

HIGH COURT OF ORISSA: CUTTACK

W.P.(CrI) No.410 of 2011

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Subodha Mohanta @ Subrat Kumar Mohanty,
S/o. Satrugan Mohanty,
At- Barabati,
P.O./P.S./Town & Dist: Balasore ... Petitioner

-Versus-

State of Orissa and another ... Opp. Parties

For Petitioner : Mr. Lalatendu Samantaray

For Opp. Parties : Government Advocate

P R E S E N T:

**THE HONOURABLE THE CHIEF JUSTICE SHRI.V.GOPALA GOWDA
AND**

THE HONOURABLE SHRI JUSTICE B.N.MAHAPATRA

Date of Judgement : 29.07.2011

B.N. Mahapatra, J. This writ petition has been filed challenging correctness of the order dated 16.03.2011 (Annexure-3) passed by opposite party No.2-District Magistrate, Balasore under Section 3(2) of the National Security Act, 1980 (for short, "N.S. Act") directing detention of the petitioner-Subodha Mohanta (for short "detenu"), in the District Jail, Balasore until further orders. The detenu has also challenged correctness of the order dated 24.03.2011 (Annexure-5) passed by the State Government in exercise of its power conferred under sub-section (4) of Section 3 of the N.S.Act approving the detention of the petitioner as directed by opposite party No.2.

2. The facts and circumstances giving rise to the present writ petition are that the petitioner was remanded to jail custody in connection with Balasore Town P.S. Case No.27 dated 28.01.2011 under Sections 147/148/427/294/153-A/120-B/506/149, I.P.C., Section 7 of the Criminal Law Amendment Act, Sections 25/27 of the Arms Act and Section 13 of the Unlawful Activities (Prevention) Act, 1967. The petitioner, after being taken into custody, moved for bail and in most of the cases he has been released on bail. By order dated 26.02.2011 (Annexure-1) Opposite party No.2 directed that there is every likelihood that the petitioner, who is in jail custody in connection with Balasore Town P.S. Case Nos.28, 31 and 36 of 2011 and IAPS Case No.3 of 2011, may be released on bail by the higher Court, even if, bail is rejected by the trial Court. There are many such precedents. Once the petitioner is enlarged on bail, there is every likelihood of his indulging in activities prejudicial to the maintenance of public order. With a view to preventing the petitioner from acting in any manner prejudicial to the maintenance of public order, Opposite party No.2 directed that the petitioner shall be detained in jail until further orders. On 28.02.2011, vide letter No.246/C (Annexure-2), the petitioner-detenu was communicated with the grounds of his detention. Once again, on 16.03.2001, opposite party No.2 by his order bearing No.315/C passed a fresh order of detention (Annexure-3) under Section 3(2) of N.S. Act. Thereafter, the petitioner was served with another letter bearing No.322/C dated 17.03.2011 contending the grounds of detention which is same as letter under Annexure-2. Vide

letter dated 26.03.2011 bearing No.351/C (Annexure-4), the petitioner was intimated, he may make representation against such detention which would be duly considered. The order of detention passed under Annexure-3 was approved by the State Government as per Section 3(4) of the N.S.Act vide order dated 24.03.2011 (Annexure-5). The detenu made a representation to the State Government on 29.03.2011 assailing the order of detention and by order dated 08.04.2011 (Annexure-6), the said representation has been rejected by the State Government. Hence, the present writ petition.

3. Mr. L. Samantray, learned counsel appearing for the detenu submitted that before passing of the orders under Annexures-3, 4 and 5, opposite party No.2 passed the order of detention and grounds of detention under Annexures-1 and 2 respectively. Mr. Samantaray vehemently argued that before passing the order of detention under N.S. Act, opposite party No.2 has not applied his mind as in the order of detention he has referred to only four cases pending against the detenu whereas in the grounds of detention 12 cases have been shown pending against the detenu. The grounds for detaining the detenu in jail custody under the N.S. Act are not at all tenable in the eye of law as a person cannot be denied of his civil rights and liberties and should not be put under preventive detention invoking the provisions of the N.S. Act only on the ground that the detenu may be enlarged on bail. The grounds of detention as mentioned under Annexure-2 show that while the detenu was in custody, 8 cases have been instituted against him implicating

