
(1993) 05 AHC CK 0080
In the Allahabad High Court
Case No : Writ Petition No. 200 (H/C) of 1992

Apda Haran Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-05-1993

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 82, 83
National Security Act, 1980 — Section 10, 11, 12, 3, 3(2)
Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 307
Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 — Section 3, 7

Citation : (1994) CriLJ 480

Hon'ble Judges : S.H.A. Raza, J;K.L. Sharma, J

Bench : Division Bench

Advocate : Kunwar Mridul Rakesh, for the Appellant; Ashok Nigam, G.A., for the Respondent

Final Decision : Dismissed

Judgement

K.L. Sharma, J.—These Habeas Corpus writ petitions are directed against the detention order dated June 19, 1992, in the case of Apda Haran Singh and against the orders dated June 22, 1992 against Bhola Nath and Rakesh Singh, passed separately by the District Magistrate, Lucknow u/s 3(3) of the National Security Act ordering the detention of the petitioners u/s 3(2) of the aforesaid Act in the District Jail, Lucknow. These writ petitions arise out of the same incidents involving similar questions of fact and law and have been heard together and are being disposed of by one common judgment.

2. The relevant facts for consideration in these writ petitions are briefly stated as follows:

3. In the morning of June 2, 1992, at about 6.00 a.m., one Umesh Shukla, while sleeping on the roof of his house No. D-89/7, Indira Nagar, Police Station Ghazipur, Lucknow, was murdered. A written First Information Report was lodged

by Sri Rajendra Gupta, son of Kunjbihari, at Police Station Ghazipur,, Lucknow on the same day at 8.30 a.m. by naming the three petitioners and mentioning about two other unknown persons as the real culprits, who killed Umesh Shukla by fire arms, and ran away on motor cycle and scooters, creating terror and giving threats. It was alleged in the report that these culprits were seen by Mahadev Pandey, Sunil Pandey, Sandeep, Akram, Smt. Saroj Misra etc. It was further stated in the report that Apda Haran Singh is having a strong gang engaged in the loot of money and land by creating terror amongst the people and is having liason with and protection of political office bearers. Apprehending the arrest and false involvement in the said crime No. 228 of 1992, registered at Police Station Ghazipur, Lucknow on the basis of the First Information Report lodged by Sri Rajendra Gupta, the petitioners individually moved surrender applications before the Chief Judicial Magistrate, Lucknow on June 3, 1992, who was pleased to call for the report from the police. Instead of submitting the report, the police succeeded in obtaining the processes u/s 82/83 of the Code of Criminal Procedure against the petitioners on June 3, 1992. The petitioners were remanded on surrender to Judicial Custody on June 8, 1992 in connection with the aforesaid murder of Sri Umesh Shukla and confined to District Jail, Lucknow. On June 10, 1992, a case u/s 7/3 of U.P. Gangsters Act & Anti Social Activities (Prevention Act) was also registered at Police Station Ghazipur, Lucknow against the detenu/petitioners and the petitioners were also detained in the aforesaid case. Bail applications were submitted before the Chief Judicial Magistrate, Lucknow in the murder case on June 10, 1992, on which date the case under the Gangsters Act was registered against the petitioners. The Chief Judicial Magistrate, Lucknow, called for the relevant documents and fixed June 15, 1992 for hearing on the bail applications. But the opposite party No. 5 avoided to produce the documents for one or the other reasons and the court registered a miscellaneous criminal case against the opposite party No. 5, on June 20, 1992 for flouting the court's orders. Pending the disposal of the bail application, the opposite party submitted a report to the District Magistrate, Lucknow for detention of the petitioners u/s 3/7 of the Act and the District Magistrate, Lucknow, who ultimately passed the impugned order on June 19, 1992, in the case of Apda Haran Singh and on June 22, 1992, in the cases of Bhola Nath and Rakesh Singh separately. The detention order was served on Apda Haran Singh in District Jail on June 20, 1992, the detention orders on Bhola Nath and Rakesh Singh were served on District Jail on June 23, 1992. The grounds of detention were also served on the petitioners along with the respective orders of detention along with copies of the documents. The petitioners have assailed the validity of the respective detention orders on the following grounds:

A. The incidents referred to, in the grounds of detentions, relate to law and order problem and do not amount to disturbance of public order.

