

# - The Nation -

SUNDAY, OCTOBER 20, 1996

## **LHC moved against arrests**

A human rights organisation, Hakim Fazal Ahmad Trust, has moved the Lahore High Court against arrest of the citizens under sections 55 and 109 CrPC and Motor Vehicles Act 1959.

Two separately filed petitions by President of the body, Fayyaz Mansoor, on various legal and constitutional authorities question the existence of the said laws, contending they provided for undue rights to the police department to cause harassment to the innocent citizens. He prays for declaring invalid the said laws for being against the fundamental rights, derogatory etc.

بے چاروں کے چارہ گر

سلامت علی و بد نشا، چارویج مکہ و رمضان مسیح، اور ولد علم دین، نظر اقبال و ولد شفیق، فیاض شاہ و ولد ظفر شاہ، اجمل و ولد الیاس دین، اشرف و ولد نذر، احمد و مکہ قصور جیل سے رہائی ملنی چاہئے بلکہ قصور کے پوچنی کشمیر پر انہی حقوق کی ہے حرمی کا مقدمہ بننا چاہئے کہ بار بار لے کر کچھ نہیں آیا۔

حکیم غفرل احمد بلیغز نمٹ سکی طرف سے فیاض منصور کی ایک دور اور درخواست۔ لاہور ہائی کورٹ کے ذریعہ حکومت پنجاب بذریعہ سرکاری سرٹیفکیٹ اور ایکسچینج پر پولیس پنجاب سے حادثوں اور قاتلانہ حملوں میں زخمی ہوجانے والے لوگوں کو طبی امداد فراہم کرنے سے پہلے پولیس کی اجازت حاصل کرنے کی پابندی کے خلاف ہے کہ اس پابندی کو وجہ سے ہر روز بہت سی انسانی زندگیاں ختم ہوجاتی ہیں جو کہ آئین کی دھندہ نور اور چھٹی سربراہی طاقت و وزی اس سلسلے میں درخواست میں دوردراک واقعات بھی شامل ہیں۔ ایک واقعہ بلال رشید رنہاوا شاہی کے طور پر پیش کیے گئے ہیں۔

# گریبان



مُنَوِّهَاتُ

ایک بے تعلیقہ کا ہے جو ضلع شیخوپورہ میں ایک حادثے میں شدید زخمی ہو گئے تھے۔ سول ہسپتال شیخوپورہ نے پولیس کی اجازت کے بغیر اس کو طبی امداد دینے سے انکار کر دیا۔ زخمی کو جرنل ہسپتال لاہور لے جانے کو کہا۔ شدید زخمی کو ایمر پولیس فراہم کرنے سے بھی انکار کیا اور جب اسے عام گاڑی میں تقریباً گھنٹوں کے بعد جرنل ہسپتال لاہور لے جایا گیا تو وہ وفات پا چکے تھے۔ دوسرا واقعہ واپڑا کہ کسٹومی ایئر لک عیدالزکریٰ نے جس پر کسی نے بھی شک چلائی اس شخص نے زبیر ہسپتال لاہور گیا مگر وائسزوں نے پولیس رپورٹ درج ہونے سے پہلے طبی امداد دینے سے انکار کر دیا۔ انسپس ہسپتال۔ لے جایا گیا وہاں بھی مسیحاؤں نے اپنی مجبوری ظاہر کی کہ پہلے پولیس، رپورٹ درج کرانی جائے۔ جج سناٹ بیگے زخمی ہونے والے ملک، راق کا پولیس رپورٹ درج ہونے کے بعد شام چھ بجے پھر پشاور، جیٹ ملک رفاق کی اپنی خوش قسمتی تھی کہ وہ پنج گے اور اب پشاور، زیدی زکریٰ کے جہر میں گرفتار نہ اپنی طرف سے چہری کو کش کی تھی کہ وہ وفات پا جائیں۔