him under Section 120-B, I.P.C. during the period from 28.01.2011 to 05.02.2011. The grounds of detention indicate involvement of the detenu in various criminal cases. In those criminal cases, the detenu has been falsely implicated only to make out a case for preventive detention. Mere pendency of criminal cases against a person cannot be a ground for preventive detention under the N.S. Act so long it does not affect the public order. Passing of a detention order against a person in jail custody is illegal. The direction of opposite party No.2 to detain the detenu in jail until further orders is contrary to the provisions contained in Section 3(3) of the N.S. Act as the period of detention shall not exceed three months at the first instance. The fresh order of detention under Annexure-3 is not tenable in the eye of law on the face of previous order of detention under Annexure-1 as the subsequent order of detention under Annexure-3 has been passed to cure and get over the anomalies committed by the opposite parties in complying with the provisions of the N.S. Act. There being no provision in the said Act to pass 2nd order of detention while the previous order of detention is in force, the detention of the detenu is wholly unjust and illegal.

4. Mr. R.K. Mohapatra, learned Government Advocate appearing for the State submits that the order of detention passed under Annexure-3 has been approved by the State Government as per Section 3(4) of the N.S. Act, and the said detention order having been confirmed by the Advisory Board constituted under Section 9 of the N.S. Act, the present writ petition is misconceived. The detenu has been detained

w.e.f. 16.03.2011 and according to the due procedure prescribed in law, the District Magistrate, Balasore after proper analysis of the materials available on record, passed the order of detention against the detenu under Section 3(2) of the Act with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of public order. The grounds of detention issued by the District Magistrate, Balasore on 28.02.2011 was served on the detenu. The information regarding the detention along with other relevant materials were received in the Home (Special Section) Department on 21.03.2011. The said matter was placed before the Government for consideration and was approved on 24.03.2011. The approval of his detention was communicated to the detenu through the detaining authority by Order No.986/C dated 24.03.2011. After approval of the proposal by the State Government the same was communicated to the Ministry of Home Affairs, Government of India and the Secretary, N.S.A. Advisory Board, Orissa in Home (Special Section) Department vide letter No.991/C, dated 24.03.2011 and No.992/C dated 24.03.2011 respectively. The representation dated 29.03.2011 of the detenu against the order of detention was received in the Home (Special Section) Department along with the parawise comments of the detaining authority on 02.04.2011. A copy of the representation along with a copy of the para-wise comments was put up on 2.4.2011 for being forwarded to the Government of India and the same sent to the Government of India, Ministry of Home Affairs for its consideration in Home (Special Section) Department letter No.1153/C

dated 05.04.2011. The representation of the detenu was put up before the Under Secretary on 05.04.2011 who on the same day directed it to be put up before the Joint Secretary (Home), who gave his considered opinion thereon on the same day. The Special Secretary (Home) immediately ordered the file to be put up before the Principal Secretary (Home) who forwarded the said representation on 06.04.2011 with opinion thereon before the Hon'ble Chief Minister on 06.04.2011 and the Hon'ble Chief Minister was pleased to reject the representation on 07.04.2011. After careful consideration, the State Government having expeditiously rejected the representation of the detenu, the same was communicated to the detenu through the District Magistrate, Balasore in Home (Special Section) Department letter No.1189/C dated 08.04.2011. Ministry of Home Affairs, Government of India has also rejected the representation of the detenu in its letter No.II/15030/01/2011-NS dated 20.04.2011 and the same has been duly communicated to him.

Thus, the detention of the detenu has been made according to the procedure established in law. After careful consideration of the detention order and other relevant materials submitted by the detaining authority, the State Government approved the order of detention as required under Section 3(4) of the N.S. Act. The order of detention has been passed by opposite party No.2 after due application of mind to the materials furnished by the Superintendent of Police, Balasore which prima facie established that the detenu had indulged in series of activities prejudicial to maintenance of public order. An order of

detention under the N.S. Act is not precluded from being passed against a person when he is in judicial custody and the contention of the detenu to that effect is devoid of any merit. Thus, while passing the detention order and furnishing the grounds of detention, there has been no contravention of the provisions of the N.S. Act.