B. Extraneous and irrelevant material, as mentioned in paragraph No. 33 of the writ petition, was placed before the detaining authority which created bias in the mind of the detaining authority, whose subjective satisfaction was accordingly

vitiated.

C. The relevant material, relating to the registration of Gangsters Case by the same investigating officer, was not placed before the detaining authority and consequently, the subjective satisfaction of the detaining authority was not properly arrived at. Copies of the vital documents mentioned in paragraphs 20, 23, 26, 28, 29 and 31 of the writ petition were not placed before the detaining authority, who could not apply his mind to full relevant and necessary facts having sufficient potentiality to affect the subjective satisfaction.

D. The copies of these documents were not supplied to the petitioners, who were consequently deprived of making an effective representation against the grounds of detention.

E. The petitioners submitted representations against their detention on the basis of the material supplied to them. Apda Haran Singh has submitted representation on June 24, 1992 and Bhola Nath and Rakesh Singh submitted their representations on June 20, 1992 through the Superintendent of District Jail, Lucknow to the District Magistrate, Lucknow. But there has been undue delay in the disposal of these representations by the competent authority. I

4. These writ petitions have been contested by the opposite parties. Counter affidavits have been filed on behalf of the State by Sri Om Prakash Pandey, Deputy Secretary, Confidential Department of U.P. Government, mentioning that the detention, order passed by the District Magistrate, Lucknow was received by the State Government on June 23, 1992 and approved by the Government on June 25, 1992 and, order of approval was issued on June 27, 1992. The State Government made reference u/s 3/5 of the Act to the Government of India on June 27, 1992 and, also made reference u/s 10 of the Act to the Advisory Board on June 27, 1992. The petitioners' representations were received by the State Government through and along with the comments of the District Magistrate, Lucknow and were sent to the Advisory Board. The petitioners were personally heard by the Advisory Board on July 22, 1992 and on receipt of the report of the Advisory Board u/s 11 of the Act, the State Government once again examined the case and confirmed the order of detention u/s 12 of the Act on July 29, 1992 and, rejected the representations. There has not been any delay at any stage in the disposal of the representations.

5. Counter affidavits of Virendra Singh, S.O. In charge, Police Station Ghazipur, Lucknow, has also been filed. Counter affidavit on behalf of the Union of India has also been filed by Sri Iswar Singh, Desk Officer in the Ministry of Home Affairs, Government of India to show that the Government of India duly considered the representations and approved the orders of detention and rejected the representations by concluding that there was no necessity of interference with the orders of detention. The allegations made by the petitioners to the contrary in the writ petition were denied. It has been stated that the final decision to reject the representation taken by the Central Government was

communicated to detenu by the hotline message followed by a letter through the Home Secretary, Government of Uttar Pradesh to the Superintendent, District Jail, Lucknow. .

6. A counter affidavit of Sri Ashok Priyadarshi, the District Magistrate, Lucknow has also been filed, denying the contrary allegations made in the writ petition, the District Magistrate Lucknow, has stated in paragraph 11 of the counter affidavit that the copies of the material, considered by him, before passing the impugned order of detention were supplied to the petitioners, through the Superintendent, District Jail, Lucknow and are annexed as CA-1 to CA-19 to the counter affidavit. It has categorically been stated that the incidents referred to in the grounds of detention created panic and terror in the locality and even tempo of life was disturbed in the locality which affected the public order and the incident was not merely confined to law and order problem. It has further been stated categorically that on the basis of the material placed before him, he was satisfied that the activities of the petitioners were prejudicial to the maintenance of public order and had the effect of affecting even tempo of life. He was further satisfied that in the event of release on bail, the petitioners would indulge into activities prejudicial to the maintenance of public order. It has further been stated that all the relevant material which was considered by the detaining authority was supplied to the petitioners, who made representation against detention and nothing affected or prejudiced their right for making an effective representation. It has also been stated that if the petitioners wanted a prejudicial (sic) document, then they ought to have made requisition for the same but they cannot make it a ground for being deprived of making an effective representation. Since the petitioners had moved applications for bail, he was satisfied that there was likelihood of the petitioners being released on bail, and in the event of release, the petitioners would indulge in criminal activities prejudicial to the maintenance of the public order. It has further been stated that the material referred to in paragraph 33 as annexures-4, 8 and 9 to the writ petition are neither extraneous material nor relevant material, which were placed before the detaining authority by the sponsoring authority and the petitioners have been supplied copies of the said material. It has been stated that the petitioners have been supplied copies of the said material. It has been stated that the petitioners' representations received from the Superintendent, District Jail, Lucknow, were expeditiously processed and forwarded with comment to the State Government.

