Detenu vs The Union Of India on 11 March, 2020

Author: Arindam Lodh

Bench: Akil Kureshi, Arindam Lodh

HIGH COURT OF TRIPURA
AGARTALA
WP(C)(HC) NO.5 OF 2019

Sri Biplab Biswas,
S/O Late Nagendra Chandra Biswas,
resident of Village & P.O. Radha Kishore Nagar,
P.S. Bodhjungnagar, Sub-Division-Agartala,
District-West Tripura, presently lodged in
Kendriya Sanshodanagar, Bishalgarh.

----Detenu-petitioner(s)

Versus

1. The Union of India,
represented by the Secretary to the
Ministry of Home Affairs,
Government of India,
South Block, New Delhi-110 001.

2. The State of Tripura,
represented by the Secretary,
Home Department,
Government of Tripura, having his office at
New Secretariat Building,
P.O. Kunjaban, District-West Tripura.

3. The Additional Secretary,
Home Department,
Government of Tripura, having his office at
New Secretariat Building,
P.O. Kunjaban, District-West Tripura.

4. The District Magistrate & Collector,
West District, P.S. West Agartala,
Sub-Division-Agartala,
District-West Tripura.

----Respondent(s)

For petitioner(s) : Mr. Somik Deb, Advocate
Mr. Anujit Dey, Advocate
For respondent(s) : Mr. H. Deb, Asstt. S.G.
Mr. Ratan Datta, P.P.

Date of hearing : 02.03.2020

Date of delivery of
Judgment & Order : 11.03.2020
Whether fit for reporting : YES

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE ARINDAM LODH

JUDGMENT & ORDER

(Arindam Lodh, J)

The petitioner, being a detenu, by means of filing the present writ petition, has challenged the detention order dated 06.07.2019, grounds of detention, the order dated 17.07.2019 conveying State Government's approval to the order of detention, and further communication dated 03.09.2019 confirming the detention order to be continued until the expiration of 12(twelve) months from the date of detention.

2. We have heard Mr. Somik Deb, learned counsel appearing for the petitioner. Also heard Mr. H. Deb, learned Asstt. S.G. appearing for the respondent-Union of India as well as Mr. Ratan Datta, learned P.P. appearing for the State-respondents.

3. The detaining authority, while issuing the order dated 06.07.2019 has stated that after taken into consideration the previous records and activities in respect of the detenu, he found that the detenu-petitioner was involved in the activities, like murder, threatening to do murder, kidnapping, abduction, arson,

dacoity, rape by creating lawlessness in order to destabilize the Government, which were seriously affecting public peace and tranquility as well as the security of the State. The detaining authority has mentioned in his order that the petitioner was involved in connection with the following police cases:

Sl. No.	P.S. Case No.	Date of registering the case	Offences under IPC
1	Case No.17/2013	28.02.2013	448/384/ 323/506/34
2	Case No.28/2013	29.03.2013	436/34
3	Case No.045/2018	17.05.2018	341/325/506/379/34
4	Case No.102/2018	21.11.2018	448/506/34
5	Case No.110/2018	26.12.2018	307/457/323/325/ 354(B)/506/379/ 427/109/34

Besides, Bodhjungnagar Police Station has initiated number of G.D. Entries under Sections 107/110 of CrPC against the petitioner on receipt of complaints and prosecution report vide No.331/2018 dated 30.12.2018, No.187/2019 dated 07.04.2017, No.290/2018 dated 07.11.2018 and No.249/2019, which according to the detaining authority, aptly proves that the detenu, accused person is a habitual criminal, active anti-social and rowdy.

4. The detention order was passed by the District Magistrate, West Tripura District in exercise of the powers conferred upon him under Sub-Section (2) of Section 3 of the National Security Act, 1980 (for short, the N.S. Act) read with notification/order of the State Government issued under Sub-

Section (3) of Section 3 of the said Act for an unspecified period. The said detention order was also issued considering the grounds of detention enclosed with the said order dated 06.07.2019.