اس کو جس کی بچہ اور دو چار خواتین میں تقاسم ضرور کی طرف سے مختلف علاقوں کے دروازے حکمرانی میں جن کا ذکر کسی اندرہ کام میں آئے گا مگر یہ تمام باتیں وہ ہیں جن کا خیال قانون پر عملدرآمد کرنے والوں کو خود ہی ہونا چاہئے لیکن ماہرین قانون کا کہنا ہے کہ حکمران ادارے جو قوانین بناتے ہیں، وہ لوگوں تک نہیں پہنچ سکتے۔ ان قوانین کا تحفظ لوگوں کو بڑے بڑے کیلیوں کی بڑی بڑی فیسیں اور کسے خریدنا پڑتا ہے۔ عام لوگ یہ تحفظ نہیں خرید سکتے۔ یہ سچا رویہ ناس کو خریدنے میں ہیں اور عام لوگ انصاف کا بہت کم پتہ نہ دیتے ہیں اور

سلام اس کی بے چارگی پر  
جوئے چاروں کا حارہ گر تھا

دشت صحافت میں اپنا آغاز سفر کیجئے ایسے مہارک لوگوں کے جلو  
میں ہوا کہ ہوس زر اور طلب جاہ دونوں سے بے نیاز ہو گئے۔ نیچے  
نام دینے والے بلکہ بیالیس سال پہلے اخبار میں میری پہلی تحریر  
پیرا اصلی نام کافراپنے ہاتھ سے منوعیاً لکھنے والے جناب  
محمد حمید قاسمی ہیں چنانچہ اس نام کے ساتھ کچھ نیچے لکھتے وقت نام  
دینے والے کی عزت اور حرمت کا خیال رہتا ہے۔ باقاعدہ صحافت  
میں میرے پیرے تقرار نام پر محمد احمد قاسمی صاحب کے دستخط  
ہیں اور یہ میرا ایک ایسا پیکر ہے کہ جن کی وجہ سے ضرورت  
سے زیادہ محتاط رہنا پڑتا ہے۔ آغاز سفر کے ساتھیوں میں ہم خیال  
لوگوں اور ایک جیسے نظریات رکھنے والوں کے علاوہ کچھ ایسے لوگ  
ہیں جن کے جن سے نظریات ہم آہنگی نہیں تھی مگر ان کے حسن  
خلاق اور بردباری کے رویہ کو بدلیا تھا۔ ان میں سے ایک ایسی عظیم  
شخصیت جنھوں نے نظریاتی اختلافات کے باوجود میرے ساتھ ہمیشہ  
رہے جنھوں نے غلطیوں کا صلہ کبھی نہ دیا۔ چند روز پہلے ان کی بیٹی طلعت عظیم  
کو رواداد قاسمی منصور میری کیا۔ سے گذرے تو میرے نام کی سختی  
کی کہ کر اندر سے اوروں نے عظیم سے انبارشہ تکر میری اور پولیٹری  
استہانی خوشگوار یادوں کو اجاگر کئے۔

فیاض منصور حکیم فضل احمد ویفیر ٹرسٹ کے صدر ہیں۔ ان کی باتیں سن کر مجھے سید عباس اطہر کی ایک نہایت دلہوز نظم کا ایک مصرعہ یاد آ گیا کہ

سلام اس کی بے چارگی پر

جو بے چاروں کا چارہ گر تھا

• فیاض منصور نے بھی جو کچھ اپنے ذمہ لے رکھا ہے، وہ اپنے چچا چاروں کی چارہ گرمی ہے۔ زبانی طور پر تو میں نے انہیں اپنے والدین اور بزرگوں کے مشن کو جاری رکھنے پر شاباش کی مگر انہاں خاندان دل سے بے چاروں کی چارہ گرمی کرنے والوں کی بے چاری پر سلام بھی بھیجا کہ انی زمانہ بھی کچھ کیا جاسکتا ہے۔

