

Shyamal Kumar Sarkar

Vs

The State of West Bengal

Writ Petition No. 351 of 1971

(J. M. Shelat, H. R. Khanna, K. K. Mathew JJ)

21.01.1972

JUDGMENT

MATHEW, J. -

1. This is an application under Article 32 of the Constitution for the issue of a writ in the nature of habeas corpus and for the release of the petitioner alleged to be in illegal custody.
2. The petitioner was arrested on April 13, 1971, under an order of detention passed by the District Magistrate, Howrah, in the exercise of his powers under sub-section (1), read with sub-section (3) of Section 3 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970) (hereinafter referred to as the Act), with a view to prevent him from acting in any manner prejudicial to the maintenance of public order. The petitioner was served with the order of detention and also the grounds of detention together with a vernacular translation thereof on April 13, 1971. The District Magistrate reported to the State Government on April 8, 1971, about the passing of the detention order together with the grounds of detention and all other particulars relating to the case. The State Government considered the report and approved the detention order on April 17, 1971, under sub-section (4) of Section 3 of the said Act. The State Government submitted its report to the Central Government on April 19, 1971, in accordance with the provisions of sub-section (5) of Section 3 of the said Act together with the grounds of detention and the other particulars. The State Government placed the case of the detenu before the Advisory Board under Section 10 of the Act on May 12, 1971. The representation of the petitioner received on May 11, 1971, by the State Government was considered by the State Government and it was rejected on June 9, 1971. The Advisory Board, after considering the materials placed before it and after hearing the petitioner submitted its report to the State Government on June 18, 1971, recording its opinion that there was sufficient cause for detaining the petitioner. The State Government, in the exercise of the powers conferred by sub-section (1) of Section 12 of the Act confirmed the order of detention of the petitioner on July 9, 1971, and that was communicated to the petitioner by a Memorandum, dated July 26, 1971.
3. The grounds of detention communicated to the petitioner are :
 - "(1) On February 5, 1971, at about 13.45 hours you and your associates Nepal Hait, Chandni Mukherjee, Khoka, Arup Kumar Ghose alias Bhaba and others being armed with bombs formed an unlawful assembly at Kaliprasad Chakravarty Lane, P. S. Bantra and hurled bombs upon Kadamtala Milan Sangha Club. You and your associates thereafter set fire to the said club room as a result of which the room turned to ashes. You and your associates also terrorised the local people by hurling bombs towards them and managed to escape.

(2) On February 27, 1971, at about 19.30 hours you and your associates Melo alias Lal Mohan Das, Prodyut Adhikary, Raghu, Shyamal Dey, Ashoke Mukherjee, Nepal Hait, Chandi Mukherjee, Khoka, Bhaba alias Arup Kumar Ghosh being armed with knives and bombs formed an unlawful assembly at Lakshminarayan Chakraborty Lane and caused severe injury to one Santi Sarkar by throwing a bomb towards him. You and your associates also terrorised the local people and managed to escape. Consequently, the local people became panicky."

4. In the writ petition filed before this Court no specific ground has been taken challenging the validity of the order of detention. Nor did counsel for the petitioner put forward any ground to show that the order of detention is in any way vitiated.

5. According to the grounds of detention, the petitioner committed offences under the Explosive Substances Act, 1908 (VI of 1908), which were likely to disturb public order under Section 3(2)(d) of the Act. We are satisfied that the procedure established by law for detaining a person under the Act has been strictly complied. We, therefore, dismiss the petition.

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