

Shyamal Kumar Sarkar vs The State Of West Bengal on 21 January, 1972

Equivalent citations: AIR1972SC700, 1972CRILJ499, (1972)3SCC791, 1972(4)UJ537(SC)

Author: K.K. Mathew

Bench: H.R. Khanna, J.M. Shelat, K.K. Mathew

JUDGMENT

K.K. Mathew, J.

1. This is an application under Article 32 of the Constitution for the issue of a writ in the nature of Habeas Corpus and for the release of the petitioner alleged to be in illegal custody.

2. The petitioner was arrested on 13-4-1971 under an order of detention passed by the District Magistrate, Howrah, in the exercise of his powers under Sub-section (1) read with Sub-section (3) of Section 3 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970) (hereinafter referred to as the Act), with a view to prevent him from acting in any manner prejudicial to the maintenance of public order. The petitioner was served with the order of detention & also the grounds of detention together with a vernacular translation thereof on 13-4-1971. The District Magistrate reported to the State Government on 8-4-1971 about the passing of the detention order together with the grounds of detention and all other particulars relating to the case. The State Government considered the report and approved the detention order on 17-4-1971 under Sub-section 4 of Section 3 of the Central Government on 19-4-1971 in accordance with the provisions of Sub-section 5 of Section 3 of the said Act together with the grounds of detention and the other particulars. The State Government placed the case of the detainee before the Advisory Board under Section 10 of the Act on 12-5-1971. The representation of the petitioner received on 11-5-1972 by the State Govt. was considered by the State Government and it was rejected on 9-6-1971. The Advisory Board, after considering the materials placed before it and after hearing the petitioner submitted its report to the State Government on 18-6-1972, recording its opinion that there was sufficient cause for detaining the petitioner. The State Government, in the exercise of the powers conferred by Sub-section (1) of Section 12 of the Act confirmed the order of detention of the petitioner on 9-7-1972 and that was communicated to the petitioner by a Memorandum dated 26-7-1971.

3. The grounds of detention communicated to the petitioner are :

(1) On 5-2-1971 at about 13.45 hours you and your associates Nepal Hait, Chandi Mukherjee, Khoka, Arup Kumar Ghose @ Bhaba and others being armed with bombs formed an unlawful assembly at Kaliprasad Chakravarty Lane, P.S. Bantra and hurled bombs upon Kadamtala Milan Sangha Club. You and your associates thereafter set fire to the said club room as a result of which the room turned to ashes. You and your associates also terrorised the local people by hurling bombs towards them and managed to escape.

(2) On 27-2-1971 at about 19.30 hours you and your associates Melo @ Lal Mohandas, Prodyut Adhikary, Raghu, Shyamal Dey, Ashoke Mukherjee, Nepal Hait, Chandi Mukherjee, Khoka, Bhaba @ Arup Kumar Ghosh being armed with knives and bombs formed an unlawful assembly at Lakshminarayan Chakraborty Lane and caused severe injury to one Santi Sarkar by throwing a bomb towards him. You and your associates also terrorised the local people and managed to escape. Consequently, the local people became panicky.

4. In the writ petition filed before this Court no specific ground has been taken challenging the validity of the order of detention. Nor did counsel for the petitioner put forward any ground to show that the order of detention is in any way vitiated.

5. According to the grounds of detention, the petitioner committed offences under the Explosive Substances Act, 1908 (VI of 1908) which were likely to disturb public order and which were acts prejudicial to the maintenance of public order under Section 3(2)(d) of the Act. We are satisfied that the procedure established by law for detaining a person under the Act has been strictly complied. We, therefore, dismiss the petition.