7. Rejoinder affidavit has also been filed reiterating the averments made in the writ petition and refuting the assertions made in the counter affidavits filed by the opposite parties.

8. We have heard at a great length the learned Counsel for the petitioners namely Sri Virendra Bhatiya and Sri Kunwar Mridul Rakesh. On behalf of the opposite parties, learned Public Prosecutor, Mr. Bireshwar Nath has also been heard at length.

9. First of all, we take up the contention of the learned Counsel for the petitioners about the delay in the disposal of their representation. There is no factual dispute. However, the dates are relevant to find out, if there has been any delay at all or if there has been some delay, whether it is justified and reasonable or not. Apda Haran Singh submitted his representation on June 24, 1992 through, the Superintendent District Jail, Lucknow to the District Magistrate, Lucknow. The comments of the Senior Superintendent of Police were called for on the second representation. The comments were received on July 2, 1992 and, then, the representation along with the comments, was sent to the State Government on July 3, 1992. The State Government received the representation on the same date and sent to the Advisory Board on July 4, 1992. The State Government rejected the representation of the petitioner on July 15, 1992 and the intimation thereof was sent to the detenu through the Superintendent District Jail, Lucknow/DM on July 16, 1992. The State Government forwarded the representation to the Central Government on July 6, 1992. The Central Government called for information from the State Government, which was supplied on July 21, 1992. The Central Government rejected the representation on August 3, 1992.

10. The petitioner Bhola Nath submitted his representation on June 29, 1992 to the District Magistrate, Lucknow through the Superintendent District Jail, Lucknow. In the same process the representation was forwarded by the State Government to the Central Government on July 10, 1992. The Central Government asked for additional information on July 14, 1992. The additional information was sent on August 14, 1992. The representation was considered and decided by the Central Government on August 27, 1992.

11. The detenu Rakesh Singh submitted his representation on June 29, 1992 in the same manner and in the same process, the State Government sent it to the Central Government on July 9, 1992. The additional information was required by the Central Government on July 13, 1992 and, it was supplied on August 18, 1992. The Central Government considered and rejected the representation on August 27, 1992.

12. The learned Counsel for the petitioners pointed out that each day of delay must have been explained by the opposite parties but in the present case, it has not been done and, there has been delay in dealing with the representation of the petitioner at the level of the State Government. The Deputy Secretary of the Confidential Department of the Government of U.P., has explained the delay in his counter affidavit. We are of the opinion that the explanation given on behalf of the opposite parties is not unreasonable, in view of the circumstance that day to day business of the Government is tremendously increasing and, consequently, the officers and the ministers of the Government are awfully busy in dealing with the affairs of the State and they cannot be pinned down to deal with the representations of the detenues exclusively in a clock-wise manner at the cost of public interest. However, the representations have been dealt with

thoroughly and expeditiously, considered and decided by the State Government as well as Central Government.

13. Delay for some days at any level due to more urgent attention calling public affair is understandable and excusable for more than one reason. Therefore, we do not find any substance in this contention raised by the learned Counsel for the petitioners and reject it.

14. The learned Counsel for the petitioners firstly contended that the following materials being relevant for consideration of the detaining authority were not placed before him, and the satisfaction arrived at by the detaining authority stands vitiated,--

(1) Registration of the Gangster's case on 10-6-1992.

(2) Bail application in Gangster's case.

(3) Statements of witnesses recorded u/s 161, Cr. P.C.

(4) Site plan of the place of occurrence of murder.