قبض منصور نے بے چاروں کی چارہ گری کا یہ طریقہ اختیار کر لیا۔ کھانے کے وہ لوگ جن کے ہاتھ انصاف کے دروازوں تک نہیں پہنچ سکتے ان کے لئے عدالتوں کے دروازے کھٹکھٹانے لگے۔ جس سلسلے میں انہوں نے مختلف عدالتوں میں دادرسی کے مختلف درجہ امتیاز میں امید یا توقع کے ساتھ داخل کر رکھی ہیں کہ انہیں انصاف مل جائے گا۔ ایک درخواست تعزیرات (109-55) کی کیڑی میں 151 کے تحت آوارہ گردی کے الزام (55-109) کی کیڑی میں آئے والے اور سب سے پہلے اس اور مجبور لوگوں کے طویل عرصہ تک جیلوں میں سب سے پہلے کے خلاف داخل کی گئی ہے۔ اگرچہ یہ درخواست دسٹرکٹ جیل قصور میں طویل عرصہ سے بند آٹھ آوارہ گردوں کو رہائی دلانے کے لئے کی گئی تھی جن کا وادہ قصور ہے کہ وہ سچ، سچ، کسی مجبوری، کسی افسر اعلیٰ یا کسی اخبار نویس کے گھر جنم لینے، بجائے غریب گھروں میں پیدا ہوئے ہیں اور ان کے غریب والدین انہیں جیل سے رہائی دلانے کی استطاعت نہیں رکھتے مگر یہ درخواست آوارہ گردی کی دفعہ کو تعزیرات پاکستان سے خارج کرنے کی استدعا بھی رکھتی ہے کہ جس کے تحت کسی سچی بے سراسر مظلوم نے زبان اور بے چارے کو اپنی آزادی اور اپنی مرضی سے محروم کیا جا سکتا ہے۔

قانون کی یہ دفعہ ہمارے غیر ملکی حکمرانوں نے اس ملک کے غریب لوگوں کو ذلیل و خوار کرنے کے لئے بنائی تھی۔ اگر ہمارے ملکی حکمرانوں نے اپنے غریب لوگوں کو ذلیل و خوار کر ہی رہتا ہے تو اس دفعہ کی قانون میں موجود گی کا جواز ہو سکتا ہے لیکن ایسی صورت کے بھی کچھ نکلے ہیں اور قانون ان کو ہمیشہ ہوتا ہوا دیکھنا ہی ہوتا ہے۔ اگر کمپوز پر اراستہ ایک قانون لا کر ہمیں ہوتا ہوا دیکھنا، راجیو گاندھی کے قانون کے تحت جس طرح محمد علی جناح علی



ق گڈو، حسین  
عبید اللہ شیخ،

رج ہوئے

جن میں سے  
۱۔ جھٹنے والی  
دھات اور بم  
پچھلے سال

کر لیا

بھی کیا ہے  
ن آئی محمد  
مد کو نا جائز  
نایہ مار کر

ہی ہے

2: سر تنس  
کہ اڑہ ٹاٹلی

باسو میں یوم  
نے خصوصی

## The powers of police arresting the roamers is challenged in the high court

The power of police; arresting under section of roaming is challenged in the high court. Regarding this matter Mr. Fayyaz Mansoor; president of Hakim Fazal Ahmad Welfare trust filed a petition.

روزنامہ نوائے وقت لاہور (5) 20 اکتوبر 1996ء

آوارہ گردی پر حراست میں لینے کے پولیس

اختیارات کو ہائیکورٹ میں چیلنج کر دیا گیا

لاہور (نامہ نگار) آوارہ گردی کے الزام کے تحت شیروں کو حراست میں لینے کے بارے میں پولیس اختیارات کو لاہور ہائیکورٹ میں چیلنج کر دیا گیا ہے۔ اس سلسلے میں عظیم فضل احمد وٹیلیفون ٹرسٹ کے صدر فیاض منصور نے رٹ درخواست دائر کی جس کی سماعت آج ہوگی۔



موٹر رجسٹریشن ایکٹ اور ضابطہ فوجداری کی دفعہ

۵۵ اور ۱۰۹ کو ہائیکورٹ میں چیلنج کر دیا گیا

لاہور (خبرنگار خصوصی) موٹر رجسٹریشن ایکٹ اور ضابطہ فوجداری کی دفعات 55 اور 109 کو لاہور ہائیکورٹ میں چیلنج کیا گیا ہے۔ اس سلسلے میں ایک وٹیلیفون ٹرسٹ کے سرپرست فیاض منصور نے ہائیکورٹ میں درخواست دائر کی ہے جس میں کہا گیا کہ موٹر رجسٹریشن ایکٹ اور ضابطہ فوجداری کی دفعات 55 اور 109 آئین میں دیئے گئے بنیادی حقوق کے منافی ہیں۔ پولیس اور محکمہ ایکسائز ان قوانین کا غلط استعمال کرتا ہے۔

