

Sridam Saha

Vs

The State of West Bengal

Writ Petition No. 19 of 1972

J. M. Shelat, H. R. Khanna JJ )

02.05.1972

JUDGMENT

KHANNA, J. -

1. This is a petition through jail under Article 32 of the Constitution for the issuance of a writ of habeas corpus by Sridam Saha, who has been ordered by the District Magistrate, 24-Parganas to be detained under 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). According to the detention order, it was made with a view to preventing the petitioner from acting in any manner prejudicial to the maintenance of public order.

2. The order of detention was made by the District Magistrate on June 23, 1971. The petitioner was arrested in pursuance of the detention order on June 28, 1971 and was served with the order of detention as well as the grounds of detention together with vernacular translation thereof. The same day, i.e., on June 28, 1971 the District Magistrate sent report to the State Government about the passing of the detention order along with grounds of detention and other necessary particulars. The State Government considered the matter and approved the detention order on July 3, 1971. Necessary report was also sent on that day by the State Government to the Central Government. On July 14, 1971 the State Government received a representation from the petitioner. The said representation, after being considered by the State Government, was rejected on July 27, 1971. The State Government placed on July 27, 1971, the case of the petitioner before the Advisory Board. The representation of the petitioner was also sent to the Advisory Board. Another representation was thereafter sent by the petitioner on August 12, 1971. The said representation was rejected by the State Government, on August 27, 1971 and was thereafter forwarded to the Advisory Board. The Board, after considering the material placed before it and after hearing the detenu in person, sent its report to the State Government on August 30, 1971. Opinion was expressed by the Board that there was sufficient cause for the detention of the petitioner. On September 8, 1971 the order for the detention of the petitioner was confirmed by the State Government. The confirmation order was thereafter communicated to the petitioner.

3. Affidavit of Shri Hironmoy Chakravarti, Assistant Secretary, Home (Special) Department, Government of West Bengal has been filed in opposition to the petition. Mrs. Bagga has argued the case amicus curiae on behalf of the petitioner, while the State has been represented by Mr. Chatterjee.

4. It has been argued on behalf of the petitioner that the ground for which he has been retained was not germane to the object for which a detention order can be made. In this connection we find that

according to the grounds of detention, the petitioner was being detained on the ground that he had been acting in a manner prejudicial to the maintenance of public order as evidenced by the particulars given below :

"That on the night of June 1, 1971 at about 01.30 hrs., while committing theft of rice from wagon No. SE 39751 at Bongaon Railway Station Yard, you and your associates charged bombs upon the on-duty R.P.F. party with a view to do away with their lives, when challenged by them. As a result of your bomb charge SR 3179 Himangshu Bhusan Dhar Sharma of the R.P.F. party sustain the injury on his person. By explosion of bombs you and your associates created panic in the station area and in the adjoining locality you created disturbance of public order thereby."

5. The particulars given above show that the petitioner and associates attacked the members of the Railway Protection Force on duty with bombs while committing theft of rice from a railway wagon at Bongaon railway station yard. As a result of the throwing of the bombs a member of the Railway Protection Force sustained burn injury. The above act of the petitioner and his associates is stated to have created panic in the station area and the adjoining locality and, as such, disturbed public order. The above ground, in our opinion, is germane to the object for which detention can be ordered under clause (d) of sub-section (2) of Section 3 of the Act.

6. It may be stated that three other persons, namely, Jagannath Das, Nandlal Roy and Netaipada Shah were ordered to be detained in respect of the same incident on account of which order for the petitioner's detention has been made. Jagannath Das filed writ petition No. 13 of 1972 ((1972) 3 SCC 820) and the same was dismissed by this Court on April 12, 1972. Nandlal Roy filed Writ Petition No. 15 of 1972 and the same was dismissed by this Court on April 11, 1972. Writ Petition No. 18 of 1972 ((1972) 2 SCC 526) filed by Netaipada Shah was dismissed by this Court on April 18, 1972. It was held that the three orders for the detention had been validly made. No contention was raised in the case of Jagannath Das that the act attributed to the detenu was not germane to the ground for which a detention order could legally be made. Such a contention was, however, raised in the other two cases and was repelled. In the case of Nandlal Roy it was held that the acts attributed to the detenu were such as would bring the case squarely within the ambit of clauses (b) and (d) of sub-section (2) of Section 3 of the Act. In the case of Netaipada Shah this Court held that the acts of the detenu and his associates would fall under Section 3(2)(d) of the Act.

7. The case of the petitioner being not different from that of the other three petitioners mentioned above, his petition must also share the fate of the petitions filed by the other three detenus. The petition consequently fails and is dismissed.

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