5. The only question to be examined as to whether the grounds given by the District Magistrate, Balasore for issuing the order of detention under N.S. Act are justified and legally sustainable? The District Magistrate on perusal of the records placed before him came to the conclusion that the detenu is a diehard antisocial and started his criminal activities since 2008 and has been persistently indulging in antisocial activities prejudicial to the maintenance of public order in Balasore Town Police Station area. He has formed a gang of anti-socials and his anti-social activities have gained momentum day-by-day and the people of the area particularly in Barabati, Olandazsahi, Dingamardinga, Damodarpur and Suelpur are very much apprehensive due to such anti-social activities. The District Magistrate is also of the opinion that his appearance in those localities evokes fear and makes the peace loving citizens panic stricken. Out of fear, the general public don't venture to report against him either before the Police or in the Court of law though they are seriously affected by atrocious acts of the detenu. According to the District Magistrate, normal law of the land is inadequate to curb down the highhanded anti-social activities which are highly detrimental to the maintenance of public order and communal harmony particularly

when on the date of passing of the order, the detenu has been released on bail in Town PS Case Nos.27/11, 29/11 and 41/11. The District Magistrate apprehended that most likely the detenu was going to be released on bail in Town PS Case No.28/11, 31/11, 36/11 and IAPS Case No.3/11. The District Magistrate was also under the apprehension that once enlarged on bail the detenu will be again indulged in creating religious ill feeling between Hindus and Muslims and such other activities prejudicial to the maintenance of the public order.

6. Now, we have to examine whether the petitioner has been indulging in anti-social activities which are prejudicial to the maintenance of “public order”. At this juncture, before proceeding further, it will be beneficial to know the distinction between “law and order” and “public order”.

7. The Hon’ble Supreme Court in *Arun Ghosh Vs. State of West Bengal*, AIR 1970 SC 1228 pointed out the distinction between the areas of “law and order” and “public order” as under :-

“Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take for instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a

member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of the life and public order is jeopardized because the repercussions of the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the management but he does not cause disturbance of public order. He may even have a fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities girls going to colleges and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its effect upon the public tranquillity there is a vast difference. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as *ordre publique*. The latter expression has been recognized as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in *Writ Petn. No.179 of 1968 (SC)* drew a line of demarcation between the serious and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public at large. He drew an analogy between public and private crimes. The analogy is useful but not to be pushed too far. A large number of acts

directed against persons or individuals may total up into a breach of public order. In Dr. Ram Manohar Lohia's case, 1966-1 SCR 709 = (AIR 1966 SC 740) examples were given by Sarkar and Hidayatullah, JJ. They show how 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 the harm and its effect upon the community. The question to ask is : Does it lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."

8. The Apex Court in the case of ***Harpreet Kaur (Mrs.) Harvinder Singh Bedi vs. State of Maharashtra and another***, (1992) 2 SCC 177, held that it is the degree and extent of the reach of the objectionable activity upon the society which is vital for considering the question whether a man has committed only a breach of 'law and order' or has acted in a manner likely to cause disturbance to 'public order'. It is the potentiality of the act to disturb the even tempo of life of the community which makes it prejudicial to the maintenance of 'public order'. Whenever an order of detention is questioned, the courts apply these tests to find out whether the objectionable activities upon which the order of detention is grounded fall under the classification of being prejudicial to 'public order' or belong to the category of being prejudicial only to 'law and order'. An order of detention under the Act would be valid if the activities of a detenu affect 'public order' but would not be so where the same affect only the maintenance of 'law and order'. Facts of

each case have, therefore, to be carefully scrutinised to test the validity of an order of detention.

Crime is a revolt against the whole society and an attack on the civilisation of the day. Order is the basic need of any organised civilised society and any attempt to disturb that order affects the society and the community. The distinction between breach of 'law and order' and disturbance of 'public order' is one of degree and the extent of reach of the activity in question upon the society. In their essential quality, the activities which affect 'law and order' and those which disturb 'public order' may not be different but in their potentiality and effect upon even tempo of the society and public tranquillity there is a vast difference. In each case, therefore, the courts have to see the length, magnitude and intensity of the questionable activities of a person to find out whether his activities are prejudicial to maintenance of 'public order' or only 'law and order'

The objectionable activities of a detenu have, therefore, to be judged in the totality of the circumstances to find out whether those activities have any prejudicial effect on the society as a whole or not. If the society, and not only an individual, suffers on account of the questionable activities of a person, then those activities are prejudicial to the maintenance of 'public order' and are not merely prejudicial to the maintenance of 'law and order'.