15. It is true that the documents referred to at SI. Nos. 1 and 2 were not at all submitted by the recommending authority to the detaining authority. It is also true that the Gangster's case was registered against the petitioners in the same police station Ghazipur on 10th June, 1992, and before the recommendation made for detention under National Security Act. We have given anxious consideration to the contentions raised by the learned Counsel for the petitioner, but we are unable to agree with the view that these documents were material for consideration of the detaining authority as they could affect the satisfaction of the District Magistrate while considering the question of detention of the petitioner under National Security Act. To our mind, even though Gangster's case was registered at the same police station before the recommendation for detention was made, this document was and could prove to be hundred per cent adverse factor in the matter of detention under the National Security Act. The Court cannot see as to what other adverse materials existed against the petitioners and why they were not submitted by the Station Officer to the detaining authority. The satisfaction of the detaining authority had to be confined to the material placed before him. The material which was not placed before him did not favour the petitioner against his detention. Had it been favourable to the petitioner against his detention, it would have been very material for influencing the satisfaction of the District Magistrate not to detain the petitioner. Since it is not the case favourable to the petitioner, we do not find anything wrong if this material relating to the Gangster's case was not forwarded by the recommending officer to the detaining officer. The question of mentioning the bail application moved in the Gangster's case was also not material, inasmuch as it could not be favourable to the petitioners against their detention.

16. As regards the documents relating to statements of witnesses recorded u/s 161, Cr. P.C. we find that the contention is not correct. The affidavit of the

District Magistrate, Lucknow Sri Ashok Priyadarshi who was the detaining authority and who passed the impugned orders of detention has clearly mentioned that these documents which were considered by him, were also supplied to the petitioners through the Superintendent of Jail under their written acknowledgment. The list of the documents considered by the detaining authority are contained as Annexures C.A.-3 to C.A.-19, which include the statements of witnesses recorded u/s 161, Cr. P.C., namely, Rajendra Gupta, Prashant, Akhilesh, Mahadev Pandey, Jeevan and Srimati Saroj. The copies of these statements were appended to the report sent by the S.H.O. Ghazipur through the Senior Superintendent of Police, Lucknow to the District Magistrate, Lucknow. The index of all these documents has also been mentioned in the report of the Forwarding Officer, a copy of which was also supplied to the petitioners through the Superintendent of Jail under their written acknowledgment. Therefore, the contention that these documents were not considered and placed before the detaining authority is not substantiated.

17. As regards non-placement of the siteplan of the place of occurrence, we find that the fact is correct, but we do not find it to be relevant and necessary for consideration of the District Magistrate for the simple reason that the place of occurrence was specified by the description of the number of the house and the name of the area in which the house is situated. The detaining authority was not concerned to be acquainted with the exact position, which is needed by a trial court. The site plan was, therefore, in our opinion not a relevant and necessary document to be considered by the detaining authority. The necessary particulars of the place and area of the occurrence were clearly made out from the recitals in the first Information report, G.D. entries and the statements of the witnesses recorded u/s 161, Cr. P.C. Therefore, this contention urged by the learned Counsel for the petitioners is not substantiated.

18. The learned Counsel for the petitioners cited before us the following cases:--

(1) Ramesh v. State of Gujarat 1989 SCC 716: 1989 Cri LJ 2094

(2) Om Veer Singh v. State of U.P., 1992 Selected Criminal Decisions 801.

19. In the first cited case, it was held in the set of entirely different facts that the withholding of vital fact about the acquittal of the detenus in the criminal case referred to in the grounds of detention resulted in the non-application of mind of the detaining authority to that effect, which vitiated the order of detention. In the present case, this fact did not exist at all and therefore the non-consideration of the fact does not vitiate the application of the mind of the detaining authority.

20. The second cited case is materially different from the facts of the present case. In that case as many as 44 other cases were cited without providing any material in support thereof, and it was observed that a detention order passed, on consideration of these other cases without material was vitiated by consideration of irrelevant material and vague grounds. In the present case, only two incidents have been mentioned in the grounds of detention, and the

materials relating to these two cases have also been provided with all the specific particulars. Therefore, the consideration of the said material by the detaining authority was proper and not based on any vague ground or irrelevant material. In fact, it is the petitioner's Counsel himself who desired that the other Gangster's case should have also been considered by the detaining authority, which has in fact not been taken into consideration either by the recommending officer, or by the detaining officer. Therefore, there does not arise any consideration of any irrelevant or vague material against the detenus by the detaining authority. As such, in our opinion, the cited cases do not help the petitioners.

