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**(1984) 01 MP CK 0021**  
**In the Madhya Pradesh High Court**

Mrs. Sarojini Gehlot

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

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**Date of Decision :** 04-01-1984

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980 — Section 3

**Citation :** (1986) CriLJ 1708

**Hon'ble Judges :** R.C. Vijaywargiya, J;G.S. Sohani, J

**Bench :** Division Bench

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## Judgement

G.S. Sohani, J.—This is a petition under Article 226 of the Constitution for the issuance of a writ of Habeas Corpus for the release of the petitioner's husband Raghuvirsingh, who has been detained by an order of detention passed by the District Magistrate, Indore, on 3rd Dec. 1983 (Annexure "A"), u/s 3 of the Prevention of Black Marketing & Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as "the Act").

2. The material facts giving rise to this petition, briefly, are as follows:

The detenu carries on business as a transport agent at Indore. On 26th Nov. 1983, a truck bearing registration No. M. P. N. 5866 parked at "Vandana Petrol Pump", Indore, was searched by the Food Inspector. Amongst the goods found in the truck were 6 barrels containing 200 litres of kerosene in each barrel. On enquiry by the Food Inspector, it was found that the goods in the truck were loaded by the detenu, who failed to produce the relevant record in that behalf. On these facts, on 3rd Dec. 1983, respondent No. 2, the District Magistrate, Indore, passed an order u/s 3(2) of the Act directing that the petitioner's husband be detained with a view to preventing him from acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community and with a view to making gains in any manner, which tends to defeat the provisions of Essential Commodities Act, 1955.

3. Having heard learned Counsel for the parties, we have come to the conclusion that this petition deserves to be allowed. It has to be borne in mind that the Act confers an extraordinary power on the executive to detain a person without trial and Courts have to be alert to see that the discretionary power is not exceeded or misused. It is true that this Court cannot consider the sufficiency of the grounds, on which the satisfaction of the detaining authority is based, but it is now well settled that the ground on which the satisfaction of the detaining authority is based, must be such, as observed by the Supreme Court in *Khudiram Das Vs. The State of West Bengal and Others*, that a rational human being can consider and connect it with the act, in respect of which the satisfaction is to be reached.

4. Now, in the instant case, the only ground set out in the order passed by the District Magistrate is that 6 barrels of kerosene were found to have been loaded by the detenu in the truck bearing registration No. MPN 5866 for illegally transporting them. Apart from this incident, there is no reference to any other similar incident either in the order or in the affidavit filed by the District Magistrate. Moreover, there is no material on record for holding that the barrels in question were being transported in a very planned manner by concealing them. It may be that in a given case, a planned and premeditated manner, in which a person has acted, may justify the detaining authority in coming to the conclusion that that person might repeat his illegal act in future also, and that his detention is necessary to prevent him from repeating that act. As observed by the Supreme Court in *Debu Mahato Vs. The State of West Bengal*, the nature of the act and the attendant circumstances should be of such a nature that an inference can readily be drawn from it that the person concerned would be likely to repeat such act, so as to warrant his detention. In the instant case, the single act attributed to the detenu is not of such a character that merely on the basis of commission of that act, an inference could reasonably be drawn that the detenu is likely to indulge in illegally transporting kerosene in future and that in order to prevent him from doing so, he must be detained. The order of detention, therefore, deserves to be quashed.

5. For all these reasons, this petition is allowed. The order dt. 3rd Dec. 1983 passed by the District Magistrate, Indore, is quashed and the petitioner's husband is directed to be released forthwith. No order as to costs.