

(2002) 12 AHC CK 0176

In the Allahabad High Court

Case No : Habeas Corpus Writ Petition No. 44587 of 2002

Praveen Dubey (in Jail)

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 02-12-2002

Acts Referred:

Citation : (2003) 1 ACR 221

Hon'ble Judges : Rakesh Tiwari, J; M. Katju, J

Bench : Division Bench

Advocate : Arun Kumar Shukla, for the Appellant; B.N. Singh, S.S.C. and A.G.A., for the Respondent

Judgement

M. Katju, J.—This writ petition has been filed against the impugned detention order dated 24.5.2002, Annexure-3 to the petition under the National Security Act.

2. Heard counsel for parties.

3. In the grounds of detention, which are contained in Annexure-3, it has been stated that the Petitioner has an associate, namely, Lala alias Kishan, who has taken a house at 8 Kusum Vihar, Thana New Agra, on rent. They have made it as a place for criminals to collect and plan murder, dacoity, etc. and they have been doing these activities. Petitioner is also indulging in these activities. The aforesaid Lala alias Kishan took employment under M/s Goyal Consultants, and another associate Banwari got employment with Ganpati Sales in October, 2001 and November, 2001 respectively, so that they could find out the income of those establishments. The Petitioner and his associates Sanju, Banwari and Lala entered into a criminal conspiracy and they found out that Sanjai Goyal's father had gone for an operation on 21.1.2002 to Madras and his mother and brother had also gone there. Hence Sanjai Goyal was alone and was looking after both the aforesaid establishments. On 21.1.2002 at about 8.30 p.m., the Petitioner and his associate Lala went on a scooter with police signs along with other

associates. The Petitioner stood at the door of the house as a guard and Lala stood at the door of the bed room. Sanjai Goyal trusting Banwari and Sanju allowed them to enter the house where they started stealing Rs. 37,000, a cheque and other papers, to which Sanjai Goyal objected. Sanjai Goyal ran with the bag towards the drawing room so that he could open the door of the drawing room and run away with his money to safety, but that door was closed and Sanjai Goyal could not run away. Sanju shot him in the face. The neighbours Punit Gautam and Hari Om could not believe that persons who were regularly coming to Sanjai's house could commit such a criminal act. The Petitioner and his associates armed with country-made pistols and knives took away the money and papers on a scooter. Sanjai Goyal died due to his injuries. One knife was found on the spot. The Petitioner and Lala were arrested at the house at Kusum Vihar and the scooter was also seized and Rs. 10,000 was found on the person of Sanju along with pistol cartridges and knife and also money and the bag which was looted along with the cheque and papers.

4. This incident caused panic in the locality and people were terrorized and public order was disturbed. Despite posting of police, as yet people in Indrapuri are not able to freely go out to daily work and people close their doors after 8.00 p.m. The people are feeling unsafe and have put up gates in their colony and have arranged for chowkidars. On 22.4.2002, the citizens met the Circle Officer, Hari Parvat and told him their anguish and fear. The Petitioner and his associates have been giving threats personally and on telephone and people are not able to lead their normal lives.

5. In our opinion, on the above facts, the impugned detention order was fully justified and was validly passed. We do not agree with the submission of the learned Counsel for the Petitioner that it is a case of law and order only and not public order. Whether it is a case of law and order only or of public order depends on the facts of each case and no general rule can be laid down in this connection, vide decision of the Division Bench of this Court in *Santosh v. District Magistrate*, Writ Petition No. 23645 of 2002, decided today, following the decision of the Supreme Court in *Arun Ghosh Vs. State of West Bengal*, . In *Arun Ghosh's* case the Supreme Court observed:

The question whether a man has only committed a breach of law and order or has acted in a manner likely to cause disturbance of public order is a question of degree and the extent of the reach of the act upon society. An act by itself is not determinant of its own gravity. Similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of harm and its effect upon the community.

6. In the present case, it appears that the Petitioner's associates had taken employment in the service of the family of Sanjai Goyal in order to get information about their income and habits, and they have committed a heinous crime by killing Sanjai Goyal. The people of the area have been terrorised by the act of the Petitioner and his associates and there is terror and panic in the area,

and the even tempo of life has been disturbed as people are not able to come out of their places and are living under great strain. Hence, in our opinion it is a case of breach of public order and not merely law and order.

7. We see no reason to interfere with the impugned order of detention.

8. In the counter-affidavit filed by the State, it has been stated in paragraphs 3 and 4 how representations of the Petitioner were dealt with. A perusal of the same shows that there was no delay in deciding these representations.

9. Thus, there is no force in this writ petition and it is accordingly dismissed.