Daily jang

20<sup>th</sup> October 1996

## Motor registration act and section 55 & 109 of Criminal procedural code challenged in the High Court

Motor registration act and section 55 & 109 of Criminal procedural code is challenged in the Lahore high Court. Mr. Fayyaz Mansoor, president of Hakim Fazal Ahmad Welfare Trust has filed a writ petition in this regard. The writ stated that Motor registration act and Section 55 & 109 of Criminal Procedural code violate the article of constitution which provides the fundamental rights. Police and Excise department is misusing the said law.

# THE NEWS

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Vol 10 No 293

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Saturday, December 4, 1999

## More prisoners released

ON the explicit directive of Punjab Governor Lt.Gen (ret'd) Muhammad Sufdar, 5391 under-trial prisoners involved in petty offences have so far been released on bail from different 29 jails across the province. Inspector General Prisons Ziaul Hassan told APP Friday. —APP

IN THE LAHORE HIGH COURT LAHORE.

W.P.No. 21888 — /98.

Insaf Society (Registered) through Mr. Fayyaz Mansoor  
its President Fatima House Basement 12-Fane Road, Lahore.

... Petitioner.

Versus.

1. Government of Pakistan through Ministry of Law,  
Parliamentary Affairs and Justice, Islamabad.
2. Government of the Punjab through Secretary Home  
Department, Civil Secretariat, Lahore.
3. Inspector General of Police, Punjab, Lahore.

.. Respondents.

PETITION UNDER ARTICLE 199 OF THE CONSTITUTION  
OF ISLAMIC REPUBLIC OF PAKISTAN.

Respectfully sheweth:

1. That the petitioner Society is created for charitable and other welfare purposes and is registered with Govt. of Punjab and Mr. Fayyaz Mansoor is its President who is competent to file the present petition on behalf of the Society. Copy of Registration is Annexure-A.
2. That at the very outset, it is submitted that the present petition is in the shape of a pro bono publico as well as on the basis of rights of the petitioner as a Society registered and existing under the laws of Islamic Republic of Pakistan as well as rights of its members including Mr. Fayyaz Mansoor through whom the present

petition is being filed.

3. That according to Article 9 of the Constitution of Islamic Republic of Pakistan no person is to be deprived of life or liberty save in accordance with law. According to Article 10, no person can be detained as a measure of preventive detention unless he is acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or external affairs of Pakistan or public order or the maintenance of supplies or services and that no law providing for preventive detention shall authorise the detention of a person for a period of exceeding 3 months. Article 14 provides that the dignity of man shall be inviolable.

4. That according to provisions of Sections 55 and 109 of Criminal Procedure Code 1898 any person can be arrested if he is found taking precautions to conceal his presence under circumstances which afford a police officer reasons to believe that he is taking such precautions with a view to committing a cognizable offence or if he is a person who has no ostensible means of subsistence or who can not give a satisfactory account of himself or if he is a person who by repute is habitual robber, house breaker or habitual receiver of stolen property knowing it to be stolen or who by repute habitually commits or in order to commit extortion puts persons in fear of injury.

5. That both the provisions of Sections 55 and 109 Cr.P.C. are inconsistent with and in derogation of fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan as well as are against the teaching and injunction of Islam on the following amongst other

G R O U N D S

a) That in fact provisions of Section 55 and 109 Cr.P.C. are against the dignity of human beings as from the tenor of the provisions, it is clear that only those persons who have no ostensible means of subsistence (i.e. are poor persons) can be arrested by the Police. After their arrest, and production before the concerned Magistrate, it is not clear as to under what provisions of law they can be further detained or released.

b) That Sections 55 gives unlimited powers to Police Officers to make a guess whether a person is going to commit an offence and or if by intention or otherwise according to his thoughts, the Police Officer comes to a divine conclusion that the person is going to commit an offence, he will have authority to detain the person and after lapse of 24 hours to produce him before the Magistrate.