21. The learned Counsel also cited the case of Binod Singh Vs. District Magistrate, Dhanbad, Bihar and Others, in order to show that the detaining authority had not considered the prospect of imminent release of the petitioners who had moved the bail application, and as such there was non-application of mind to the relevant factor even if detention was found otherwise justified. In fact, there is no dispute about the legal position, but the facts in which this decision was rendered, were different. In the present case there was a clear mention in the report of the recommending officer to the detaining officer that the bail application had been moved by the petitioner and he is likely to be released. This was also mentioned in the grounds of detention by clearly stating that the detenus had moved an application for bail, and it was very likely that he would be released on bail and, therefore, would indulge into such activities as would be prejudicial to the public order. In view of this record, it cannot be contended that the detaining authority had not considered the prospect of imminent release of the detenus. Therefore, on this ground also the contention is not acceptable.

22. The learned Counsel for the petitioners next contended that the following irrelevant and extraneous material were considered by the detaining authority, and the mind of the detaining authority was prejudiced against the petitioners :--

(1) First information report on page 29 of the record.

(2) G.D. entries dated 3rd June, 1992 vide Annexure-9 on page 35 of the record.

On a perusal of these records, we find that Annexure-5 is the first information report in Crime Case No. 440 of 1992 Under Sections 147/148/ 149/307/302, IPC, P.S. Ghazipur, Lucknow lodged by one Sri Rajendra Gupta, son of Kunj Behari against the petitioners 1. Apda Haran Singh, 2. Rakesh Singh and 3. Sipahi Bhola Nath Bhaskar. This first information report has been considered and included in the grounds of detention. The G.D. entry No. 16 dated 3rd June, 1992 vide Annexure-9 on page 35 of the record relates to this first information report, Annexure-5 and reports the observation of the patrolling duty made by S.O. Sri Shreekant Misra. It gives full details of the feelings expressed by the residents in the locality and mentions the nature of the atmosphere prevailing in the locality. We are unable to appreciate what particulars the learned Counsel

expected to be incorporated in the G.D. entry. The Station Officer in pursuance of the First Information Report visited the place and area of the incident and made oral enquiries from the residents and the people present there, assessed their feelings and estimated the atmosphere prevailing there, as an aftermath of the heinous incident of crime, and formulated the opinion recorded by the Station Officer himself. We do not expect any particular material to support the views of the Station Officer which he gathered at the time of his immediate visit to the spot. The opinion of the S.O. is itself sufficient material to be considered by the detaining authority. He is a public officer engaged in the maintenance of law and order and in charge of the investigation of the case. Whatever he finds and records as a result, of his inspection, it is very relevant and necessary material to be considered. There may be corroborating material in particulars, but it is not necessary for consideration of the report of the S.O. The same feelings about the atmosphere created by the murder of Umesh Shukla were expressed by the complainant/first informant Mr. Rajendra Gupta himself in his detailed report, Annexure-5. Therefore, the views expressed by the Station Officer, as a result of the inspection of the site was corroborative of the information given in the first information report of Rajendra Gupta. On this ground, we do not conclude that the detaining authority by considering the FIR, Annexure-5 dated 2-6-92 and the G.D. entry No. 16 dated 3-6-92, Annexure-9 considered the extraneous material without any material support.

23. Learned Counsel for the petitioners has cited the following decisions in support of his contentions that irrelevant and vague averments vitiated the detention.--

- (1) Mohd. Yousuf Rather Vs. State of Jammu and Kashmir and Others, .
- (2) Vashisht Narain Karwaria Vs. State of U.P. and another, .
- (3) Mahesh Tyagi Vs. State of U.P. and Others, .
- (4) Om Veer Singh v. State of U.P. 1992 SCD. 2 801.

