

Ahmad Ali vs State on 31 May, 1950

Equivalent citations: AIR1951ALL459, AIR 1951 ALLAHABAD 459

Author: V. Bhargava

Bench: V. Bhargava

ORDER

V. Bhargava, J.

1. This is an application by one Ahmad Ali for issue of a writ in the nature of habeas corpus. Ahmad Ali is under detention under the provisions of the Preventive Detention Act, 1950 (Act IV [4] of 1950). The main contention that has been urged in support of this application is that the grounds of detention disclosed to the applicant are vague, and no reasonable person could, on those grounds, come to a view that it was necessary to detain the applicant for the purpose of maintaining public order.

2. The first ground mentioned is that the applicant indulged in fiery speeches in the month of May 1948 and thereafter he went underground and evaded his arrest. The second ground is that he held a secret meeting on the night between the 22nd and 23rd March 1949, at the residence of Ram Prasad sweeper, an absconder communist, wherein he criticised the present Government as by law established and compelled the audience to overthrow such a capitalist Government. The third ground is that he had been issuing objectionable leaflets off and on and at the time of his arrest several such papers were recovered from his possession. The last ground is that he organised a procession Of ladies and children on 5-5-1949, at Tundla in defiance of orders under Section 144, Criminal P. C., with a view to create disaffection among the people.

3. The above reproduction of grounds of detention shows that in all the grounds served on the applicant there was no mention that he, at any stage, incited the people to violence or to do any illegal acts.

4. The first ground mentions that he was trying to create disaffection in May 1948. There is no mention of the party against whom disaffection was to be created. Presumably, the ground is meant to indicate that the applicant was trying to create disaffection against the Government. Spread of disaffection against a party Government cannot be said to be a ground for inferring that the public order would not be maintained. It is the right of every citizen in a democratic Government to spread disaffection against a particular party Government. This right is, of course, subject to the condition that the disaffection should not be so spread as to result in violence and there should be really no incitement to use violence or to resort to other illegitimate course. In the meeting held on the night

between the 22nd and the 23rd of March 1943 it is again said that he criticised the Government and appealed to the audience to overthrow it, but it is nowhere mentioned that the applicant ever incited the people to use illegal or unconstitutional means for this purpose.

5. As regards the objectionable leaflets, it is not at all mentioned what they purported to be, nor are any particulars given as to what and to whom these were to issue. This ground is vague.

6. The last ground of organising the procession for purposes of creating disaffection amongst the people also does not indicate that there was any attempt to incite people to use violence. In fact, all the grounds taken together indicate that during a period of about two years the applicant has been carrying on propaganda against the party Government and has been suggesting to the people to overthrow it but there is no allegation at all that the applicant, at any stage, incited the people to overthrow the Government by use of violence or any other illegal or unconstitutional means. The applicant certainly tried to keep his meetings secret and his presence also secret from the authorities but the secrecy alone cannot give rise to any reasonable inference that the applicant's activities were likely to result in breach of public peace. The facts alleged in the grounds merely constitute the exercise of a legitimate right of a citizen and detention on such grounds cannot, in any way, be justified. The grounds are either vague or are such as cannot bona fide lead anyone to the inference that it is necessary to detain the applicant for the purpose of maintaining public peace.

7. Consequently, the detention of the applicant is not in accordance with law and I direct that he be set at liberty without delay.