c) That the Jails are full of people who were arrested under the provisions of Section 55 Cr.P.C. and as there was no one to come after them and to spend money at appropriate places to procure their release, they can only pray to Almighty for their ~~release~~ release. The crime of having no such relation or ready money, results in indefinite detention of such a poor soul at the mercy of the District Magistrate or Sub-Divisional Magistrate who may during his rare visit of the Jail, think fit to release, such citizen of Pakistan after his detention for months together. The law does not provide the circumstances in which such person can be released except that unfettered powers have been given to the Police and the Administration to keep or release such persons according to their whims.

d) That during a visit of District Jail, Gujrat by President

of the petitioner Trust, the said President came across a child who was arrested by the Police and was in Jail for months. The said President, made a written request to the Deputy Commissioner Gujrat for release of the child on 21.5.96. The Deputy Commissioner required the Magistrate of the area to take necessary action however, the said Magistrate refused to release the said child who belonged to another District. Copy of the letter and that of order thereon is annexed as Annexure-B.

e) That from the very language used in the impugned sections, it is clear that commission of offence is not necessary for putting the provisions of the impugned Sections in motion and it is just the sweet will of the officials concerned whether to allow any person to remain outside the Jail or to confine him away from the hustle and bustle of outside world.

f) That this law also does not distinguish between a person of sound mind, a person of unsound mind or even a person of sound mind but by habit who is absent minded.

g) That as is clear from the wording of the Section it is not at all necessary for the police to trouble to investigate the matter. They have been allowed just to stop a person and if he does not give answers to the liking of the Police Officer, he has the authority to put him behind bars.

h) That the President of the Trust who is also a non-official visitor of jail appointed by Govt. of the Punjab, as such visited different Jails and found that in every Jail there were 5 to 12 persons who were arrested for months together usually young ones under the provisions of Section 55 and 109 Cr.P.C.



i) That although it is clear that these provisions were incorporated in Criminal Procedure Code by colonial Masters to keep the subjects on the right track yet the democratic Constitution of Pakistan has been disregarded by the successive Governments in allowing provisions of Sections 55 and 109 Cr.P.C. to remain on the statute book as a legacy of our colonial and to some spiritual masters.


j) That the fact that these provisions are meant only for the poor sections of the public is also evident when one sees that no well to do person has ever been arrested under the said provisions and it is always the poor people of Pakistan who were made victims of these provisions of law.

This fact also makes the provisions discriminatory and against the mandate of article 25 of the Constitution of Islamic Republic of Pakistan.

k) That the petitioner has no other adequate remedy available to it except to invoke the constitutional jurisdiction of this Hon'able Court.

It is therefore, respectfully prayed that an order may kindly be made declaring that the provisions of Sections 55 and 109 Cr.P-C. are inconsistent with and in derogation of the fundamental rights conferred by Chapter-I of the Constitution of Islamic Republic of Pakistan as well as the basic principles of Islam. The said provisions may kindly be ordered to be removed from the statute book.

Any other relief to which the petitioner is found entitled may also be granted.

  
Petitioner.

Through:

(Farooq Amjad Meer)  
Advocate,  
1-Farid Kot Road, Lahore.

Dated: \_\_\_\_\_

54331  
A.C. G... 2583  
D.C. G... 524373  
524578 / AC

4 (7)

**HAKIM FAZAL AHMAD**  
WELFARE TRUST

Ref: \_\_\_\_\_

Dated: 21.05.76

میں نے اپنے دوستوں کو مطلع کیا ہے کہ  
انہوں نے ایک خط لکھا ہے کہ  
انہوں نے ایک خط لکھا ہے کہ  
انہوں نے ایک خط لکھا ہے کہ

گزشتہ ایسٹ میں کہ عدالت نے گجرات میں جو کہ آوارہ گروہ کے الزام میں جیل میں عرصہ دو ماہ سے قید ہے ان کا  
فقہ پر حکم نامہ 55/109 کے تحت ان کے دوبارہ گجرات سے اسی کے ساتھ  
مسترد کر دیا گیا ہے۔

یہ ایم ایف ایف اور دار محمد مسلام

نکلتے گودوہرہ میں ان کے گروہ کے نام کے تحت ایک خط لکھا ہے۔

یہ خط 107 - جیل - ڈسٹرکٹ جیل گجرات

میرا خیال ہے کہ یہ خط گجرات کے قیدیوں کے لئے ایک خط لکھا ہے۔

مفتی محمد

محمد

Efficiency of the - Expert D. W. T. C.  
Gupta.

