# IN THE HIGH COURT OF MADHYA PRADESH AT J A B A L P U R

**BEFORE**

**HON'BLE SHRI JUSTICE RAVI MALIMATH,**

**CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE VISHAL MISHRA**

**WRIT PETITION No. 16261 of 2023**

**BETWEEN:-**

**SMT. KANCHAN SHUKLA W/O PRAVESH SHUKLA, AGED ABOUT 28 YEARS, OCCUPATION: HOUSEWIFE R/O VILLAGE KUBARI TEHSIL/POLICE STATION BAHRI DISTRICT SIDHI (M.P.)**

**.... PETITIONER**

***(BY SHRI ANIRUDDH K. MISHRA - ADVOCATE )***

**AND**

1. **THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY HOME DEPARTMENT MANTRALAYA VALLABH BHAWAN BHOPAL (M.P.)**

2. **THE COLLECTOR / DISTRICT MAGISTRATE DISTRICT SIDHI (M.P.)**

**.... RESPONDENTS**

***(BY SHRI B.D. SINGH - DEPUTY ADVOCATE GENERAL)***

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*Reserved on : 22.09.2023*

*Pronounced on : 09.10.2023*

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*This petition having been heard and reserved for orders, coming on for pronouncement this day,* ***Hon'ble Shri Justice Vishal Mishra*** *passed the following:*

**ORDER**

The present petition has been filed by the wife of detenu namely Pravesh Shukla S/o Ramakant Shukla aged about 30 years, challenging the order of preventive detention dated 05.07.2023 passed by respondent No.2-District Magistrate Sidhi (M.P.) under sub-section (2) of Section 3 of the National Security Act, 1980.

**2**. When the matter was listed on 22.09.2023, the learned Deputy Advocate General sought time to counter the rejoinder filed by the petitioner. When the Court was inclined to grant time, the same was strongly objected to by the learned counsel for the petitioner. He submitted that the petition must be heard today itself. In spite of intimating to him that the reply to the rejoinder may be necessary for the determination of the case, he insisted time and again that irrespective of the same, the matter has to be heard today. It is for this reason that we have proceeded to hear the matter finally.

**3**. It is the case of the petitioner that on 05.07.2023, a video got viral on social media with respect to an incident of urination that took place in Sidhi district in which the detenu was urinating upon the victim namely Dashmat Rawat, a Kol tribal. The said video got viral on the news media. Thereafter, the District Magistrate, Sidhi upon the recommendations made by the Superintendent of Police District Sidhi

has initiated proceedings under the National Security Act, 1980 against him.

**4**. The learned counsel for the petitioner contends that neither the parameters as envisaged under sub-section (1) of Section 3 of the National Security Act have been followed nor is there any specified period of detention reflected from the impugned order. The order is violative of fundamental rights and is contrary to Article 22(5) of the Constitution of India which provides that a person detained has a right to make a representation against the order of detention not only before the Advisory Board but also before the detaining authority. Placing reliance on the decision rendered by the Full Bench of this Court in the case of Kamal Khare and others vs the State of M.P. and others reported in (2021) 2 MPLJ 554 with reference to paras 28 and 48 thereof, learned counsel for the petitioner has sought to quash the detention order.

**5**. It is further argued that no show cause notice or opportunity of hearing has been issued or provided to the detenu prior to passing of the impugned order. It is submitted that the detention order was not communicated to the detenu. He was taken into custody on the same day. The right envisaged under Section 8(1) of the National Security Act that the detenu should be informed regarding his right to make a representation even before the detaining authority has not been provided to him. He has drawn attention of this Court to the reply which has been submitted by the authorities pointing out the fact that the Superintendent of Police has found three cases which were

registered against the detenu. He has brought on record the judgments passed by the trial Court to show that the detenu has been acquitted in two cases and one case for a minor offence registered in 2023 is pending consideration. Therefore, there was no reason for taking action against the detenu under the National Security Act. He has placed reliance on the provisions of sub-section (1) of Section 8 of the National Security Act and has argued that the detaining authority should communicate the order of detention immediately or ordinarily not later than five days and in exceptional circumstances and for the reasons to be recorded in writing not later than ten days from the date of detention and to communicate the grounds of detention. The same has not been done in the present case. No exceptional circumstances have been pointed out by the authorities. The detention order was passed on 05.07.2023. The same has been communicated to the detenu on 11.07.2023 i.e. on the sixth day, thus, the same is clearly violative of Section 8(1) of the National Security Act. Therefore, he prays for quashing of the detention order. No other grounds are raised by the counsel for the petitioner.

