

# PEPSU HIGH COURT

Man Singh

Vs

State (Pepsu)

Criminal Misc. Nos.73 and 74 of 1951

(Teja Singh, C.J.)

24.12.1951

## ORDER

**Teja Singh, C.J.**

1. The detenu in this case was ordered to be detained by the Government for a period of three months under Section 3 of the Preventive Detention Act of 1950. The petitioner has come to this court with a Habeas Corpus petition on the allegation that the order made against the detenu was illegal and mala fide and was made for a collateral purpose. The counsel for the State denies the petitioner's allegations and contends that there was nothing wrong with the order of detention. It is true that in a case of this kind it is the satisfaction of the detaining authority that must be looked to, but it is now well recognized that unless there is any material on the strength of which the said authority can be satisfied that it is necessary to order the detention of the person concerned, with a view to preventing him from acting in a manner prejudicial to the maintenance of the Public Order etc., the mere fact that it is mentioned in the order that he was so satisfied is not sufficient.

2. In the present case, the perusal of the grounds of detention, supplied to the detenu under the orders of the Government, goes to show that the only illegal act attributed to him was that when a Sub Inspector, engaged for the recovery of muslim abducted women, raided the detenu's house on 27-9-1951 and recovered an abducted muslim woman therefrom, the detenu along with three other persons fell on the Sub Inspector and forcibly took away the said woman. The grounds of detention do not make mention of any other incident, nor is it stated therein that the detenu or his companions were keeping any other abducted woman. So even, if we assume the solitary incident mentioned in the grounds of detention did actually happen, there could be no ground for thinking that the detenu was engaged, or was likely to engage in future, in activities prejudicial to the maintenance of public order. It is significant that the State has not even cared to place on record an affidavit of the officer, who made an order of detention on behalf of His Highness, that

he had any material before him at the time of the order on which his satisfaction was based. It may be that the detenu, by offering obstruction to the Sub Inspector - if he did so at all - committed an offence. But for this, as is admitted by the State Counsel, a case under Section 353 of the Penal Code has been registered against him and if the case is put in court he will be properly tried for it, but this did not justify any action under the Preventive Detention Act.

3. After taking into consideration the entire material placed before me by the petitioner as well as the counsel for the State, I cannot help thinking that it was a case of high-handedness and misuse of the drastic powers that Preventive Detention Act has vested in the Executive Authorities, and further that the detenu was ordered to be detained, not with a view to preventing him from indulging in any kind of illegal activities, but to teach him a lesson for offending a police officer. The petition is, therefore, allowed and it is ordered that the detenu, who was released and is already on bail, shall be set at liberty. His bail bond shall stand discharged.

Petition allowed.