5. In the said order of detention, it was mentioned that the petitioner was informed of his right to submit representation

for onward transmission to the Central/State Government. The petitioner was also informed that he would get all reasonable opportunity for making representation against the said order of detention to the Central/State Government. It was further stated that the petitioner had to inform the District Magistrate & Collector, what opportunity he needed for that purpose. He was apprised of his right to make representation before the issuing authority i.e. the District Magistrate against the said detention order, over and above about his right to be heard before the Advisory Board.

6. Mr. Somik Deb, learned counsel for the petitioner urged diverse grounds in challenging the orders passed by the detaining authority and other statutory authorities. We do not want to deal with all the grounds urged by Mr. Deb as in our considered view, the present petition before us deserves to be allowed on the ground that we will indicate hereinafter.

7. The main grounds of detention are based on the incidents which are appeared to have occurred between the period

from 2013 to 2018 and two complaints bearing Nos.187/2019 and 249/2019 were only entered in the General Diary under Sections 107/110 of CrPC. The learned counsel for the petitioner has further submitted that from the "History-Sheet" enclosed with the detention order, it comes to light that the petitioner was arrested and was released on bail. There is no denial on the part of the

State respondents that the said order of bail was not accepted by the State Government.

8. From the particulars of cases, it is seen that the detaining authority for his subjective satisfaction has referred to and relied upon the alleged commission of offences of criminal trespass, extortion, theft, voluntarily causing hurt under Section 323 of IPC, voluntarily causing grievous hurt under Section 325 of IPC, assault or use of criminal force to woman with intent to disrobe under Section 354B, commission of mischief under Section 436 of IPC, attempt to murder and criminal intimidation. Out of those offences, only one case was registered for extortion, the maximum punishment of which may extend to three years or with fine, or with both. Three cases were registered under Section 506 of IPC, one case was registered under Section 379 of IPC for alleged committing of offence of theft, one case was registered for allegedly committing offence under Section 307 of IPC and under Section 354B of IPC. Except the offence committed under Section 307 IPC, in all other offences registered against the petitioner, the

punishment as prescribed may be extended to two years or three years or with fine or with both. Furthermore, it is noticed that all the cases were allegedly committed within the limits of Bodhjungnagar Police Station and not beyond that. It is further noticed that three cases were registered in the year 2013 and remaining cases were registered in the year 2018 and two complaints were only entered in the GDE in the year 2019. Three

cases were found to be registered in the year 2013 and out of those three cases only in one case the offence was registered under Section 436, having punishment of life imprisonment or which may extend to ten years. But, the detaining authority has taken into consideration those old cases as grounds to arrive at his subjective satisfaction that the detenu needs to be detained in the year 2019.

9. According to us, these grounds have become stale and the exercise of the power of detention based on those cases appears to be actuated with malice in law. We are unable to accept the submission of the learned P.P. that the particulars as referred to cases registered in the year 2018 are sufficient to persuade this Court to uphold the preventive detention order to preserve public order and to preserve the security of the State.

10. Here, we may profitably extract some observations of the Apex Court made in the case of Sama Aruna v. State of Telangana & Anr. reported in (2018) 12 SCC 150, which are as

under:

> "12. The four cases which are old and therefore, stale, pertain to the period from 2002 to 2007. They pertain to land grabbing and hence, we are not inclined to consider the impact of those cases on public order, etc. We are satisfied that they ought to have been excluded from consideration on the ground that they are stale and could not have been used to detain the detenu in the year 2016 under the 1986 Act which empowers the detaining authority to do so with a view to prevent a person from acting in any manner prejudicial to the maintenance of public order.
>
>
>
> 13. We are not inclined to accept the justification offered by Mr Harin P. Raval, learned Senior Counsel appearing on behalf of the respondents, that the mere reference to two other cases which are 2-3 years old should be considered as relevant and proximate grounds of detention, though the detaining authority itself has not done so. Every statement in the detention order must be taken to have been made responsibly. Where the detaining authority has detailed 4 cases and stated that these have been considered as the grounds of detention it must be considered as true-speaking. Moreover, those incidents appeared to be cases of ordinary criminal trespass which would not, in any way, be of much significance since they do not deal with the disruption of any public order which is relevant under the law dealing with preventive detention."