9. The apex Court in *Alijan Mian V. District Magistrate, Dhanbad*, AIR 1983 SC 1130 placing reliance on its earlier decision in *K.M.Chokshi V. State of Gujarat* and others, AIR 1979 SC 1945 held that preventive detention is an anticipatory measure and does not relate to an offence while the criminal proceedings are to punish a person for an offence committed by him. They are not parallel proceedings. In the circumstances the pendency of a criminal prosecution is no bar to an order of preventive detention, nor is an order of preventive detention a bar to prosecution. It is for the detaining authority to have the subjective satisfaction whether in such a case there are sufficient materials to keep the person under preventive detention in order to prevent him from acting in a manner prejudicial to public order or the like in future.

10. Now, on the touchstone of the above judicial pronouncements, we have to examine the grounds of detention to find out as to whether the detenu indulged in any anti-social activities prejudicial to the maintenance of public order.

11. The District Magistrate has taken into consideration the various incidents of the detenu before passing the order of detention. For proper appreciation of the facts, it is necessary to take brief notes of those incidents which are reproduced hereunder:-

- (i) Town PS Case No.739 dated 31.12.2008 under Sections 147/148/436/294/506/149 IPC/3 SC/ST PA Act.—On 30.12.2008 night at about 11 PM the petitioner-detenu and his associates being armed with deadly weapons terrorised the villagers of Dinamardinga, abused them in obscene languages

and set fire the house of the complaint Dhiren Senapati of Dinamardinga. The case has since been chargesheeted vide CS No.49 dated 16.01.2011 under Section 147/436/149 IPC.

- (ii) Town PS Case No.309 dated 28.08.2009 under Sections 341/323/325/34, IPC.—On 27.08.2009 evening the petitioner-detenu and his associates brutally assaulted the complaint, namely, Govinda Behera of Damodarpur at Balighat. The case has since been chargesheeted vide C.S. No.340 dated 21.10.2009 under Section 341/323/294/34 IPC.
- (iii) Town PS Case No.27 dated 28.01.2011 under Sections 147/148/427/294/153(A)/120(B)/506/149 IPC/7 CrI. A. Act/ 25/27 Arms Act/13 Unlawful Activities Act(P) Act, 1967.—Following a silly incident, i.e., altercation between a Hindu Tractor driver and a Muslim Jeep Driver at Khalasimahala on 27.01.2011 afternoon vide Town PS Case No.26 dated 27.01.2011 under Section 341/ 294/ 323/ 307/ 379/ 153(A)/ 120(B)/34 IPC /7 CrLA Act. The petitioner-detenu and his associates in the same evening being armed with deadly weapons attacked Muslim village Khalasimahala, terrorised the villagers, abused them in obscene language, damaged the vehicles, attacked some of the Muslim houses, pelted stones, brutally assaulted some of the Muslim villagers and gave provocative slogans like “SALA PATHANA BHARAT CHHADI PAKISTAN PALAO” for which the situation suddenly became worse leading to communal disharmony. For such act of the petitioner the peace and tranquillity of Balasore town was disturbed for which prohibitory order under Section 144 Cr.P.C. was promulgated in all the sensitive areas of the town to restore normalcy. The petitioner and his associates were arrested and forwarded in custody and the case was investigated.

- (iv) Town PS Case No.28 dated 28.01.2011 under Sections 143/147/148/294/427/336/12(B)/506/188/149 IPC/7 CrLA Act/13 Unlawful Activities (Prevention) Act, 1967.—After arrest, the petitioner-detenu instigated his associates and as per his direction his associates gheraoed Balasore Town PS on 28.01.2011 and blocked the road. During investigation, the conspiracy of the petitioner in the case has been well proved for which remand report has been submitted in the Court of SDJM, Balasore on 17.02.2011 and the petitioner has been remanded to judicial custody in the aforesaid case.
- (v) Town PS Case No.29 dated 28.01.2011 under Section 143/147/148/427/307/120(B)/153(A)/149 IPC/7 CrLA Act/3 Prevention of Damage to Public Property Act, 1984/13 of the Unlawful Activities (Prevention) Act, 1967.—After arrest the petitioner-detenu instigated his associates and as per his direction his associates brutally attacked ASI Kamalakanta Das of Haladipada OP who was on L/O duty at Barabati Chhak and damaged his motorcycle. During investigation the petitioner's conspiracy in the case has been well proved for which remand report was submitted in the Court of SDJM, Balasore on 18.02.2011 and the petitioner was remanded to judicial custody in the aforesaid case.
- (vi) Town PS Case No.30 dated 28.01.2011 under Sections 143/147/148/120(B)/427/149 IPC/3 of Prevention of Damage to Public Property Act, 1984/13 of the Unlawful Activities (Prevention) Act, 1967.—Protesting his arrest, the associates of the petitioner-detenu attacked and damaged the ATM counter of Bank of Baroda Motiganj on 28.01.2011. His complicity in this case is under investigation.
- (vii) Town PS Case No.31 dated 28.01.2011 under Section 143/147/148/307/324/326/353/332/333/120(B)/149 IPC/7 CrLA Act/13 of the Unlawful Activities (Prevention) Act, 1967.—

