

(1972) 10 SC CK 0026
In the Supreme Court Of India
Case No : Writ Petition No. 254 of 1972

Mantu Chalak

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 11-10-1972

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : AIR 1973 SC 316 : (1974) CriLJ 408 : (1973) 1 SCC 370 : (1973) SCC(Cri) 339

Hon'ble Judges : Y. V. Chandrachud, J;J. M. Shelat, J;I. D. Dua, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

J. M. Shelat, J.

1.This writ petition, filed under Article 32 of the Constitution, challenges the validity of the preventive detention of the petitioner by the State of West Bengal. The petitioner was detained in pursuance of an order passed by the District Magistrate, Midnapur in exercise of power conferred on him by Sub-section (1) read with Sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 26 of 1971. Pursuant to the said order, the petitioner was arrested on February 16, 1972 and has since then been detained in jail. The grounds of detention furnished to the petitioner at the time of' his arrest were that on May 17, June 15, July 31 and August 7, 1971 the petitioner together with his associates stopped various goods-trains at different places between various railway stations by placing logs on railway tracks and thereafter stole away several bags of foodgrains by breaking open wagons, which acts were, according to the grounds of detention, prejudicial to the maintenance of supplies and services essential to the community. The various dates given in the return filed by the respondent-Government and otherwise appearing on the record indicate that the detaining authorities took all steps required under the Act, including the reference of the petitioner's case to the Advisory Board and consideration of the

petitioner's representation, both by the Government and the Board, within the time allowed therefore. No objection to the detention on that ground, therefore, can be taken, or has been taken on behalf of the petitioner.

2. Counsel appearing *amicus curiae* for the petitioner, however, raised three points. The first was that the petitioner was arrested not on February 16, 1972, but on November 19, 1971, that is to say, on the very day when the impugned order was passed. The argument was that if that was so all the subsequent steps taken by Government pursuant to the detention order and required to be taken under the Act would be beyond time rendering his detention illegal. The case set out in the Government's return, however, was that though the order was passed on November 19, 1971, the petitioner could not be arrested till February 16, 1972 as he was all through out absconding during the intervening period. The question is whether it is possible to say that the return filed by the Government alleging that the petitioner was absconding and therefore could not be arrested till February 16, 1972 is acceptable or not?

3. As against the date of arrest given by Government, the petitioner has given different dates of his arrest at different times. In the petition he gave November 16, 1971 as the date of his arrest, that is to say, even before the date of the detention order. In his representation to the Government he gave the date August 13, 1971 as the date of his arrest and alleged that since then he was kept in Midnapur jail. The petitioner's case as to the date of his arrest is thus not consistent. Assuming, however, that for one reason or the other he was in jail either in August or November 1971, the detention order could still be validly passed, if on the date thereof he was either not in jail custody or was likely to be released therefrom within a short time. There is in fact nothing on record to indicate that he was not at large on November 19, 1971 when the impugned order was passed, nor is there any data before us to question the date of his arrest given in the Government's return. That being so, it is impossible to take November 19, 1971 or a date earlier than that as the date of his arrest and hold on such basis that the follow-up steps taken by the Government were beyond the admissible time.

4. The second point raised was that amongst the grounds for detention ground No. 4 was vague thereby rendering the detention order and the detention consequent thereupon illegal. Ground No. 4 gives the date, the time, the persons accompanying the petitioner, the place where the incident took place and all other particulars relating to it. It is, therefore, difficult to comprehend as to what is meant by the assertion that ground No. 4 was vague, or that by its being so vague it made it impossible for the petitioner to make an effective representation,

5. Lastly, it was argued that the order of confirmation, passed by the State Government after it received the opinion of the Advisory Board did not contain the date of arrest, and that therefore, the petitioner was not able to know on what exact date his detention period would terminate. There is nothing in the Act requiring the Government to mention such a date in its order of confirmation. No

decision also has been shown requiring that such date should be mentioned in the order of confirmation. The petitioner must know the date of his arrest and can therefrom know when the maximum period of detention permissible under the Act would end. That being the position, it is impossible to see any substance in the contention raised by the petitioner.

6. All the three contentions raised on behalf of the petitioner thus fail. The result is that the petition has to be dismissed.