11. Further, we have given our anxious thought in respect of the fact that the petitioner was arrested only for once and he was released on bail. There is no such explanation as to why the petitioner was not arrested, and what actions the State Government had taken against the petitioner for alleged commission of those offences. Question further arises, if the petitioner was at all involved in committing those offences in the year 2018, then, why he was not arrested against those cases. Further, the detaining authority had considered the case for which he was released as a ground for preventive detention. Needless to

mention that the Court had released the petitioner on bail after taken into account relevant materials where the Court found to be satisfied it was fit case for granting bail.

It would not be out of context, if we make reference to the decision of the majority view in Vijay Narain Singh vs. State

of Bihar & Ors. reported in (1984) 3 SCC 14, where in para 32 of the judgment, Venkataramiah, J (as His Lordship then was) speaking to the majority had observed as under:-

> "32. .....
> .....

..... When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinising the validity of an order of preventive detention which is based on the very same charge which is to be tried by the criminal court."

12. Further, no materials are produced before us about the present status of those cases. Even those materials were not considered by the detaining authority before passing the order of detention. We cannot attempt to assess in what manner and to what extent, consideration of those materials against the detenu would have effected the satisfaction of the detaining authority. In one of the cases we find major allegation was that after victory in the Tripura Legislative Assembly Election in the year 2013, the petitioner threatened one Gopal Das to give `20,000/-(rupees twenty thousand). In another case of the year 2013, the major allegation was that he along with others set fire on the dwelling hut of one person. Once again in the month of May, 2018, the allegation was that the petitioner along with his associates wrongly restrained one person and had stolen cash of `2,28,000/- (rupees two lakhs twenty eight thousand). In another case of the year 2018, there was allegation that the petitioner along with his associates attacked the house of one person and threatened him with criminal intimidation. In the year 2013, another case was registered against him, wherein the allegation was that the petitioner along with eight others entered into the house of one Smt. Purnima Das and started assaulting her father-in-law and when her brother-in-law came forward to protect, the accused person threatened to kill her. The petitioner and others ransacked the household articles of the complainant and took away cash of `50,000/-(rupees fifty thousand) and golden ornaments of her mother-in-law and the complainant herself, and outraged the modesty of the complainant. Those were the major allegations which prompted the detaining authority to detain him under the N.S. Act.

13. As we said earlier, from the "History-Sheet" it is revealed that the petitioner was arrested only for once. It is not the case of the detaining authority that the petitioner could not be arrested in other cases due to his non-availability in his house or that he fled away.

Keeping in mind all those aforesaid facts, in this writ petition we are to measure the extent of gravity of those offences, prejudicially affecting the security of the State and maintenance of public order, which are the touchstones in regard to the application of Section 3 of the National Security Act, 1980(N.S. Act). Section 3 of the N.S. Act reads as under:-

> "3. Power to make orders detaining certain persons.--
>
> (1) The Central Government or the State Government may,--
>
> (a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, or
>
> (b) if satisfied with respect to any foreigner that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India, it is necessary so to do, make an order directing that such person be detained.
>
> (2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

Explanation.--For the purposes of this sub-section, "acting in any manner prejudicial to the maintenance of supplies and services essential to the community" does not include "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" as defined in the Explanation to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (7 of 1980), and accordingly, no order of detention shall be made under this Act on any ground on which an order of detention may be made under that Act. (3) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2), exercise the powers conferred by the said sub-section:

> Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State

> Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time. (4) When any order is made under this section by an officer mentioned in sub-section (3), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government:
>
> Provided that where under section 8 the grounds of detention are communicated by the officer making the order after five days but not later than ten days from the date of detentions, this sub-section shall apply subject to the modification, that, for the words "twelve days", the words "fifteen days" shall be substituted.
>
> (5) When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order."

14. This Court is under obligation to enforce the fundamental rights of the people as well as the rights of a person, more particularly, when it relates to his personal liberty and the court should not be influenced by any of the conditions, which led the detaining authority to pass an order of preventive detention order against such a person.