**6**. *Per contra*, learned counsel appearing for the respondents-State has filed a detailed reply and denied all the averments. He submits that the original record is available for perusal of the court. It is contended that so far as the main argument regarding communication of the order and his right to represent before the detaining authority and other authorities is concerned, the same is specifically denied. It is pointed out that the order of detention was passed on 05.07.2023. The same was

communicated to the detenu immediately on 05.07.2023 but as his right to file a representation even to the detaining authority was not communicated by mistake, therefore, another order was immediately communicated vide letter dated 07.07.2023 along with the detention order, the grounds of detention and the right of the detenu to file the representation before the authorities were directed to be served on him and the same was received by him on 11.07.2023 i.e. on the sixth day.

**7**. It is submitted that Section 8(1) of the National Security Act provides for an outer limit of ten days for communicating the order under exceptional circumstances. After passing of the detention order, the detenu was taken into custody and was confined to Central Jail Rewa. The detention order was communicated to the detenu on the same day along with the right to file representation, but as he was not communicated that he is having a right to represent to all four authorities within the prescribed time limit, the order and all relevant documents were communicated to the detenu. The original record has been produced before this Court to demonstrate the same. Therefore, the grounds raised by the petitioner with respect to non-communication of the detention order and his right to file a representation to the detaining authority and others is of no help to the petitioner.

**8**. It is further submitted that the second ground which has been raised regarding opportunity of hearing not being provided to the detenu is of no relevance because there is no procedure for providing the same under the National Security Act. It is based upon the recommendations made by the Superintendent of Police to the District

Magistrate and upon the subjective satisfaction of the authorities, a detention order can be passed. The incident which is reported in the recommendations of the Superintendent of Police clearly shocked the conscience of the authorities and has created a huge impact upon the society at large. The act committed by the detenu got viral on the social media to a large extent and was available for viewing even on web portal, internet and was virtually viewed by everyone in the country as well as in the world. The act was talked about at large in the entire society creating a law and order situation in the State of Madhya Pradesh. The same was largely talked about and there were protests raised at various places in State of Madhya Pradesh, therefore, the action was required to be taken. The fact of the detenu having criminal antecedents was also taken note of.

**9**. It is a well settled proposition of law that a conviction in criminal case is not a mandatory or only factor for passing of the order of detention. It is the subjective satisfaction of the authorities which is required to be taken note of, therefore, the argument advanced is of no help to the petitioner.

**10**. Another ground which has been urged by the petitioner is that the action has been taken in pursuance to a tweet made by the Chief Minister of the State asking for taking stern action against the detenu even to the extent of NSA, therefore, the action is politically motivated. The Chief Minister being the head of the State is duty bound to maintain law and order situation in the entire State. If an act so committed creates a law and order situation and creates a bad impact

upon the society at large, then he being the Head of the State is duty bound to issue direction for taking stringent action against the culprit. He has placed reliance upon the decision of the Hon'ble Supreme Court in the case of Mohd. Masood Ahmad vs State of U.P. reported in (2007) 8 SCC 150 wherein it is held that "it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint raised by him. It all depends on the facts and circumstances of an individual case". Meaning thereby, the elected representative is duty bound to direct for taking strong action in case any illegal activity is being reported or brought to his knowledge which shakes the conscience of the society and that has been done in the present case. Therefore, the ground is of no help to the petitioner. He has prayed for dismissal of writ petition.

**11**. Heard learned counsels for the parties and explained the original record.

**12**. The record indicates that the detention order was passed on 05.07.2023 and the same was communicated to the detenu on the same day i.e. 05.07.2023 along with information that he has a right to file a representation to the authorities. There is no dispute with respect to the same but the fact that the detenu was having a right to file representation to all the authorities could not be communicated to him. Therefore, the mistake was immediately rectified and the letter dated 07.07.2023 was issued. The same was communicated to the petitioner on 11.07.2023 i.e. within the time limit as provided under the National Security Act. The documents filed along with reply viz. Annexures R/1,

R/2, R/4, R/5, R/6 and R/7 reflect the same and are the part of original record.

