

Shri Satya Brata Ghose vs Mr. Arif Ali, District Magistrate, ... on 15 November, 1973

Equivalent citations: AIR1974SC258, 1974CRILJ329, (1974)3SCC600, AIR 1974 SUPREME COURT 258, 1975 MADLJ(CRI) 329, 1975 MADLJ(CRI) 223, 1975 (1) SCJ 365, (1974) 3 SCC 600, 1974 SCC(CRI) 82

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Bench: P.K. Goswami, S.N. Dwivedi, Y.V. Chandrachud

JUDGMENT

S.N. Dwivedi, J.

1. It is a petition for a writ in the nature of a writ of habeas corpus under Article 32 of the Constitution. The petition was heard by is on October 30, 1973. After hearing counsel for parties we directed the release of the detenu. We are now setting forth the reasons in support of our order.
2. The petitioner challenges the order of his detention, dated April 2, 1973. The order was made by the District Magistrate, Sibasagar, under Section 3(2) read with Section 3(1)(a)(ii) of the Maintenance of Internal Security Act, 1971 with a view to preventing the petitioner from acting prejudicially to the maintenance of public order The District Magistrate served the grounds of detention on him on April 3, 1973. There are nine grounds of detention. Ground No. 6 is this:

That on 29-12-72 he visited Moriani and made secret contacts with Amritlal Sarkar, Kartik Sarkar and others of Moriani and spoke ill of Assamese people and the State Government. At his instance, Moriani Area Council was formed under the C D.B.A. The letters C.D.B.A. stand for the Council of Displaced Bengalis in Assam. This ground refers to three activities of the petitioner in Moriani on December 29, 1972, First, he made secret contact with Amritlal Sarkar Kartik Sarkar and others, second, he spoke ill of Assamese people and the State Government; and third, he took initiative in getting formed the Moriani Area Council as an affiliate of the C.D.B.A. It may be assured that he made contacts with Amritlal Sarkar. Kartik Sarkar and others for the purpose of establishing an affiliate of the C.D.B.A. in Moriani It appears from ground number 4 that the C.D.P.A had decided to raise armed police force of its own and was denying the authority of the State of Assam. We shall keep aside the first and third parts of the ground, for they may be relevant to the maintenance of public order. But we are not as assured of the petitioner's mere act of speaking ill of Assamese people and the State Government. This act will not necessarily affect public

order. As this activity has got little rational connection with public order, we are of opinion that the detention order is invalid and cannot stand. Whether such an act organised by conducted in a particular manner may develop into a problem of public order is a different matter with which we are not concerned in this case.

3. It should be observed that at the end of the grounds of detention the District Magistrate has said: "That the prejudicial activities of Sri Satyabrata Ghose (petitioner) and his sinister design of dislodging present ad-ministration and hate Assamese campaign has posed a serious threat to the security of the State and to the maintenance of public order in the district of Sivasagar. His being at large is likely to jeoparadise the work of administration and as such it has become imperative to keep him under detention

4. Some of the grounds given by the District Magistrate are relevant to the security of the State. But the detention order is related to the maintenance of public order only. For the reasons discussed in our judgment in Bhupal Chandra Ghose v. Arif Ali Writ Petn. No 1520 of 1973 - delivered today, the grounds relating to the security of the State cannot be taken into account in judging the validity of the detention order We are of opinion that the detention order it bad Accordingly, the petition is allowed.