

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 3122 of 2018**

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DEVRAJ GOPAL GADHAVI....Petitioner(s)

Versus

STATE OF GUJARAT & 2....Respondent(s)

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Appearance:

MR KAMLESH KACHHAVAHA, ADVOCATE for the Petitioner(s) No. 1

MR DIPAK ALORIA, AGP for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE S.G. SHAH**

Date : 22/02/2018

ORAL ORDER

1. **Rule**, returnable on 13.6.2018. Learned AGP waives service of notice of rule for respondent No.1.

2. The petitioner is apprehending his detention under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 ('PASA', for short) on account of registration of few FIRs registered against him, details of which is disclosed in the petition.

3. According to the petitioner, except registration of the FIRs, details of which is disclosed in the petition, there is no other material available with the competent authorities to detain the petitioner under the PASA Act. Upon perusal of FIRs, it appears that registration of FIRs alone would not define the petitioner either

'Bootlegger'. It is also clear that, now, the law is well settled that when any person can be detained as per the provisions of PASA Act. When such law is well settled by several pronouncements of judgment by Hon'ble Supreme Court of India, the competent detaining authority is bound to read those pronouncements before passing any such order. Therefore, at this stage, the petitioner needs to be protected. The respondent authorities are directed to disclose on oath by filing an affidavit of competent authority, that whether they have gone through pronouncements by Hon'ble Supreme Court of India and whether there is subjective satisfaction available to them, based upon such settled legal position to detain the petitioner or not. Filing a routine reply that every offences are registered against the petitioner, would not be sufficient and enough to pass an order or detention.

4. Therefore, the petitioner is required to be protected against the proposed order of detention, if any, because his apprehension is well-founded and his liberty cannot be subject to such order, which cannot be passed considering the settled legal position and therefore, let there be an interim relief in favour of the petitioner, whereby the respondent - authorities shall not detain the petitioner under the PASA Act on account of the FIRs disclosed in this petition.

5. It is also unwarranted for the respondents to convey the petitioner that since FIR numbers are not disclosed in the petition, they may detain the petitioner because ultimately all those details are disclosed in the petition and copy of petition is served upon the respondent with writ of this order.

6. Direct service is permitted.

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(S.G. SHAH, J.)