It is reported about water trail from  
Abdullah - Ghafour 870 110 and 1000 was  
admitted in the Jail on 7.4.96 up.  
35/107 P.S. B. D. W. Gupta. He is Juv. and  
has with other case against him - He is  
admitted in Jail in only ONE case.

21/5/96  
12/5/96

**ORDER SHEET**

LAHORE HIGH COURT, LAHORE

WP 21988-98

APPEAL/REVISION No. 13

Insaaf Society (Reg)  
versusAPPELLANT  
PETITIONER

RESPONDENT

Court of Pakistan  
Appeal/Revision against the decree or order (as the case may be) of

Serial No. of order of proceeding	Date of order of proceeding	Order with signature of Judge, and that of parties or counsel, where necessary
1	2	3
1.	22.10.1998	<p>Mr. Farooq Amjad Mir Advocate. Mr. Fouzi Zafar AAG.</p> <p>-----</p> <p>Learned counsel through this constitutional petition has argued that section 55 Cr.P.C and Section 109 Cr.P.C cannot go hand in hand as both of them are violative of the Constitutional provisions.</p> <p>A copy of this constitutional petition has been handed over to Mr. Fouzi Zafar learned AAG who shall get report from respondents and case be listed after three weeks.</p> <p><i>10/12-10-98</i></p> <p><i>[Signature]</i> (TANVIR AHMAD KHAN) JUDGE</p>

# IN THE LAHORE HIGH COURT LAHORE

W.P. NO. 18933 /95

Hakim Fazal Ahmad Welfare Trust through Mr. Fayyaz Mansoor its President, 916-C  
Canal Housing Society Niaz Baig Thokar, Lahore

Petitioner

VS

1. Government of Pakistan through Ministry of Law, Parliamentary Affairs and Justice, Islamabad.
2. Government of the Punjab through Secretary Home Department, Civil Secretariat, Lahore.
3. Inspector General of Police, Punjab, Lahore.

Respondents

PETITION. Under Article 199 of the Constitution of Islamic Republic of Pakistan.

Respectfully Sheweth:

1. That the petitioner Trust is a Trust created for charitable and other welfare purposes and Mr. Fayyaz Mansoor is its President who is competent to file the present petition on behalf of the Trust. The Trust is duly registered with Government of Punjab.
2. That at the very outset, it is submitted that the present petition is in the shape of a pro bono publico as well as on the basis of rights of the petitioner as a Society registered and existing under the laws of Islamic Republic of Pakistan as well as rights of its members including Mr. Fayyaz Mansoor through whom the present petition is being filed.
3. That according to Article 9 of the Constitution of Islamic Republic of Pakistan no person is to be deprived of life or liberty save in accordance with law. According to Article 10, no person can be detained as a measure of preventive detention unless he is

acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or external affairs of Pakistan or public order or the maintenance of supplies or services and that no law providing for preventive detention shall authorise the detention of a person for a period of exceeding 3 months. Article 14 provides that the dignity of man shall be inviolable.

4. That according to provisions of Sections 55 and 109 of Criminal Procedure Code 1898 any person can be arrested if he is found taking precautions to conceal his presence under circumstances which afford reasons to believe that he is taking such precautions with a view to committing a cognizable offence or if he is a person who has no ostensible means of subsistence or who can not give a satisfactory account of himself or if he is a person who by repute is habitual rober, house breaker or habitual receiver of stolen property knowing it to be stolen or who by repute habitually commits or in order to commit extortion puts persons in fear of injury.

