

Gunupati Keshavram Reddy,

Vs.

Nafisul Hasan & the State of U.P.

Petition No. 75 of 1952.

(Patanjali Sastri C.J., Mahajan, Chandra Sekhara Aiyar, JJ.)

18.03.1952.

Patanjali Sastri C.J.

This is an application under Article 32 of the Constitution of India complaining that one Sri Homi Dinshaw Mistry is under illegal detention and praying that he be released forthwith. The petition alleges that Sri Mistry was arrested in Bombay on the 11th March, 1952 and taken in custody to Lucknow to be produced before the Speaker of the Uttar Pradesh Legislative Assembly to answer a charge of breach of privilege. It is further alleged that Sri Mistry was not produced before a Magistrate within twenty four hours of the arrest; but is still kept in detention in the speaker's custody at Lucknow. The Attorney-General admits before us that this allegation is well founded, that is to say, that since his arrest on the 11th March, Sri Mistry has not been produced before a Magistrate; but is still detained in custody. This is a clear breach of the provisions of Article 22 (2) of the constitution of India which is quite peremptory in its terms:

"No such person shall be detained in Custody beyond the said period without the authority of a Magistrate".

2. In view of the admitted facts it is perfectly clear that this provision of the Constitution has been contravened and the said Mr. Mistry is entitled to his release. The habeas corpus petition therefore succeeds and we direct that Mr. Mistry be released forthwith.

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