

Gour Chandra Dey

Vs

State of West Bengal

Writ Petition No. 29 of 1975

(N. L. Untawalia, Syed Fazal Ali JJ)

08.04.1975

JUDGMENT

FAZAL ALI, J. -

1. The petitioner was detained by the District Magistrate, Howrah, under Section 3 (1) read with sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971. The order of detention was passed by the District Magistrate on October 23, 1973, and was approved by the State Government on October 28, 1973. The other legal formalities required by the Act have been duly observed and no grievance on that score has been made before us. The petitioner was, however, arrested on November 24, 1973 and the sheet-anchor of the argument by the counsel for the petitioner has been that the inordinate delay in the arrest of the petitioner even after the order of detention was passed on him has not been satisfactorily explained by the respondent. It has not been and could not be argued before us that the grounds are vague or ambiguous because the grounds appear to be absolutely clear and specific. The grounds are as follows :

"1. That on September 4, 1973 at about 23.15 hours, your along with associates being armed with bombs entered into the shop of Chalitar Shaw at 95/4, Belilious Road, P. S. Bantra (Howrah) snatched away cash of Rs. 136/- from the shop and hurled bomb towards the chasing local people to cover your retreat.

This incident created panic in the locality and disturbed public order.

2. That on September 6, 1973 at about 21.15 hrs. you were found forcibly extorting money at the point knife and holding out threats from the shop keepers and vegetable dealers within Kadamtala Bazar, P. S. Bantra (Howrah) as a result of which the shop keepers, vegetable dealers etc., ran hither and thither out of fear leaving their shops and vegetables. You also kept Sarju Shaw, a grocery shop keeper of the said Kadamtala Bazar, wrongfully restrained within his shop under threat. You were arrested by the police on a hot chase and a sum of Rs. 241.25 was seized from your possession as suspicious money.

This incident created panic in the locality and disturbed public order."

2. A perusal for the grounds would manifestly reveal that overt acts have been attributed against the petitioner which are directly connected with the disturbance of the public order. It has been clearly mentioned in the grounds that the petitioner along with his associates being armed with the bombs entered into the shop and hurled bombs towards the local people and tried even to prevent them

from protecting their lives. Ground No. 2 also shows that the petitioner is alleged to have forcibly extorted money at the point of knife as a result of which various shop keepers ran helter-skelter. The petitioner further wrongfully restrained one of the shop keepers. In these circumstances we are satisfied that the grounds mentioned in the order of detention are clear and specific and do not suffer from any legal infirmity.

3. Coming now to the main argument advanced before us, namely, that the delay in the arrest of the petitioner has not been satisfactorily explained, our attention has been drawn by the counsel for the State to paragraph 17 of the affidavit filed by the District Magistrate, Howrah, which runs thus :

"The statements made in paragraphs 23 and 24 of the Writ Petition are matters of record and are substantially correct. I however say that there has not been any undue delay in actual detention of the detenu-petitioner. I further say that the detenu-petitioner was detained after he was discharged from the said Criminal Proceedings on November 24, 1973, on the prayer of the Investigating Officer and was released from the Jail Custody."

The statement in the affidavit clearly shows that the petitioner was detained on the basis of some criminal proceedings instituted against him and was discharged on November 24, 1973 on a concession made by the Investigating Officer and was thereafter released from jail custody. This, therefore, satisfactorily explains the delay in arresting the petitioner on November 24, 1973 even though the order of detention was passed on October 23, 1973. The explanation given by the State appears to us to be satisfactory and convincing and we are unable to agree with the learned Counsel for the petitioner that there was no urgency in the matter or that the delay in the arrest of the petitioner has not been properly explained.

4. The result is that the petition fails and is accordingly dismissed. The rule is discharged.

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