In Kamleshkumar Ishwardas Patel v. Union of India reported in (1995) 4 SCC 51, the Apex Court had observed that the courts should not be unmindful of the harmful consequences of the activities in which the detenus are alleged to be involved and while discharging our constitutional obligation as protectors of the Constitution, more specifically, the right of the people as well as the personal liberty of a person, we should refrain ourselves to be influenced by any of the conditionalities and the materials which were considered by the detaining authority.

15. In the present case, we have noticed that the order of detention states that, "WHEREAS, in certain areas within the local limits of my jurisdiction as District Magistrate of the West Tripura District, activities like murder, threatening to do murder, Kidnapping, abduction, arson, dacoits, rape by creating lawlessness in order to destabilize the Government have severely affected public order and security of the state;"

16. A bare perusal of the said order, it is clear that the detention order was made for the acts, aimed at creating lawlessness in order to destabilize the Government, which prejudicially affected public order and security of the State. Thus, we are to test whether the act of the petitioner as aforesaid tantamounts to create a situation of lawlessness, sufficient to destabilize the Government and prejudicially affected public order as well as the security of the State.

17. A careful reading of the detention order issued on 06.07.2019 under Section 3 of the N.S. Act, it comes to light that the detaining authority had relied upon the acts of the petitioner, which he committed in the year 2013 and on those acts, the detaining authority came to the conclusion that the said detenu, if remains at large, would be a threat to destabilize the Government in the year 2019.

In the year 2018, two cases were registered against the petitioner and the major allegation of commission of offence was under Section 307 of IPC against a particular person of his locality, but there is no material in front of us whether the petitioner was arrested in connection with such case or not. Here, we should not lose our sight to the fact that in the grounds of detention we do not find any statement of the detaining authority from which we can gather that the affected person had suffered any injury and that too in the vital parts of his person. Naturally, question arises, whether mere registration of a case under Section 307 of IPC against a particular person can be treated to be an act towards destabilization of the Government, severely affecting the public order and security of the State.

18. In the case of G.M. Shah v. State of Jammu and Kashmir reported in (1980) 1 SCC 132, the Apex Court had observed:

> "7. It is thus clear that none of the grounds supplied to the detenu falls within the scope of clause (a) of Section 8(3) of the Act which defines the expression "acting in any manner prejudicial to the security of the State". It is further seen that even though it is stated in the grounds that the District Magistrate was of the view that the detenu remaining at large was prejudicial to the security of the State also, he did not make the order with a view to preventing him from acting in any manner prejudicial to the security of the State. A combined reading of the order of detention and the grounds furnished to the detenu shows that at the time when the order was made, the District Magistrate either had no material relevant to the security of the State on which he could act or even if he had information of those grounds, he did not propose to act on it. He, however, tried to support the order of detention by stating in the course of the grounds that by the detenu remaining at large, the security of the State was likely to be prejudiced.
>
> 8. The expressions "law and order", "public order" and "security of the State" are distinct concepts though not always separate. Whereas every breach of peace may amount to disturbance of law and order, every such breach does not amount to disturbance of public order and every public disorder may not prejudicially affect the "security of the State". This is borne out from the observations made by Patanjali Sastri, J. in the decision of this Court in Romesh Thapar v. State of Madras [AIR 1950 SC 124] which are as follows:
>
> "As Stephen in his Criminal Law of England observes: „Unlawful assemblies, riots,

