

Virendra Singh

Vs

State of Maharashtra

Criminal Writ Petition No. 6274 of 1980

(Syed M. Fazal Ali, A. Varadarajan JJ)

06.01.1981

ORDER

This petition has been filed by the son-in-law of the detenu praying that the detenu may be released as the constitutional safeguards contained in Article 22(5) of the Constitution have not been complied with. Admittedly, the order of detention was passed on October 9, 1980 and the grounds were supplied to the detenu on November 1, 1980 when he was arrested but without the documents and materials which were supplied on November 5, 1980. The detenu made a representation on November 13, 1980 which was disposed of on December 13, 1980. In this case as the documents and the materials forming the basis of the order of detention had not been supplied to the detenu along with the order of detention when the same was served on him, the order is rendered void as held by this Court in *Ichhu Devi Choraria v. Union of India* [(1980) 4 SCC 531 : 1981 SCC (Cri) 25] and in *Shalini Soni v. Union of India* [(1980) 4 SCC 531 : 1981 SCC (Cri) 38]. Moreover, the order of detention suffers from another infirmity, namely, that the representation made by the detenu was disposed of by the detaining authority more than a month after the representation was sent to it. No reasonable explanation for this delay has been given which violates the constitutional safeguards enshrined under Article 22(5) and makes the continued detention of the detenu void. For these reasons, therefore, we allow this petition and direct the detenu to be released forthwith.

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