**In the Supreme Court of India, New Delhi**

**(In exercise of jurisdiction under Article 32 of the Constitution)**

F.S, son of C D of village Jhita Kala, District Amritsar, at

Present detained as an Akali detenu in the District Jail at

Rohtak petitioner

Versus

(1) The State of Panjab

(2) The District Magistrate, Amritsar, and

(3) The superintendent, District Jail Rohtak

Hon'ble Shri……….., Chief justice of India and his companion Justices of the Supreme Court of  India,

This humble petition of the petitioner above named under Article 32 of the Constitution of India praying a writ  of habeas corpus of such other writ, direction or order as the court may deem fit direction t respondents to  cause the production of the petitioner in court and directing him to be set at liberty accordance with law  respectfully.

Showeth:

1. That is petitioner is a respectable law-abiding citizen of India and was arrested by the Amrits  (Panjab) Police on the ………..day of ………..19 ………..and is now confined as detenu under the  order writ, of the second respondent in the custody of third respondent in the cause the production  of the petitioner in court and direction him to be set at liberty in accordance with law respectfully.

2. That the detention of he petitioner purports to be under the preventive Detention Act, 1950.

3. That the petitioner was given the following grounds of detention under Section 7 of the preventing,  Detention Act, 1950 on the ……….. day of ………..19 ………...

i. On ………..you participated in the general meeting of the ………..when are solution delegator full  powers to ………..to manage the affairs to the ………..was passed. You also participated in an

inform meeting of the ………..workers on ………..when it was decided to hold ………..Convention  on the ……….............. and the ………..of ………..19 ………..as a result of these meetings  resolution sponsored by ………..has been passed by the Working Committee of the ………..on the  ………..to the effect that if he ……….. MLA's of the Punjab Legislative Assembly do not voluntarily  quit. The will be compelled to do so by coercive methods.

ii. You have in public utterances declared yourself to be a firm believer in leadership of ………..and,  according to you, he is the only person who could deliver goods the ………..community. You are of  the view that in the long run ………..would also have to revert the ………...'s lead.

iii. Now that a resolution making the intentions of the ……….. very clearly has been passed the

unlawful methods will be adopted, it is strongly believed that in pursuance of that resolution you w  commit acts prejudicial to public order.

Your detention has, therefore been ordered to ensure the maintenance of public order.

4. That the petitioner was advised that his arrest and detention is illegal, malafide and capricious  one……….. therefore moved the Hon'ble High Court of judicature for the state of Punjab at Simla  ................... in Criminal Miscellaneous petition No ……….. of ………..under Article 226 of the India.  Constitution read with Section 491 of the Criminal procedure Code praying for a writ of he be as  corporation for the release of the petitioner.

5. That the said Hon'ble High Court was pleased to reject the above said petition of the petition herein  by its judgment dated ………..

6. That, in any case the petitioner with the orders of the Hon'ble High Court for the State of Punjab at  Simla, and the petitioner is informed that the said ………..is separately taking steps for obtaining lea  to appeal against that order of the High Court.

7. That, in any case the petitioner is advised that his continued detention on the above circumstances  is in direct violation of his fundamental rights (as herein below detailed) and therefore begs to move  the Hen'bIe court under Article 32 of the Constitution of India for a writ of habeas corpus or other  appropriate writ order or direction directing the respondents to release the petitioner forthwith on the  following amongst other.

Grounds

i. For that none of the grounds mentioned in para 3 above has any proximate connection or vacancy  to the maintenance of public order.

ii. For that it is an abuse of the process granted to the Executive under the Preventive Detention  Act………..to detain the petitioner for joining in any procession or making of any speeches as  alleged in Supreme Court-paragraphs (i) and (ii) of para 3 above Such use of the Act is mala fide.

iii. For that similarly the use of the use of the said Act for a the detention of the petitioner in respect of  the alleged activities of the petitioner as mentioned on sub-paragraphs (i) and (iii)of para 3 above is  mala fide.