**13**. Section 8(1) of the National Security Act, 1980 reads as under :

> *"8. Grounds of order of detention to be disclosed to persons affected by the order.—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but* ***ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention****, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government."*

**14**. From perusal of the aforesaid provision, it is clear that the detention order should be provided to the detenu as soon as possible, ordinarily not later than five days and in exceptional circumstances, within a ten days' period i.e. the outer limit of ten days is provided for communication of the order along with relevant documents and the information that he has a right to make a representation even to the authority who passed the detention order and to other authorities i.e. State Government, Advisory Board and Central Government. The authorities have rectified their mistake by issuance of order dated 07.07.2023 which was communicated to the petitioner on 11.07.2023. The original record indicates that all these papers were signed by the detenu which go to show that the same were supplied to him along with the information that he has a right to file representation within the outer limit of ten days. Therefore, the argument raised by the petitioner is of

no help and as such, the judgment passed in the case of Kamal Khare (supra) is of no assistance to the petitioner.

**15**. From a perusal of the record, it is seen that vide letter dated 04.07.2023, a representation was made by the Station House Officer of Police Station Bahari, Sidhi to Superintendent of Police District Sidhi for taking action against the detenu in terms of Section 3(2) of the National Security Act because he was acting in a manner prejudicial to the maintenance of the public order. The detenu is having criminal past of three cases and in one case registered as Ishtgasha No.23 of 2023 in which prohibitory action has been taken against him under Section 110 of CrPC which were taken note of by the authorities. On receipt of the said letter, the Superintendent of Police, after going through the records and observing the case with his subjective satisfaction, forwarded the recommendation to the detaining authority i.e. District Magistrate Sidhi who, in turn, passed the order of detention in terms of Section 3(2) of the National Security Act, 1980 on 05.07.2023. The relevant dates pertaining to the same are as hereunder:

| S.No. | Provision of the NSA under which the action is taken | Time-limit prescribed from the date of detention order | Action/orders taken | Date of the order/action + Annexure No. |
|---|---|---|---|---|
| 1 | S. 3(2) | - | Detention order passed | 05.07.2023 P-1/R-3 |
| 2 | S. 3(4) | Forthwith | Reporting of the fact of detention to the State Govt. | 06.07.2023 R/4 11.07.2023 R/6 |
| 3 | S. 8 | 5 or 10 days | Communication of grounds of | 11.07.2023 R/6 |

| S.No. | Provision of the NSA under which the action is taken | Time-limit prescribed from the date of detention order | Action/orders taken | Date of the order/action + Annexure No. |
|---|---|---|---|---|
| | | | detention to the detenu | |
| 4 | S. 3(4) | 12 days | Approval of the detention order by the State Govt. | 12.07.2023 R/9 |
| 5 | S. 3(5) | 7 days | Reporting of the fact by the State Govt. to Central Govt. | 12.07.2023 R/10 |
| 6 | S. 10 | 3 weeks | Reference to the Advisory Board | 12.07.2023 R/11 |

**16**. The reason for taking action against the detenu is pointed out that the act which has been committed by him got viral on social media and internet which shows a person (petitioner's husband-detenu) smoking a cigarette and urinating on a person sitting in front of him who belongs to '*Kol*' a Scheduled Tribe community. Thus, it is clear that the act which has been committed by him was with an object of humiliating the said person. Immediately after the video went viral a serious law and order situation arose across the State of Madhya Pradesh. The detenu has created a polluted and antisocial atmosphere in the society. The victim was afraid of reporting the matter against the detenu because of his terror in the entire community and society and nobody from the common public dared to make a report against him. The matter came to the knowledge of the authorities when the video got viral which created a law and order situation in the State of Madhya Pradesh. Several protests were made asking to take action against the person shown in the video.

**17**. Further, in the criminal cases which were registered against the detenu, the same situation arose and nobody from the society dared to give a statement against him. The Superintendent of Police District Sidhi after going through the entire material has recorded his subjective satisfaction and thereafter forwarded the matter to the competent authority for initiation of proceedings under Section 3(2) of the National Security Act, 1980. The only requirement for initiation of the proceedings under the NSA is the subjective satisfaction of the authorities which has been done in the present case.