> insurrections, rebellions, levying of war, are offences which run into each other and are not capable of being marked off by perfectly defined boundaries. All of them have in common one feature, namely, that the normal tranquillity of a civilised society is in each of the cases mentioned disturbed either by actual force or at least by the show and threat of it . Though all these offences thus involve disturbances of public tranquillity and are in theory offences against public order, the difference between them being only a difference of degree, yet for the purpose of grading the punishment to be inflicted in respect of them they may be classified into different minor categories as has been done by the Penal Code, 1860. Similarly, the Constitution, in formulating the varying criteria for permissible legislation imposing restrictions on the fundamental rights enumerated in Article 19(1), has placed in a distinct category those offences against public order which aim at undermining the security of the State or overthrowing it, and made their prevention the sole justification for legislative abridgment of freedom of speech and expression, that is to say, nothing less than endangering the foundations of the State or threatening its overthrow could justify curtailment of the rights to freedom of speech and expression, while the right of peaceable assembly „sub- clause (a) and the right of association „sub-clause (c) may be restricted under clauses (3) and (4) of Article 19 in the interests of „public order , which in those clauses includes the security of the State. The differentiation is also noticeable in Entry 3 of List III (Concurrent List) of the Seventh Schedule, which refers to the „security of a State and „maintenance of public order as distinct subjects of legislation. The Constitution thus requires a line to be drawn in the field of public order or tranquillity marking off, may be, roughly, the boundary between those serious and aggravated forms of public disorder which are calculated to endanger the security of the State and the relatively minor breaches of the peace of a purely local significance, treating for this purpose differences in degree as if they were differences in kind."

9. As observed by Hidayatullah, J. (as he then was) in Dr Ram Manohar Lohia v. State of Bihar [AIR 1966 SC 740] one has to imagine three concentric circles, in order to understand the meaning and import of the above expressions. „Law and order represents the largest circle within which is the next circle representing "public order" and the smallest circle represents "security of State". It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of State. It is in view of the above distinction, the Act defines the expressions "acting in any manner prejudicial to the security of the State"

> and "acting in any manner prejudicial to the maintenance of public order" separately. An order of detention made either on the basis that the detaining authority is satisfied that the person against whom the order is being made is acting in any manner prejudicial to the security of the State or on the basis that he is satisfied that such person is acting in any manner prejudicial to the maintenance of public order but which is attempted to be supported by placing reliance on both the bases in the grounds furnished to the detenu has to be held to be an illegal one vide decisions of this Court in Bhupal Chandra Ghosh v. Arif Ali [(1974) 1 SCC 253] and Satya Brata

Ghose v. Arif Ali [(1974) 3 SCC 600]."

19. Relying on the case of G.M. Shah(supra), a Division Bench of the Gauhati High Court in the case of Shyamal Das v. State of Tripura reported in (2007) 3 GLR 41 had held that a combined reading of the order of detention and the grounds furnished to the detenu that at the time, when the order of detention was made, the District Magistrate either had no material, which could reflect that the detenu s activities were prejudicial to the security of the State or if the detaining authority had such materials, he did not propose to consider them. In a situation, such as the present one, when there is not even an iota of material to show that the alleged activities of the detenu genuinely gave rise to an apprehension of threat to the security of the State, the order of detention cannot, but be described as the one suffering from non-application of mind.

20. Now, if we revert to the present case, we see that the detaining authority in his detention order dated 06.07.2019 found the petitioner being connected with murder, rape and kidnapping, but, from the materials on record we find no such offences were committed by the petitioner. According to us, even if those offences are committed by a person at any point of time, unless and until the detaining authority is satisfied that such murder, rape or kidnapping are aimed to destabilize the Government and those acts are prejudicially affected the public order and security of the State, the commission of such offence against a particular person or persons cannot be treated as a threat to the security of the State.

21. In the case in hand, the detaining authority has committed serious error in law relying upon the cases, which were of six years old and stale and cannot have any relevance to pass a detention order after six years for restraining him from committing any future offence under the grab of National Security Act. Further, the prejudicial activities of a person which necessitate the detaining authority to pass an order of detention should be proximate to the time when such order of detention is made.

22. We have given our thoughtful consideration to the submission of the learned P.P. that the Court should take into account the offences the petitioner committed in the year 2018. We repel the said submission for the reason that the detaining authority while passing the detention order has heavily relied upon the cases that occurred way back in the year 2013, for his subjective satisfaction. In such circumstance, the offences, as relied upon by the detaining authority, should not be taken into consideration in isolation separating the offences from each other. In the instant case, we find that the detaining authority is highly influenced of the stale incidents which make the detention order bad in law.