On perusal of these cited cases, we find that the facts involved in the aforesaid case are different from those of the present case. The principles of law are not disputed, but the facts attracting the application of the principles have to be ascertained in each and every case. In the present case, we find on facts that the material considered by the detaining authority was not at all either irrelevant, or vague as it was in the case of Vashisht Narain Karwaria or other cases. The averment touching the general character of the detenus referred to in the grounds of detention was supported by the material placed by the recommending officer before the detaining authority, and, it cannot, therefore, be said that the detenus were blackpainted without any material in support thereof. On the contrary, we find that whatever was stated by the Station Officer in his report addressed to the District Magistrate, it was accompanied by the necessary material relating to every averment made in the report. Therefore, we are not convinced with and not inclined to accept the contention raised by the learned

Counsel for the petitioners in this regard.

24. The learned Counsel for the petitioners, vehemently contended that the detention of the petitioners was made on the singular ground of the incident of murder which related to a single individual on account of mutual enmity and it could be at the best a problem of law and order only, but it did not amount prejudicial to public order. In support of his contention, he has also relied on the decisions in the following cases:--

- (1) Dr. Ram Manohar Lohia Vs. State of Bihar and Others, .
- (2) Dr. Ram Manohar Lohia Vs. State of Bihar and Others, .
- (3) Subhash Bhandari Vs. District Magistrate, Lucknow and Others, .
- (4) Mrs. T. Devaki Vs. Government of Tamil Nadu and others,
- (5) Ajay Dixit Vs. State of U.P. and Others,

We have carefully perused these decisions. Prima facie a single incident, relating to a single individual, based on personal enmity may not disturb public order, and may remain confined to law and order problem, but it is not always necessary. The Full Bench of our High Court in the case of Shesh Dhar Misra (supra) has considered a plethora of decisions rendered by the Hon'ble Supreme Court and by this Court. The basic question for determination whether the incident disturbs the public order or law and order, has to be determined on the basis of the cumulative effect of the facts and circumstances of each and every case. It rather depends on the reaction of the public to the happening and the consequent terror spread by the culprits and the atmosphere surcharged thereby. The Supreme Court very appropriately expressed in the case of Alijan Mian Vs. District Magistrate, Dhanbad and Others, as follows :--

Those concentric concepts of "law and order" and "public order" may have a common epicentre", but it is length, magnitude and intensity of the terror-wave unleashed by a particular eruption of disorder that helps distinguish it as an act affecting "public order" from that concerning "law and order".

Applying these tests to the facts and circumstances of each case, the opinion of the public in the aftermath of the incident becomes the guiding factor to the conclusion. The decisions of the Supreme Court, or of the High Court based on different facts and circumstances of each case do not become binding precedents because each case will have to be judged separately on the basis of the material available for such assessment.

25. In the present case, the first information report dated 2-6-92 vide Annexure-5 to the writ petition, itself shows the length, magnitude and intensity of the terror wave created by the culprits by killing a person in the morning on the roof of the house where he was sleeping. The first information given by Mr. Rajendra Gupta at the police station within few hours of the incident itself speaks about the length, magnitude and intensity of the terror as well as by the attitude

of the culprits who threatened everybody with the same dire consequences. This view of the informant that the public life was disturbed, terror was created in the area and everybody was stunned to silence, was fully found corroborated by the visit of the Station Officer who visited the site, contacted the people, observed the atmosphere and reproduced the same in the entries of the general diary No. 16 on 3-6-92. Another incident, reported by Jeevan about the threat extended by the culprits, was further corroborative of the fact, that nobody could dare to give statement against the culprits. On the material submitted by the Station Officer, we are of the opinion that even though the incident of murder related to a single individual, based on personal enmity, it had disrupted the public order, and it was not merely a law and order problem. The detaining authority was rightly satisfied that if the petitioners were not detained and would be released on bail, they would indulge into " such activities which would be prejudicial to the public order.