After arrest, the petitioner-detenu instigated his associates and as per his direction his associates brutally attacked ASI Bhagaban Tarai of IA PS, who was on L/O duty at Barabati. During investigation the conspiracy of the petitioner in the village has been well proved for which remand report has been submitted in the Court of SDJM, Balasore on 18.02.2011 and the petitioner has been remanded to judicial custody in the aforesaid case.

- (viii) Town PS Case No.36 dated 31.01.2011 under Sections 25/27 Arms Act:- On receipt of credible information about storage of huge arms and ammunition in Sriram Club Barabati, Town PS staff conducted raid at Sriram Club Barabati, Balasore on 31.01.2011 and seized huge quantity of swords, iron rods, wooden lathi which were collected and stored in the club building on 29.01.2011 at the direction of Club President Umakanta Sahu and the petitioner being the Secretary of the Club with a view to create lawlessness in the area attacked his rivalry group following the communal development on 27.01.2011 between Khalasimahala and Barabati. Remand report has been submitted to the Hon'ble Court and he has been remanded to judicial custody.
- (ix) Town PS Case No.45 dated 05.02.2011 under Sections 147/148/149/307/333/294/506 IPC/25/27 Arms Act/13 UPA Act./7 CrI.A Act:-- After arrest, the petitioner-detenu instigated his associates and as per his direction his associates brutally attacked APR C/253 Uttam Kumar Saha who was on L/O duty at Barabati. Witnesses Sanjib Kumar Agarwal and Ramachandra Sahu have proved disruption of public order due to anti-social activities by his associates. During investigation, conspiracy of the petitioner has been well proved for which remand report was submitted in the Court of SDJM, Balasore

on 18.02.2011 and the petitioner was remanded to judicial custody in the aforesaid case.

- (x) Ind. Area PS Case No.3 dated 05.01.2011 under Section 7 EC Act:-- On 18.12.2010 evening CSO Balasore, Civil Supply staff and staff of Remuna and IA PSs jointly conducted raid in the workshop premises of his close associates Uttam Patra, S/o Ramaniranjan Patra of Balia PS Sahadevkhunta at Sutei Badagan and detected one oil tank bearing regd. No.OR-01m-8645 without chasis loaded with blue dyed Kerosene and found one empty tank lorry bearing regd. No.OR-01A-4487 standing close to the above oil tank. As nobody came forward to claim the property K.Oil (7400 Ltrs.) was seized along with the vehicle. During investigation it is ascertained that loaded Oil tank bearing regd. No.OR-01M-8655 belonged to the petitioner. Hence, remand report has been submitted in the case and the petitioner has been remanded to judicial custody.
- (xi) Town PS Station Diary Entry No.26 dated 01.12.2010:-- Due to previous rivalry in Town PS case No.739/08 which was under investigation on 01.12.2010 evening at about 6.30 PM the petitioner and his associates were to Dingamaradinga and Baniamandir village in 8-9 motorcycles being armed with deadly weapons, moved in the area and terrorized the villagers, passers-by, as a result of which the shopkeepers closed down their shops out of fear, road was deserted, people ran helter skelter and normal traffic was totally disrupted. As a result of such anti-social activities of the petitioner and his associates even temp of life and public order was totally disrupted. During enquiry being asked nobody could dare to say anything against the petitioner and his associates out of fear for which PR and counter PR under Section 107 Cr.P.C. were submitted against the petitioner and his associates and his opposite group on

05.12.2010 and to keep peace in the locality vide Town PS Non FIR No.244/10 and 245/10.