**18**. The record indicates that the impugned action has been taken against the detenu under Section 3(2) of the National Security Act and a perusal of the impugned order clearly shows that the detenu has been detained in order to prevent him from acting in any manner prejudicial to the maintenance of public order. Whether such act tantamounts to an act prejudicial to the maintenance of public order can be understood better after appreciating the concept of 'public order' as settled by the Hon'ble Supreme Court in the case of Arun Ghosh vs State of West Bengal reported in (1970) 1 SCC 98 wherein it has been held as follows :

> *"3. ... It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as order publique. The latter expression has been recognised as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in Writ Petition No. 179 of 1968 drew a line of*

*demarcation between the serious and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public at large. He drew an analogy between public and private crimes. The analogy is useful but not to be pushed too far. A large number of acts directed against persons or individuals may total up into a breach of public order. In Dr Ram Manohar Lohia case examples were given by Sarkar and Hidayatullah, JJ. They show how similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of the harm and its affect upon the community. The question to ask is: Does it lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."*

**19**. The aforesaid concept of 'public order' has been applied by the Hon'ble Supreme Court in cases arising under the NSA (See. Para 15 of the Supreme Court decision in Ajay Dixit vs State of U.P. reported in (1984) 4 SCC 400). Further, in the case of Subhas Bhandari vs D.M. reported in (1987) 4 SCC 685, it has been held thus :

*"9. It has now been well settled by several decisions of this Court (the latest one being Gulab Mehra v. State of U.P. [(1987) 4 SCC 302] judgment which was pronounced by us on September 15, 1987) that public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a*

> *locality which determines whether the disturbance amounts only to a breach of law and order or it affects public order. It has also been observed by this Court that an act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Therefore it is the impact, reach and potentiality of the act which in certain circumstances affect the even tempo of life of the community and thereby public order is jeopardized. Such an individual act can be taken into consideration by the detaining authority while passing an order of detention against the person alleged to have committed the act."*
>
> *(Emphasis supplied)*

**20**. On perusal of the settled proposition of law, it is apparently clear that it is not the act/offence *per se* which is to be considered while taking up proceedings under the National Security Act but it is the potentiality and the impact, which in certain circumstances, may affect even tempo of the life of the community thereby jeopardizing the public order, which is taken note of in the present case.

**21**. At this juncture, it shall be apt to mention here that the Hon'ble Supreme Court in the case of Pebam Ningol Mikoi Devi vs State of Manipur reported in (2010) 9 SCC 618 has clearly laid down the law demarking the extent of interference in exercise of writ jurisdiction under Article 226 of the Constitution in matters relating to NSA as under:

> *"26. What emerges from these rulings is that, there must be a reasonable basis for the detention order, and there must be material to support the same. The Court is entitled to scrutinise the material relied upon by the authority in coming to its conclusion, and accordingly determine if there is an objective basis for the subjective satisfaction. The subjective satisfaction must be twofold. The detaining authority must be satisfied that*

> *the person to be detained is likely to act in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of the public order and the authority must be further satisfied that it is necessary to detain the said person in order to prevent from so acting.*
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> *....*
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> *28. We are conscious of the fact that the grounds stated in the order of detention are sufficient or not, is not within the ambit of the discretion of the court and it is the subjective satisfaction of the detaining authority which is implied. .."*

**22**. It is submitted that the National Security Act is an extraordinary piece of legislation. Hence, in order to ensure that the provisions thereof are not abused, adequate safeguards are provided therein including forthwith reporting of the order made by the District Magistrate to the State Government under Section 3(4) of the NSA along with the grounds thereof and approval thereof by the State Government within 12/15 days of the date of order, disclosing the grounds of detention to the affected persons within 5-10 days under Section 8 read with proviso to Section 3(4); in case of approval of the order by the State Government, reporting of the said fact to the Central Government in 7 days under Section 3(5), reference of the grounds of detention of the Advisory Board along with representation(s), if any, made by the affected party under Section 10 and consideration thereof after hearing the affected party, if required, and to submit its report to the State Government within 7 weeks from the date of detention under Section 11; in case the Advisory Board reports that there is sufficient cause for detention of the person, the State Government is to confirm

the detention order under Section 12; inform in the order of detention that the affected party has a right to make representation against the detention to the District Magistrate, the State Government, the Advisory Board as well as the Central Government etc.