26. The learned Counsel for the petitioners vehemently contended, that since in a number of decisions it has been held, that a single incident of murder based on personal enmity does not affect the tranquillity of the society, and, therefore, the same view should be adopted by this Bench. However, we regret that we cannot concede to this view. Murder of an individual even on account of personal enmity, or animosity is not justified at all, personal enmity does not give any licence to murder the enemy. Thus, the circumstances and the situation in which such murders take place, speak volumes about the length, magnitude and the intensity of the terror and the fear gripping the public. The first information report, Annexure-5 contains the specific portions relevant to hold that it had disturbed the tempo of life:--

^^vkinkgj.k flag dk ,d tcjnLr cnek"kkksa dk fxjks gSa A budk fxjks ykxksa dks vkrafr djds olwy djuk ,oa tku eky dk [krjk iSnk djuk gS A budk bl le; Hkh jktuhfr inkf/kdkfj;ksa ls rkyesy gS A ftlls budk laj{k.k feyrk gS A ?kVuk ds le; vkus tkus okyksa esa n"kgR QSy x;h A cnek" k dg jgs Fks fd vxj dksbZ gks rks lkeus vk;s mls Hkh xksyh ls mM+k nsaxs A muds bl dk;Z ls vkokxeu vo:) gks x;k A ykxksa esa ng"kr QSy x;k A vr% Jheku~ th ls izkFkZuk gS fd mfpr dk;Zokgh dh tk; A mes" k "kqDyk dks vLirky es HkrhZ djf fn;k gw? A izkFkh jktsUnz xqIrk iq= dqat fcgkj fuoklh xzke dkdLhy ftyk&oklhu Fkkuk&VsMj] m- iz- fnukad 2&6&1992**

27. The specific observations made by the Station Officer Sri Shree Kantin his G.D. report No. 16 on 3-6-92 are as follows :--

vkt jkt 3@27 fo"okl dk.M xkserh uxj ij iqu% nfo" k nh x;h rks ogkW ij 3&4 vkSjrs Fkha A tks lkeku iSad dj jgh Fkha A bl lECU/k esa Kkr gqvk fd lkeku ckW/kdj dgha Hkkxus dh rS;kjh esa gS A ;s ckr vxy&cxv dh tkudkj ls Kkr gqvk A vfHk;qDr vkinkgj.k] jkts" k o Hkksyk ukFk] HkkLdj rhuksa dk ,d laxfBr fxjks gS A buds fxjks esa vkSj Hkh ykx gS ftuds uke ekywe fd;k tk jg gSa A ;s ykx vke turk dks /kedkdj ekjihV dj mxkbZ djrs gSa A ljs vke ywV&ikV ,oa /kefd;kW nsrs jgrs gSa A lkFk gh edku tehu ij dCtk djrs gSa A ftlls vke turk esa buds ?".k ? R;ksa ls Hk; ,oa ng"kr lnSo cuk jgrk gS A u gh buds fo:) xokgh nsus dk lkgl djrk gS A ;gkW rd fd buds fo:) fjiksVZ fy[kkus esa ykx ?kcjkrs gSa A u gh fy[kkuk

pkgrs gSa A dy fnukad 2&6&1992 dks izkr% mes" k "kqDyk dks xksyh ekjus ds ckn gokbZ Qk;j ykxks esa ng"kr o Hk; iSnk djus ds fy;s fd;k] ftlls ykx ?kj dk QkVd cUn dj fy;s o vkokxeu vo:) gks x;k A ;gkW rd fd izkr% tks pk; ikuh dh nqdkus [kqyh Fkha cUn djds Hkx x;s ftlls yksd O;oLFkk Hkax gks x;h A ykxksa ds eu esa ng"kr QSy x;h x;h tSlk fd ohj th- Mh- ua- 40 ij fnukad 2&6&1992 dks ,- vkbZ- Jh ,- lh- feJk us vafdr fd;k gS A tkWp ls iwfrZ gksrh gS A ogkW dh turk dks le>k;k cq>k;k x;k fd nqdkusa [kksfy, vksj lk/kkj.k rjhds ls jfg;s A iqfyl O;oLFkk dj nh x;h gS A le>kus cq>kus ij lqj{kk dh xkjUVh nsus ij fd iqfyl ;gkW ij cjkj jgsxh rks ladqfpr ,oa lgesa gq, fny ls vc nqdku [kksyus dks rS;kj gks jgs gSa A ysfdu ikl iM+ksl ds ykxksa esa vc Hkh n"kg cuh gqbZ gS A vfHk;qDrksa dh fxjQrkjh ds iz;kl fd;s tk jgs gSa A oS/kkfud dk;Zokgh ds fy;s U;k;ky; ls izkFkZuk fd;k tk jgk gS A ;fn buds fo:) vf/ki{k vkns" k 82@83 U;k;ky; }kjk fey tk;sxh rks dk;Zokgh lqfufFpr dh tk;sxh A bl ckr dh izcy laHkkouk gks x;h gS fd buds ifjokj ds ykx ,oa Lo;a py lEifRr ysdj Hkxxus dh iw.kZ O;oLFkk esa gS A foaj.k foospuk tj;s lh- Mh- izsf"kr gS A foospuk tkjh gS A fxjQrkjh eqfYteku ds iz;kl fd;s tk jgs gSa A pktZ Fkkuk o ftEes [kqn fd;k x;k A