5. That both the provisions of Sections 55 and 109 Cr.P.C. are inconsistent with and in derogation of fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan on the following amongst other ground:

#### GROUND S:

a. That in fact provisions of sections 55 and 109 Cr. P.C. are against the dignity of human beings as from the tenor of the provisions, it is clear that only those persons who have no ostensible means of subsistence (i.e are poor persons) can be arrested by the Police. After their arrest, and production before the concerned Magistrate, it is not clear as to under what provisions of law they can be further detained or released.

b. That sections 55 gives unlimited powers to Police Officers to make a guess whether a person is going to commit an offence or and if by intuition or otherwise according to his thoughts, the Police Officer comes to a divine conclusion that the person

is going to commit an offence, he will have authority to detain the person and after lapse of 24 hours to produce him before the Magistrate.

c. That the Jails are full of people who were arrested under the provisions of Section 55 Cr. PC and as there was no one to come after them and to spend money at appropriate places to procure their release, they can only pray to Almighty for their release. The crime of having no such relation, results in indefinite detention of such a poor soul at the mercy of the District Magistrate or Sub-Divisional Magistrate who may during his rare visit of the Jail, so thinks fit may release, such citizen of Pakistan after his detention for months together. The law does not provide the circumstances in which such person can be released except that unfettered powers have been given to the Police and the Administration to keep or release such persons according to their whims.

d. That during a visit of District Jail, Gujrat by President of the petitioner Trust, the said President came across a child who was arrested by the Police and was in Jail for months. The said President, made a written request to the Deputy Commissioner Gujrat for release of the child on 21.05.1996. The Deputy Commissioner required the Magistrate of the area to take necessary action however, the said Magistrate refused to release the said child who belonged to another District. Copy of the letter and that of order thereon is annexed as Annexure-A.

e. That from the very language used in the impugned sections, it is clear that commission of offence is not necessary for putting the provisions of the impugned sections in motion and it is just the sweet will all the officials concerned whether to allow any person to remain outside the Jail or to confine him away from the hustle and bustle of outside world.

f. That this law also does not distinguish between a person of sound mind, a person of unsound mind or even a person of sound mind but by habit who is absent minded.

g. That as is clear from the wording of the section it is not at all necessary for the Police to trouble to investigate the matter. They have been allowed just to stop a person and if he does not give answers to the liking of the Police Officer, he has the authority to put him behind bars.

h. That the President of the Trust who is also a non-official visitor of Jail appointed by Government of the Punjab, as such visited different Jails and found that in every Jail there were 5 to 12 persons who were arrested for months together under the provisions of sections 55 and 109 Cr. P.C.

i. That although it is clear that these provisions were incorporated in Criminal Procedure Code by colonial Masters to keep the subjects on the right track yet the democratic Constitution of Pakistan has been disregarded by the successive Governments in allowing provisions of sections 55 and 109 Cr. P.C. to remain on the statute book as a legacy of our colonial and to some extent spiritual masters.

j. That the fact that these provisions are meant only for the poor sections of the public is also evident when one sees that no well to do person has ever been arrested under the said provisions and it is always the poor people of Pakistan who were made victims of these provisions of law.

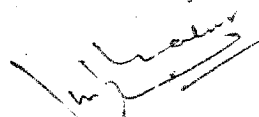
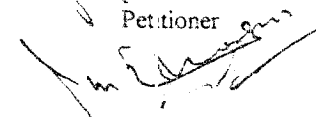
This fact also makes the provisions discriminatory and against the mandate of article 25 of the Constitution of Islamic Republic of Pakistan.

k. That the petitioner has no other adequate remedy available to it except to invoke the constitutional jurisdiction of this Honourable Court.

It is therefore, respectfully prayed that an order may kindly be made declaring that the provisions of sections 55 and 109 Cr. P.C. are inconsistent with and in derogation of the fundamental rights conferred by Chapter-I of the Constitution of Islamic Republic of Pakistan. The said provisions may kindly be ordered to be removed from the statute book.



Any other relief to which the petitioner is found entitled may also be granted.

  
Petitioner  


Through

(MR. FAYYAZ MANSOOR)  
Its President,  
in person,

CERTIFICATE: This is first petition on the subject in this Honourable Court.