- (xii) Town PS Non FIR No.254/10 Under Section 110 Cr.PC:-- In order to curb down the anti-social activities of the petitioner-detenu proceeding under Section 110 Cr.PC vide Town PS Non-FIR No.254/10 was submitted against the petitioner on 15.12.2010, but the petitioner did not mend his way.
- (xiii) IA PS Station Diary Entry No.709 dated 31.10.2010:-- On 31.10.2010 evening at about 8.15 PM due to previous business rivalry the petitioner-detenu and his associates went to Somanathpur in 15-20 motorcycles being armed with deadly weapons, moved in the area and terrorized the passers-by as a result of which the nearby shopkeepers closed down their shops out of fear, road was deserted, people ran here and there and normal traffic was totally disrupted. As a result of such anti-social activities of the petitioner and his associates even temp of life and public order was totally disrupted. During enquiry being asked nobody could dare to say anything against the petitioner and his associates out of fear.

12. From the above, series of cases instituted against the petitioner-detenu, we find that in PS Case No.739 dated 31.12.2008 and PS Case No.27 dated 28.01.2011 the activities of the petitioner-detenu are prejudicial to the maintenance of the public order in the concerned locality. In PS Case No.27 dated 28.01.2011 it is alleged that following a silly incident, the petitioner-detenu and his associates on 27.01.2011 evening being armed with deadly weapons attacked Muslim village Khalasimahala, terrorised the villagers, abused them in obscene language, damaged the vehicles, attacked some of the Muslim houses,

pelted stones, brutally assaulted some of the Muslim villagers and gave provocative slogans like “SALA PATHANA BHARAT CHHADI PAKISTAN PALAO” for which the situation suddenly became worse leading to communal disharmony. The allegations made in PS Case Nos. 28, 29 and 30 all of dated 28.01.2011 show that even after arrest of the petitioner-detenu at his instigation, his associates gheraoed Town PS, Balasore and attacked ASI Haladipada Outpost and damaged his motorcycle and also attacked ASI Bhagaban Tarai who was on L/O duty at Barabati. PS Case No.36 dated 31.01.2011 further reveals that when a raid was conducted at Sriram Club Barabati, Balasore, on 31.01.2011 huge quantity of swords, iron rods, wooden lathi were found stored in the club of which the detenu was the Secretary. PS Case No.36 reveals that on the direction of the detenu his associates brutally attacked APR C/253 Uttam Kumar Saha, who was on L/O duty at Barabati. Town PS Station Diary Entry No.26 dated 01.12.2010 further reveals that the detenu and his associates went to Dingamaradinga and Baniamandir village in 8-9 motorcycles being armed with deadly weapons, moved in the area and terrorized the villagers, passers-by, as a result of which the shopkeepers closed down their shops out of fear, road was deserted, people ran helter skelter and normal traffic was totally disrupted. The public life was totally disrupted. Similarly, as per PS Station Diary Entry No.709 the petitioner and his associates went to Somanathpur in 15-20 motorcycles being armed with deadly weapons, moved in the area and terrorized the passers-by as a result of which the nearby shopkeepers

closed down their shops out of fear, road was deserted, people ran here and there and normal traffic was totally disrupted.

Thus, narration of activities of the detenu in the above cases clearly indicates severe disruption of public order which created panic in the minds of the peace loving people in the locality. Even after arrest of the detenu and filing of charge sheet against him, the anti-social activities at his instance continued unabated.

13. In Alijan Mian's case (supra), the apex Court has categorically held that even one incident can be sufficient for the detaining authority to issue order of detention.

14. In view of the above, the various grounds taken by the petitioner challenging the order of the detention are not sustainable in law.

15. In the fact situation, we are of the considered view that there were cogent materials before the detaining authority to issue order of detention against the petitioner-detenu. We, therefore, do not find any illegality or infirmity in the impugned order passed by the District Magistrate, Balasore under Annexure-3 as well as the order of approval passed by the State Government under Annexure-5.

16. In the result, the writ petition is dismissed.

.....
B.N.Mahapatra, J.

V.Gopala Gowda, CJ.

I agree.

.....
Chief Justice

Orissa High Court, Cuttack
Dated 29th July, 2011/skj/ss/ssd