Supreme Court of India
Keshab Roy vs The State Of West Bengal on 3 February, 1972
Equivalent citations: AIR 1972 SC 926, 1972 CriLJ 630, (1973) 3 SCC 216, 1972 (4) UJ 694 SC
Bench: H K Shelat, K Mathew
JUDGMENT J.M. Shelat

1. The order of detention impugned in this petition is in identical terms as the one in Writ Petition 322 of 1971 (Ananta Mukhi @ Atlanta Hari v. The State of West Bengal). For the reasons given in the judgment in that petition the impugned order must be held to be bad. Consequently, the respondent State is directed to release the petitioner and set him at liberty forthwith.

H.R. Khanna, J. (K.K. Mathew J. concurring) This is a petition through jail under Article 32 of the Constitution of India for the issuance of a writ of habeas corpus by Keshav Roy who has been ordered to be detained under Section 3 pf the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970), hereinafter referred to as the Act.

2. The order of detention which was made against the petitioner reads as under:

No. 2925-C ORDER Dated, Suri, the 16th July, 1971.

Whereas I am satisfied with respect to the person known as Shri Keshab Roy, son of Shri Kalipada Roy of Dubrajpur (Lalb-azar), P.S. Dubrajpur, Dist. Birbhum, that with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order, it is necessary so to do, I therefore in exercise of the powers conferred by 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), make this order directing that the said Shri Keshab Roy be detained.

Given under my hand and seal of office.

Sd/- M. Gupta 16/7/71 District Magistrate, Birbhum.

3. The same day the order of detention was passed by the District Magistrate, that is, July 16, 1971 he sent a report about the making of the order to the State Government. The order of detention and the grounds of detention were served upon the petitioner on July 18, 1971. The State Government approved the order of detention on July 26, 1971 and on the same day reported the matter to the Central Government. Representation dated July 28, 1971 of the petitioner was received by the State Government and was rejected on August 16, 1971. The case of the petitioner was referred to the Advisory Board on August 16, 1971. The Advisory Board made a report on September 16, 1971 to the effect that there was sufficient cause for the detention of the petitioner. The order of detention was confirmed on October 16, 1971.

4. The petition has been resisted by the respondent and the affidavit of Shri Chandi Charan Bose, Deputy Secretary, Home (Special) Department, Government of West Bengal has been filed in

opposition to the petition.

5. Mr. Francis, who has argued the case amicus curiae on behalf of the petitioner, has invited our attention to the grounds of detention which were served upon the petitioner and read as under :

(1) On 4-4-71 at about 23.30 hours, you along with others forcibly entered by breaking door into the office room of Niramoy (Giridanga) Sub-Post Office, P.S. Dubrajpur, and set fire to postal records and papers besides other things worth Rs. 200.00 causing extensive damage. This created panic and terror in the locality.

(2) On 1-5-71 at about 00.15 hours, you along with others set fire to two class rooms of Balijuri Junior High School, P.S. Dubrajpur causing damage to furniture and class room worth Rs. 1,000.00 (one thousand). This created serious panic and terror in the locality.

It has been argued by Mr. Francis that the two incidents mentioned above did not show that the petitioner had acted in any manner prejudicial to the security of the State or the maintenance of public order. This contention, in our opinion, is not well-founded. The incident of April 4, 1971 referred to in the grounds of detention relates to setting fire to postal records and papers, while the incident of May 1, 1971 pertains to setting fire to two class rooms of a school. It has also been mentioned that the above two incidents created panic and terror in the locality. The aforesaid allegations would bring the case of the petitioner within the purview of Clause (b) of Sub-section (2) of Section 3 of the Act. According to that clause, the expression "acting in any manner prejudicial to the security of the State or the maintenance of public order" would, inter alia, include the commission of the offence of mischief by fire on any property of the Government or educational institution where the commission of such mischief disturbs or is likely to disturb public order.

6. It has next been argued by Mr. Francis that there was no proximity of time between the incidents referred to in the grounds of detention and the order of detention. This contention too, in our opinion, is not well-founded because the order of detention was made within about two and a half months of the second incident. The second incident showed a propensity of the part of the petitioner to set fire to Government property or educational institutions. It cannot be said that the order of detention was made after such a length of time of the incidents that the connection between the incidents and the order was remote and not proximate.

7. The impugned order has also been assailed as malafide on the ground of bias of the authorities against the petitioner. There is, however, no cogent material on the record to indicate such a. bias, and we find ourselves unable to accede to the contention advanced on behalf of the petitioner in this respect.

8. Lastly, it has been argued that the order of detention made against the petitioner by the District Magistrate shows an element of casualness & absence of due application of mind, as according to the order the petitioner was detained "with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order."It is urged that the use of the word "or" in the order shows that the detaining authority has not definite regarding the ground

of detention. Similar argument was advanced before us in the case of Ananta Mukhi alias Ananta Hari v. The State of West Bengal (Writ Petition No. 322 of 1971, decided today) and was rejected. It has been held by us that the use of the word "or" in the detention order would not introduce an infirmity as might justify the quashing of that order.

The petition consequently fails and is dismissed.

In view of the opinion of the majority, the Writ Petition is dismissed.