
(1975) 03 SC CK 0031

In the Supreme Court Of India

Case No : Writ Petition No. 563 Of 1974

Rabindra Kumar Ghosel alias Buli

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 17-03-1975

Acts Referred:

Citation : AIR 1975 SC 1408 : (1975) CriLJ 1235 : (1975) 4 SCC 111 : (1975) 7 UJ 451

Hon'ble Judges : V. R. Krishna Iyer, J;N. L. Untwalia, J

Bench : Division Bench

Final Decision : Allowed

Judgement

V.R. Krishna Iyer, J.—The detention order of the detinue who has moved this petition of habeas corpus was passed on 14-3-1974. Certain grounds which induced the detaining authority were the subject matter of two criminal cases which ended in discharge on 5th December, 1973 and 20th December, 1973 respectively. The Superintendent of Police, according to the counter affidavit, placed the case of detention before the District Magistrate on 30th November, 1973. We find that the actual order of detention was passed only around three months there after. The whole purpose and object of the Maintenance of Internal Security Act is that persons who are likely to imperil public order are not allowed to be free to indulge in this dangerous activity. We cannot understand the District Magistrate sleeping over the matter for well nigh three months and then claiming that there is a real and imminent danger of prejudicial activity affecting public order. The chain of connection between the dangerous activities relied on and the detention order passed is snapped by this long and unexplained delay. If there were some tenable explanation for this gap we would have been reluctant to interfere with the detention order but none has been stated in the counter affidavit filed to-day many months after time was taken for filing a return. In these circumstances, we are not satisfied that there is any justification for the claim of subjective satisfaction put forward by the District Magistrate. The

petition is allowed, the rule nisi confirmed and the petitioner directed to be set at liberty.