23. In the case of Sama Aruna(supra), the Apex Court held that past conduct of detenu was not relevant and had no live and proximate link with immediate need to detain him preventively. The Apex Court further held that a detention order which is founded on stale incidents, must be regarded as an order of punishment for a crime, passed without a trial, though purporting to be an order of preventive detention. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it.[SCC. p.158, para 17]

24. In the instant case, according to us, none of the offences, allegedly committed by the petitioner, were so grave in nature that would be regarded as a threat to destabilize the Government, prejudicially affecting the public order and security of the State.

25. The offences as allegedly committed by the petitioner, in our opinion, can well be confronted under Indian Penal Code. Our Penal Code is not so weak to counter and punish the accused indulged in committing such offences. To detain an accused under N.S. Act, the detaining authority or the Government is to keep in mind that the acts and the activities of a person should be of such grave in nature that if he is not detained then it will ensure communal disharmony, social tensions, extremist activities, industrial unrest and increasing tendency on the part of various interested parties to engineer agitation on different issues. The anti-social and anti-national elements including secessionist, communal and pro-caste elements and also other elements who adversely influenced and affected the services essential to community posed a grave challenge, particularly, in respect of defence, security, public order and services essential to the community.

26. In the case of S.R. Venkataraman v. Union of India reported in (1979) 2 SCC 491, the Apex Court held that the principle which is applicable in such cases has thus been stated by Lord Esher, M.R. in Queen on the Prosecution of Richard Westbrook v. Vestry of St. Pancras, (1890) LR 24 QBD 371(CA):

> "... If people who have to exercise a public duty by exercising their discretion take into account matters which the courts consider not to be proper for the guidance of their discretion, then in the eye of the law they have not exercised their discretion. This view has been followed in Sadler v. Sheffield Corpn. [(1924) 1 Ch 483] "

27. In the present case, we find that the detaining authority did not find any such materials, which are relevant to the security of the State or even if he had information of those grounds, he did not propose to act on it. We already have held that the offences as stated by the detaining authority in the impugned order of detention cannot be characterized as offences, aimed to threat the security of the State or to destabilize the Government or prejudicial to public order. According to us, the prejudicial acts of the detenu must be of such a character as to suggest that it is a part of an organized operation of a complex of agencies collaborating to clandestinely and secretly carry on such activities, and in such a case the detaining authority may reasonably feel satisfied that the prejudicial act of the detenu which has come to light cannot be a solitary or isolated act, but must be part of a course of conduct of such or similar activities clandestinely or secretly carried on by the detenu and it is, therefore, necessary to detain him with a view to preventing him from indulging in such activities in the future. The said ratio was laid down by the Apex Court in its decision in the case of T.A. Abdul Rahman v. State of Kerala reported in (1989) 4 SCC 741[relevant page 747, para 6), relying on Golam Hussain v. Commissioner of Police, Calcutta, (1974) 4 SCC 530].

28. For the reasons stated above, in the instant case, we find that the detaining authority has come to a conclusion which is found to be quite unreasonable and throws a considerable doubt on the genuineness of the subjective satisfaction of the detaining authority vitiating the validity of the detention order. We are unable to persuade ourselves to find out the live-link between the

prejudicial activities and the purpose of detention.

29. Each and every offence under Indian Penal Code committed against State is obviously a breach of law and order affecting peace and tranquility, but, some sporadic isolated incidents committed against some individual/s should not be termed as offences organized and aimed to destabilize the Government affecting public order and threat to the security of the State. The discretionary power vested to the detaining authority has to be exercised carefully and with caution and only then, when it is justified to achieve the actual purpose and object enshrined in statute itself.

30. In the result, we allow the writ petition and the impugned order of detention dated 06.07.2019 issued by the District Magistrate, West Tripura District, the detaining authority, and its subsequent approval by the State, are set aside and quashed. The detenu, namely Sri Biplab Biswas, son of Late Nagendra Chandra Biswas of village & P.O. Radha Kishore Nagar, P.S. Bodhjungnagar, be set at liberty forthwith.

(ARINDAM LODH, J) (AKIL KURESHI, CJ)