25832  
A.C. G... 524573  
D.C. G... 524578 / AC



**HAKIM FAZAL AHMAD**  
WELFARE TRUST

Ref: \_\_\_\_\_

Dated: 21.05.96

Area Magistrate for n/a.  
محترم صاحب ڈپٹی کمشنر صاحب  
خلیفہ گزٹ ہاؤس  
AC/SP  
ضلع نواب شاہ

گزارش ہے کہ حدود نواب گزٹ ہاؤس میں مورخہ 21.05.96 کو 10/10/96 کو ایک نوٹس  
بجہ جو کہ آوارہ گردوں کے الزام میں جیل میں عرصہ دو ماہ سے قید ہے۔ اس کا  
مقدمہ نمبر قلمہ نمبر 159/55 تھا جس کی ڈویژن گزٹ ہے۔ اس کے بعد  
حدود داخل ہیں۔

نام: عبد الغفور ولد محمد سہلام

رہائے گودو نوٹس میں ان کے والد کوہ خان انوکھی - صاحب سب ٹکٹ

بحج 159 - جیل - ڈسٹرکٹ جیل گزٹ

براہ منظر اس بجہ کو فوری طور پر رہائی کا حکم صادر فرمائیں جس کی گزارش  
کی جا رہی ہے۔

منیجر مسعود  
عبد الغفور

IN THE LAHORE HIGH COURT LAHORE.

C.M.NO. 3568 /96 in W.P.NO.18933/96

In re: Hakeem Fazal Ahmad Welfare Trust Through Fayyaz Mansoor

VS

Government of the Punjab

Petition under Section 151 C.P.C for Release of Eight Prisoners detained under Section 55/109 in District Jail, Kasur.

Respectfully Sheweth:

1. That the president of the petitioner Trust visited the District Jail, Kasur on 21.11.1996 on a routine visit for the purpose of the welfare and betterment of the jail and prisoners. He noticed that eight persons have been detained in the jail under Section 55/109 since a long time. The Deputy Commissioner, Kasur has been informed by the jail authorities twice about the release of those prisoners. The list of the prisoners was also sent to him vide letter No.4840 dated 8.10.1996 and also a letter to Deputy Superintendent Police, H.Q., Kasur vide letter No.5318 dated 3.11.1996. None of them bothered to visit the jail for the release of these poor persons who are detained under no offence. The list of the prisoners with complete particulars is annexed as annexure A.

2. That at the very outset, it is submitted that it is the violation of the human rights and against the dignity of the human beings and in derogation of fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan under Article No.14 which provides that the dignity of man shall be inviolable.

3. That the jail reforms and conditions cannot be improved unless such a people detained under no offence ~~may release~~ be stopped from sending to the jails so that overcrowding can be decreased.

4. That all eight of the prisoners belong to poor families and there is no one to come after them and spend money at Kasur to procure their release.

5. That most of them are arrested by the Railway Police at Railway Stations. It seems that they might be travelling in

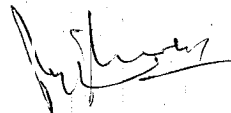
D.No. 3848/  
24-11-96

in search of the jobs.

6. That the Writ petition No.18933/96 is already in hearing before his Lordship Mr.Justice Khan Riaz ud din Khan for the removal of Sections 55 and 109 of Cr.P.C. from the statute book..

7. That the Deputy Commissioner,Kasur is not performing his duties in safeguarding the fundamental rights of the citizens and is failed to provide the justice to the deserving people.

It is therefore respectfully prayed that an order may kindly be made to release the prisoners named in Annexure A from District jail,Kasur and Deputy Commissioner ,Kasur may kindly be warned to take care of fundamental rights of the citizens in future and to pay a regular visit to the jail to provide the justice as it the most important part of his duties.



APPLICANT.

Through

(Mr.Fayyaz Mansoor)

It's President

[illegible]

Hakim Farid Ahmed Wajid Farid  
versus  
APPELLANT  
PETITIONER

Gunt of Police

RESPONDENT

Revision against the decree or order (as the case may be) of \_\_\_\_\_

of g	Date of order of proceeding	Order with signature of Judge, and that of parties or counsel, where necessary
	2	3
	<p>28.11.1996</p>	<p>Mr. Farooq Amjad Meer, Advocate.</p> <p>Learned counsel seeks a short adjournment to prepare the brief further.</p> <p>2. Relist during week commencing 15th of December 1996.</p> <p><u>C.M.No. 3568/96</u></p> <p>A copy of the petition be sent to District Magistrate Kasur who shall look into the matter and take necessary steps for release of persons mentioned in annexure-A to the petition.</p> <p>2. C.M. disposed of.</p> <p>KLW JUDGE</p>