These averments are further fully corroborated by the specific statements of the witnesses Rajendra Gupta, Prashant, Akhilesh Shukla, Mahadev Pandey, Jeevan alias Sunil, Srimati Saroj Misra recorded u/s 161, Cr. P.C.

28. The detaining authority is the District Magistrate of Lucknow, and the incident of murder occurred at about 6 a.m. on 2nd June, 1992 in the posh new area of Gomti Nagar where a good gentry resides, and in the morning of the peak summer season the movement of people starts even before 6 a.m. If at that time three armed persons known in the locality and two others with them climbed the roof of a house and killed their enemy sleeping on the roof and came down and walked with threat to everyone in the locality with the dire consequences if anybody resists or gives evidence against them, in these days of increasing terrorism so openly, every person is most likely to become panicky with the result that the tranquillity of life in the area will be disturbed, even though the incident of murder was confined to one person on account enmity. The District Magistrate, Lucknow would not have resisted himself from concluding on the basis of the material placed before him that the public order and the tranquillity of the public life was disturbed in the area in which the incident of murder had happened, and if the petitioner is released on bail in the said murder case, he would again most likely indulge in such prejudicial activities as would be disturbing again the tranquillity of the public life in that area. Such a satisfaction recorded by the detaining authority is not questionable. The Advisory Committee consisting of serving and retired Judges of the High Court had also considered the entire material along with the representation of the petitioner, and after hearing the petitioners in person had endorsed the conclusions and satisfaction of the detaining authority and the necessity of detention of the petitioners. So, we do not find ourselves in disagreement with the satisfaction of the District Magistrate. The contentions raised by the learned Counsel for the petitioners are, therefore, not accepted.

29. The learned Counsel for the petitioners also contended that the petitioners were not supplied necessary and relevant material which was considered by the detaining authority, with the result that the petitioners were prevented from making effective representation against their impugned detention. The learned Counsel has explained that the statements of witnesses recorded u/s 161 of the second case, inasmuch as the documents mentioned in the representation submitted to the Home Secretary were not supplied vide Annexure-10 to the writ petition. We have perused this representation and find that the documents which were not placed before and considered by the detaining authority, could not be expected to be supplied to the detenus. The site plan of the place of murder was not produced before the detaining authority and, therefore, it was not necessary for the detaining authority to supply a copy thereof to the petitioner. The copy of the FIR and G.D. entries were considered by the detaining authority, and copies thereof were supplied to the detenus through Superintendent of Jail under their written acknowledgment. The copies of the post mortem report and injury reports were supplied to the detenus. Whatever documents were forwarded by the Station Officer were considered by the detaining authority, and the copies thereof have been supplied to the detenus under written acknowledgment through the Superintendent of District Jail, Lucknow as shown by the Annexure to the report of the Station Officer vide Annexures C.A.-3 to C.A.-19. This statement is also supported by the counter affidavit filed by Sri Ashok Priyadarshi, District Magistrate, Lucknow. So, in our opinion, whatever was considered necessary and relevant by the detaining authority has been actually supplied to the detenus, and the statement to the contrary is not acceptable. Therefore, it cannot be held that the detenus were prevented from making an effective representation against their detention. The impugned order of detention does not suffer from any such infirmity as pointed out by the learned Counsel for the petitioners.

30. In the result, all these three writ petitions for habeas corpus do not succeed, and are hereby dismissed.