iv. For that the Resolution of the Working Committee dated ………..is unobjectionable………..has  been released form custody on the ground that provisions of law under which he was being  prosecuted, viz., Section 124-Aand Section 153-A, I.P.C., etc., have been held to be ultra vires the  countenanced and accepted as correct by the High Court,in its judgment referred to above falls to  ground.

v. For that the leaned judges of the High Court erred in taking into consideration the speech made  by………..and linking the same with the Resolution of the Working Committee.

vi. For that it is not proper to hold that any alleged past activities of the appellant not resulting in any  disturbance of public order then, could form the basis of an assumption regarding the likelihood of

an imminent danger of the breach of peace now at this distance of time; nor could the passing of the  resolution of the Working Committee dated ………..bring about a charge in conditions as alleged  with the consequential apprehended disturbance of public tranquility was not even a member of the  said working Committee.

vii. For that the satisfaction of the learned District Magistrate was not based on such materials or  rounds which could reasonably form the basis of an order of detention such as the one passed in  this case. It is a camouflage to state that the allegations contained in the said grounds were such as  were likely to be prejudicial to the maintenance of public order.

viii. For the detention of the petitioner is not in accordance with procedure established by law.

ix. For that the preventive Detention Act, ………..is ultra vires the constitution inter alia for the following  reasons:

a) It offends against the provisions of Article 19(1 )(a) of the Constitution inasmuch as it proceeds to  indirectly what it could not do indirectly in the matter of unjustifiably restriction the freedom of  speech expression, vide grounds in sub-paragraphs (i) and (ii).

b) It offends similarly against the provisions of Article 19 (1) (b) of the Constitution, inasmuch as it  operates unreasonably on peaceable assembly without arm vide ground mentioned on sub paragraph (ii) of para 3 above.

c) If offends similarly against the provisions of Article 19 (1) (c) of the constitution, vide grounds  mentioned on sub-paragraph (i) and (ii) of para 3 above.

d) Section 3 of the said Act. Is contrary to procedure established by law. The subjective suggestion  provided for in the section is ultra vires the Constitution.

e) Section 7 of the said Act, provides for representation to the State Government itself which  repugnant to fundamental principle of law that no man can be judge in his own cause.

x. For that the extension dated ………..of the detention order is ultra vires and illegal. Further grounds  in respect of the extension of detention order have been supplied to the petitioner.

xi. For that the detention order itself mentions "That security of State and the maintenance of pub

order," the grounds supplied relate only to maintenance of public order. The said detention order is  itself either vague and inoperative or illegal.

xii. For that the decision in Gopalan;s case does not form appropriate precedent in this matter as was  given I a different factual context. For the same reason Machindar's case is not so binding a further  the purpose therein was different and the Constitution did not operate thereon.

xiii. For that the decision in Gopalan's case loses much of its validity and operation as precedent there  were compelling reasons given by different judges which almost neutralize each other leaving the  field clear.

xiv. For that in Gopalan's case, reference was made to due process of law, the Draft Committee Report,  the Debates', etc. such maters could not be referred to. Personal liberty has always be understood  to include freedom of speech and right of association and peaceable assembly. Constitution are  interpreted in a manner in many respects peculiar to themselves. The correct approach to t problem  of interpreting Articles 19 to 21 of the Constitution has been entirely overlooked. The well-known  rules of interpretation have beginner on this behalf. Even the matters of procedure the various  fundamental principles which form now the basis of legislation in this behalf for generations past are  easily ascertain and have been declared by the judge in India and in the privy Councils and are now  well established. To say that any enactment of Parliament forms the procedure established by law is  contrary to t Constitution and is not good law.

8. Your humble petitioner therefore begs to pray that your Lordships may be pleased to issue rule nisi  to the Respondents directing them to produce the petitioner before this Hon'ble Court and to justice his  detention in accordance with procedure established by law and that after hearing the parties, your  Lordships may be pleased to issue a writ of habeas corpus or other appropriate writ or direction to s the  petitioner at liberty. For which favour this humble petitioner shall ever pray.

Delhi ……….. Advocate

Dated ……….. Supreme Court

Settled by

Senior Advocate, Supreme Court.