

Kamal Pramanik

Vs

The State of West Bengal

Writ Petition No. 250 of 1974

(K. K. Mathew, P. N. Bhagwati, N. L. Untwalia JJ)

20.12.1974

JUDGMENT

UNTWALIA, J. -

1. The petitioner has filed this writ application from jail for his release from detention by grant of a writ of habeas corpus under Article 32 of the Constitution of India. An order under Section (3)(1)(a)(iii) of the Maintenance of the Internal Security Act, 1971 directing the detention of the petitioner was made by the District Magistrate of Burdwan on August 28, 1972. All formalities required under the Act were gone into including the service of the grounds of detention on the detenu. The three grounds which led to the subjective satisfaction of the detaining authority that it was necessary to detain the petitioner for preventing him from acting in a manner prejudicial to the maintenance of supplies and services essential to the community were as follows :

1. On June 29, 1971 at 15.24 hours you and your associates stopped goods train No. 1170 Dn. in between Palla Road and Mosagram railway station by placing red flags on the railway track and looted away bags of rice and wooden cases containing porcelain plates by breaking open wagon Nos. ER 85227 and ER 49484. As a result of this theft there was serious disruption in the smooth running of the train services on Howrah-Burdwan chord line causing inconvenience to the community. The said activity of yours thus attract Section 3(1)(a)(iii) of Maintenance of Internal Security Act, 1971 (Act No. 26 of 1971).

2. On August 31, 1971 at 12.40 hours you and your associates stopped goods train No. EC 246 DM in between Palla Road and Mosagram railway stations by placing red flags on the railway track and looted away bags of mustard seeds and linseed by breaking open wagon Nos. CR 57522, ER 78113, CR 28575 and WR 67474. As a result of this, there was serious disruption in the smooth running of the train services of Howrah-Burdwan chord line causing inconvenience to the travelling public and transshipment of commodities essential to the community. The said activity of yours thus attract Section 3(1)(a)(iii) of Maintenance of Internal Security Act, 1971 (Act No. 26 of 1971).

3. On September 26, 1971 at 07.35 hours you and your associates stopped goods train No. EC 933 Up train in between Palla Road and Mosagram railway station by placing red flag on the railway track and looted away wooden cases containing Bata shoes and plastic articles by breaking open wagon No. CR 20754. As a result of this, there was a serious disruption in the smooth running of train services on Howrah-Burdwan chord line causing inconvenience to the public and transshipment of commodities essential to the community. You were arrested subsequently at Burdwan with some pairs of Bata shoes. The said activity of yours thus attract Section 3(1)(a)(iii) of the Maintenance of

Internal Security Act, 1971 (Act No. 26 of 1971).

2. Mr. H. K. Puri, who assisted the Court as amicus curiae could not find and point out any infirmity in the due observance of the law for the detention of the petitioner. Counsel, however, submitted that all the three incidents in the grounds are said to have happened about a year before the passing of the order of detention. There was, therefore, no reasonable proximity between the facts alleged and the detention order. The time lag, in the submission of the Counsel, was too big to lead to the satisfaction of any reasonable person that it was necessary to detain the petitioner after a lapse of about a year so that he may not repeat the incidents. In our opinion there is no substance in this argument. In paragraph 7(ii) of the counter-affidavit of the District Magistrate read with the supplementary affidavit which had been filed it is stated that the detenu's complicity in the cases instituted on the basis of the incidents came to light during the course of the investigation. Since the detenu was a dangerous person, witnesses were afraid to depose against him. He was discharged in the cases and freed from custody on July 11, 1972. He was again taken into custody on September 7, 1972 in pursuance to the impugned order of detention. This sufficiently explains the reason for passing the detention order about a year after the happening of the alleged incidents. The detention order was necessitated because the criminal cases could not proceed and the detenu was discharged. There was no unreasonable delay between the passing of the detention order and his release in the criminal cases.

3. For the reasons stated above, we dismiss the writ application discharge the rule.

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