
(1984) 03 PAT CK 0048

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 415 of 1983

Ashok Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 20-03-1984

Acts Referred:

Bihar Control of Crimes Act, 1981 — Section 12(2), 17

Citation : (1984) PLJR 924

Hon'ble Judges : R.N. Thakur, J;A.P. Sinha, J

Bench : Division Bench

Advocate : T.K. Jha and R.N. Maharaj, for the Appellant; Manendra Kishore Sinha, S.C.I, for the Respondent

Judgement

Anand Prasad Sinha, J.—This application is directed against the order dated 19-8-1983, a copy of which is Annexure-1 to this application, by which the District Magistrate, Begusarai has ordered for detention of the petitioner under sub-section (2) of section 12 of the Bihar Control of Crimes Act (hereinafter to be referred to as the Act). The grounds in pursuance of section 17 of the Act for the detention of the petitioner are contained in Annexure-2 dated 19-8-1983 and that had been served upon the petitioner. Subsequently, the State Government has approved the impugned order of detention by its order dated 27-8-1983 which is Annexure-1 A to this application. Thereafter, the said order of detention was confirmed by the Advisory Board which was communicated to the petitioner by the State Government by order dated 5-10-1983 which is annexure-3 to this application. The only point raised on behalf of the petitioner is that there has been no application of mind as the detention is based upon the hypothetical order as contained in Annexure-2 in which the grounds have been set forth that whenever the petitioner is detained in jail, there is peace and order and when he comes out an atmosphere of insecurity is created and people at large feel unsafe. It will be relevant to quote the language used and relied upon by the learned counsel appearing on behalf of the petitioner. It runs as follows:--

JAB YEH JAIL MEN RAHTE
HAIN, TAB TAKR MEIH AMAN
CHAIN BANA RAHTA HAI AUR
BAHAR NIKALNE PAR LOGON
MEN BHAI KA VATAVARAN UTPANNA
HO JATA HAI AUR LOG
APNE KO ASURAKSHIT MAHSUS KARTE HAIN.

Learned counsel, while putting forward his submission, has stated that this cannot be a ground for detention but simply it is an inference of the detaining authority.

2. I am afraid, the submission cannot be accepted. It appears that several grounds have been mentioned for the detention of the petitioner and from perusal of those grounds it is indicated that the petitioner had been indulging into murder, possession of illegal arms, and kidnapping of innocent persons.

3. Therefore, these are the grounds for the detention of the petitioner and the observation of the detaining authority that when ever the petitioner is put inside the jail there is peace and security will be said to be a socio legal aspect of the resultant effect of the conduct of the petitioner. In support of the order that the petitioner by his illegal activities has created such an atmosphere of insecurity and instability and acute disturbances in the public order at large that whenever he is inside the jail the criminal magnetic field created automatically comes to an end restoring a sense of security, stability and confidence in socio legal order of the public at large.

4. The observation of the detaining authority quoted above is introductory and descriptive aspect of the criminal activities of the petitioner affecting the public order and not the grounds for the detention and that being so it shall not affect the subjective satisfaction for detention of the petitioner by the appropriate authority and the plea raised that there has been no application of mind is without any basis; rather it will indicate that the detaining authority has considered all the aspects of the conduct and activities of the petitioner which is also reflected in the grounds for detention and thus there has been complete application of mind and thought. In the result, I do not find any merit in this application which fails and is dismissed.