, the aforesaid vital facts which would have influenced the mind of the detaining authority one way or the other were neither placed before the considered by the detaining authority. It was held that there was non-application of mind to the most. material and vital facts vitiating the requisite satisfaction of the detaining authority and thereby rendering the detention order invalid andillegal. This very ratio was followed and affirmed in a case of this Court reported as Pudukkudi Abdu vs. Union of India andothers. 1982 D.L.T. 44 (9) and Cr. W. No. 114/87, AshokKumar v. Administrator. Union Territory of Delhi decided by this Court on 27/04/1987 (10).

(32) Similarly the non-consideration of the petitioner's bail applications and orders passed thereon were held to be indicative of the fact of total absence of application of mind on the part of the detaining authority. In the case reported as Anand Sakharam Roat vs. State of Maharashtra and others and followed by this Court in a case Cr.W. 133 of 1987. Shri Dina Bandhu Mandal v. Union of India and others decided on 29/07/1987 (12).

(33) On the similar analogy the report of the doctor of the Central Jail, Tihar certifying the injuries on the person of the petitioner received during his interrogation by the officers of the D.R.I, as well as the application of Shri S. P. Roy wherein he admitted the ownership of the farm from where the contrab and Hashish was recovered could not have been overlooked by the detaining authority. In face of this authoritative pronouncements of the Supreme Court, there was no occasion for the detaining authority to say on affidavit that the effect of some of the documents though purported to be in favor of the accused,was not enough against the other incriminating circumstances and for that reason they were not relied upon. This reasoning is quite contrary to the well-settled proposition. Absence of consideration of these material documents or brushing them aside as irrelevant, to my mind amounts to non-application of mind on the part of the detaining authority rendering the detention order invalid.

(34) The sum and substance of the discussion leaves no doubt in my mind that it is a case of non-application of mind by the detaining authority to the most relevant and important documents/facts and circumstances having a direct bearing on the subjective satisfaction of the detaining authority. On that scorealso, the petition is liable to succeed. All the three grounds collectively and severally are weighty enough to set aside the impugned order of detention.

(35) As a result of the above discussion, the petition succeeds and the impugned order of detention is set aside. The petitioner be set at liberty forthwith if not required to be detained under the orders of a competent court or authority.