

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5793 OF 2025**

Parvez Fazaluddin Shaikh

Age about 36 Years,

Through his brother

Sarfaraj Fazaldin Shaikh

Age about 49 years, Occ. Agriculturist,

R/at Amali Mandir falia, Silvassa.

... Petitioner

V/s.

- 1) District Magistrate,
Dadra and Nagar Haveli
Having office at U.T. Administration of
Dadra and Nagar Haveli and Daman & Diu
Office of the Collector/ District Magistrate,
Dadra and Nagar Haveli, Silvassa.
- 2) Director Cum Joint Secretary (Home),
Dadra and Nagar Haveli and Daman and Diu,
Having office at U.T. Administration of
Dadra Nagar Haveli & Daman and Diu
Home Department, Secretariat, Vidyut Bhawan,
Kachigam, Nani Daman.
- 3) The Superintendent of Police,
Dadra and Nagar Haveli, Silvassa.
- 4) Union Territory of Dadra and Nagar
Haveli and Daman and Diu through it's
Administrator Having office at U.T.
Administration of Dadra Nagar Haveli
and Daman and Diu

The Respondent Nos.1 to 3 to be represented by Respondent No.4.

5) State of Maharashtra ... Respondents

Mr. Virendra Pethe for the Petitioner.

Mr. Ashwin Thool a/w Ms. Archishmati Chandramore and Mr. Ayush Singh for the Respondent Nos.1 to 4.

Smt. M.H. Mhatre, A.P.P. for Respondent No.5-State.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.**
DATE : 23rd DECEMBER, 2025.

JUDGMENT (Per : A.S. Gadkari, J.):

1) By this Petition under Article 226 of the Constitution of India, Petitioner, the brother of detainee has impugned the Detention Order dated 28th July, 2025 bearing No. ADM/Coll./CC/PASA/2025/34 passed by the Respondent No.1 under Section 3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985, thereby directing the detention of the detainee at Sub-Jail, Silvassa, Dadra & Nagar Haveli.

2) Heard Mr. Pethe learned Advocate for the Petitioner, Mr. Thool, learned Advocate for the Respondent Nos.1 to 4 and Smt. Mhatre, learned APP for the Respondent No.5-State.

3) Record indicates that, the Detention Order dated 28th July, 2025, is based on 4 crimes and 2 in-camera statements of witnesses. After the impugned Detention Order was executed on the Petitioner, the Grounds of Detention dated 30th July, 2025 were served upon him within stipulated period

as per the provisions of the said Act. It be noted here that, to the Grounds of Detention served upon the Petitioner not a single document referred to and relied upon by the Detaining Authority i.e. the Respondent No.1, is annexed therewith. Only the crime numbers and in reference of camera statements of said witnesses are stated in the said grounds of Detention. The mother tongue of the Petitioner is Gujarati and he is well conversant with the said vernacular language. The translated copies of the Detention Order and the grounds of Detention have not been provided to the Petitioner. It appears that, the Detention Order and grounds of Detention are prepared and served upon the detainee mechanically.

3.1) As the said vital documents which were and are necessary for making an effective representation to the Competent Authority are neither annexed to the Detention Order nor supplied to the Petitioner within the stipulated period as contemplated under Section 9 of the said Act, his fundamental right guaranteed under Article 22(5) of the Constitution of India, to make an effective representation to the Competent Authority has not only been impaired but violated.

4) Learned Advocate appearing for the Respondent Nos.1 to 4 tried to justify the action of the Respondent No.1, however his endeavour is unsuccessful.

5) The Hon'ble Supreme Court in the case of *Smt. Icchu Devi Choraria Vs. Union of India & Ors*, reported in AIR 1980 SC 1983, has held that,

supplying of grounds of detention, includes the documents relied upon in such grounds. That, in the event of unreasonable delay in supply of such material, the detention Order becomes illegal.

6) As noted above, in the present case along with the Order of Detention or Grounds of Detention, no document referred to and relied upon by the Respondent No.1 were supplied to the detainee. So also the translated copies of the Detention Order in a language to which the Petitioner is well conversant with, have also not been supplied to him. According to us, the Detention Order therefore is not tenable in law, vitiated and needs to be quashed and set aside.

7) Hence, the following Order is passed:-

- (a) Detention Order dated 28th July, 2025 bearing No. ADM/Coll./CC/PASA/2025/34 issued by the Respondent No.1 is quashed and set aside.
- (b) Petition is allowed in terms of prayer clauses (c) and (d).
- (c) Petitioner be released from Jail forthwith, if not required in any other case/cases, on production of an authenticated copy of the operative part of this Judgment.
- (d) Rule is made absolute in the aforesaid terms.
- (e) All concerned to act on the basis of an authenticated copy of operative part of this Judgment.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)