**23.** In the present case, the fact of passing of the impugned detention order dated 05.07.2023 was forthwith communicated to the State Government vide letter dated 06.07.2023 (Annexure R/4). Vide letter dated 07.07.2023 (Annexure R/5), the grounds of detention along with the entire material relied upon by the District Magistrate in passing the impugned order were directed to be served on the detenu wherein it was clearly stated that the detenu has a right to make representation against the detention to the District Magistrate, the State Government, the Advisory Board as well as the Central Government. In compliance of the letter dated 07.07.2023, the Deputy Jail Superintendent of Central Jail Rewa wherein the detenu was lodged since 05.07.2023 pursuant to the impugned detention order, intimated vide letter dated 11.07.2023 to the District Magistrate that the grounds of detention have been served on the detenu under Section 8 of the National Security Act which was duly received by him by putting his signature. In the meantime, another communication dated 11.07.2023 (Annexure R/7) was received from the State Government which was responded to by the District Magistrate vide letter dated 11.07.2023 (Annexure R/8). Pursuant thereto, vide order dated 12.07.2023 of the State Government, the detention order was approved vide Annexure R/9. A copy of communication dated 12.07.2023 of the State Government reporting

the fact to the Central Government after approving the same is filed as Annexure R/10. A copy of letter dated 12.07.2023 referring the grounds of detention to the Advisory Board is also filed as Annexure R/11.

**24**. It is the further contention that the detention order dated 05.07.2023 does not indicate the right of the detenu to submit his representation before the concerned authorities. However, the respondents in their reply have stated that having realized the said mistake within the next two days namely by the letter dated 07.07.2023 along with the detention order etc., it was mentioned therein that the detenu has a right of filing representation before the concerned authorities. The said communication was received by the detenu on 11.07.2023. From perusal of the impugned order dated 07.07.2023, it is clear that it has been clearly sought to be intimated to the detenu that he has a right to make representation against the detention to the District Magistrate, the State Government, the Advisory Board as well as the Central Government. The said order clearly finds mention/reference in letter dated 11.07.2023 (Annexure R/6) of the Deputy Jail Superintendent of Rewa Central Jail where the detenu was lodged, mentioning that the service has been done on the detenu. The letter dated 07.07.2023 also stands mentioned in the letter dated 11.07.2023 (Annexure R/8) to the State Government. The procedure has been completed by the authorities within prescribed time limit.

**25**. The other argument mentioned in the memo of petition that the detention order does not specify the period of detention is of no help to the petitioner since the matter is settled by the Hon'ble Supreme Court

in the case of T. Devaki vs Govt. of T.N., reported in (1990) 2 SCC 456 wherein it is held that since the legislation does not require the detaining authority to specify the period for which a detenu is required to be detained, the order of detention is not rendered illegal in the absence of such specification. Para 12 of the judgment reads as follow:-

> *"12. Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug Offenders Act, 1981 is identical in terms to Section 3 of the Tamil Nadu Act. Section 3 of Maharashtra Act does not require the State Government, District Magistrate or a Commissioner of Police to specify period of detention in the order made by them for detaining any person with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of public order. Section 3(1) which confers power on the State Government to make order directing detention of a person, does not require the State Government to specify the period of detention. Similarly, sub-sections (2) or (3) of Section 3 do not require the District Magistrate or the Commissioner of Police to specify period of detention while exercising their powers under sub-section (1) of Section 3. The observations made in Gurbux Bhiryani case [1988 Supp SCC 568 : 1988 SCC (Cri) 914] that the scheme of the Maharashtra Act was different from the provisions contained in other similar Acts and that Section 3 of the Act contemplated initial period of detention for three months at a time are not correct. The scheme as contained in other Acts providing for the detention of a person without trial, is similar. In this connection we have scrutinised, the Preventive Detention Act, 1950, the Maintenance of Internal Security Act, 1971, COFEPOSA Act, 1974, **National Security Act, 1980, but in none of these Acts the detaining authority is required to specify the period of detention while making the order of detention against a person."***
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> (Emphasis added)

The aforesaid judgment was followed in the cases of State of Tamil Nadu vs Kamala reported in (2018) 5 SCC 322 and in Pesala Nookaraju vs Government of Andhra Pradesh and others reported in 2023 SCC OnLine SC 1003 decided on 16.08.2023, wherein it was held in para 42 as follows:-

