

Rabindra Kumar Ghosel alias Buli

Vs

The State of West Bengal

Writ Petition No. 563 of 1974

(V. R. Krishna Iyer, N. L. Untwalia JJ)

17.03.1975

ORDER

KRISHNA IYER, J. –

The detention order of the detenu who has moved this petition of habeas corpus was passed on March 14, 1974. Certain grounds which induced the detaining authority were the subject-matter of two criminal cases which ended in discharge in December 5, 1973 and December 20, 1973 respectively. The Superintendent of Police, according to the counter affidavit, placed the case for detention before the District Magistrate on November 30, 1973. We find that the actual order of detention was passed only around three months thereafter. The whole propose and object of the Maintenance of Internal Security Act is that persons who are likely to imperil public order are not allowed to be free to indulge in this dangerous activity. We cannot understand the District Magistrate sleeping over the matter for well nigh three months and then claiming that there is a real and imminent danger of prejudicial activity affecting public order. The chain of connection between the dangerous activities relied on and the detention order passed is snapped by this long and unexplained delay. If there were some tenable explanation for this gap we would have been reluctant to interfere with the detention order but none had been stated in the counter affidavit filed today many months after time was taken for filing a return. In these circumstances, we are not satisfied that there is any justification for the claim of subjective satisfaction put forward by the District Magistrate. The petition is allowed, the rule nisi confirmed and the petitioner directed to be set at liberty.

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