> *"42. A reading of Article 22(4)(a) would clearly indicate that no law providing for preventive detention shall authorize the detention of a person for a period beyond three months. Thus, an order of detention cannot be for a period longer than three months unless, the Advisory Board has reported before the expiration of the said period of three months that there is, in its opinion such sufficient cause for detention. Article 22(4)(a) clearly indicates that even if the order of detention does not prescribe any period of detention, such an order of detention cannot be in force for a period beyond three months, unless the Advisory Board before the expiration of three months opines that there is sufficient cause for detention. In other words, if the Advisory Board does not give its opinion within a period of three months from the date of detention, in such a case, the order of detention beyond the period of three months would become illegal and not otherwise. If within the period of three months, the Advisory Board opines that there was no sufficient cause for such detention then, the State Government would have to release the detenu forthwith."*

Therefore, the said contention is without any merit.

**26**. The counsel appearing for the petitioner has contended that the detenu has already been acquitted in two cases and one is pending consideration, therefore, the case does not fall within the parameters of Section 3(1) of the National Security Act. However, the aforesaid aspect was considered in the case of Javed Khan vs State of M.P. : Writ Petition No.11872 of 2021 wherein it is held as follows :

> *"6. The grounds of detention reflect that as many as 21 cases have been registered against the petitioner between the period October, 2006 and April, 2021. In view of the judgment of Supreme Court in the matter of Yumman Ongbi Lembi Leima vs. State of Manipur reported in (2012) 2 SCC 176, there should be live link between the detention and antecedent activities on the basis of which the detention order was passed. In the present case, even if the older cases are ignored then also it is noticed that in the recent past, the cases relating to offence of extortion under Section 384, extortion by putting a person in fear of death or grievous hurt under Section 386 of the IPC and making preparation for dacoity under Section 399 of the IPC have been registered, therefore, there is a live link between the recent offences which are registered against the petitioner with the order of detention.*
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> *7. In terms of Section 3(2) of the NSA, an order of detention can be passed to prevent a person from acting in any manner prejudicial to the maintenance of public order. The public order is a concept narrower than the concept of law and order. Public order is the even tempo of life of the community as a whole or even a specific locality. It is the potentiality of the Act to disturb the even tempo of life of the community which make it prejudicial to the maintenance of public order [State of U.P. vs. Sanjai Pratap Gupta reported in (2004) 8 SCC 591)].*
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> *8. Having regard to the nature of offences which are registered against the petitioner specially the offence of extortion under Section 384 of the IPC, extortion by putting a person in fear of death or grievous hurt under Section 386 of the IPC and making preparation for dacoity under Section 399 of the IPC, we are of the opinion that these activities are prejudicial to public order."*

**27**. In the present case, the impugned action was initiated against the detenu in view of the video which got viral on the social media pointing out the act committed by him which created a law and order situation in

the entire State of Madhya Pradesh. It is because the video went viral, the fact came to the knowledge of the authorities. However, nobody dared to make a report against the detenu. Substantial material has been produced by the State to indicate a serious law and order situation in the entire State of Madhya Pradesh. The photographs were also published in various electronic and other media. The act of the detenu urinating on the concerned man had infuriated the society throughout the State of Madhya Pradesh and other parts of the country also. A communal angle was also sought to be canvassed in various social media. The public had become restless and infuriated. They were likely to take law onto their hands. The situation was getting out of control. Immediate steps had to be taken by the State to prevent deterioration of the law and order in the State. Just one act of the detenu had threatened the peace and tranquility in the State. Therefore, we are of the view that this is a fit case where the NSA has been invoked in order to prevent the repetition of such offences. Thus, it is clearly established that having regard to the act committed by the detenu, its potentiality and the impact which has been created upon the society and community at large and which created a law and order situation in the State of Madhya Pradesh, the authorities recorded their subjective satisfaction and initiated proceedings against the detenu under the provisions of the National Security Act, 1980.

**28.** Thus, the arguments which have been raised by the petitioner are virtually of no help to the detenu. The authorities have fully complied with the terms and conditions as mentioned in the relevant provisions

of the National Security Act, 1980. No lacunae could be pointed out by the counsel for the petitioner. Therefore, we do not find any ground to entertain this petition. There is no infraction of law by the authorities. Subjective satisfaction by the authorities are based on the facts and circumstances involved.

**29**. The petition *sans* merit and is accordingly dismissed. No order as to costs.

**(RAVI MALIMATH)**
**CHIEF JUSTICE**

**(VISHAL MISHRA)**
**JUDGE**

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