

IN RE : SUSHANTA GOSWAMI AND OTHERS

v.

December 17, 1968

[J. C. SHAH, V. RAMASWAMI AND A. N. GROVER, JJ.]

Constitution of India, 1950, Art. 22(5)—Preventive Detention Act 4 of 1950 s. 3(2)—Grounds of detention—Detention cannot be upheld if any of the grounds is irrelevant—'Maintenance of public order' when affected.

The petitioners were detained under the Preventive Detention Act, 1950. They filed a petition for Habeas Corpus under Art. 32 of the Constitution. The Court considered their cases individually in the light of the grounds of detention supplied to them.

HELD : (i) If some of the grounds which are given are irrelevant the order of detention cannot be upheld because the court cannot predicate what the subjective satisfaction of the authority would have been on the exclusion of those reasons. [139 H]

Dwarka Das Bhatia v. The State of Jammu & Kashmir, [1956] S.C.R. 945 and Pushkar Mukherjee v. State of West Bengal, [1969] 2 S.C.R. 635, applied.

(ii) The grounds supplied to most of the petitioners were not relevant to the 'maintenance of public order'. The contravention of any law always affects order but before it can be said to affect public order it must affect the public or the community at large. A mere disturbance of law and order leading to disorder is not necessarily sufficient for action under the Act but a disturbance which will affect public order can alone justify detention under that head. [141 B-C]

(iii) Citizens must not be detained under the Act for petty matters and the grounds must be reasonably proximate in time. [141 D]

ORIGINAL JURISDICTION : Writ Petition No. 328 of 1968.

Petition under Art. 32 of the Constitution of India for a writ in the nature of habeas corpus.

R. K. Garg, for the petitioners.

Debabrata Mukherjee, P. K. Chakravarti and G. S. Chatterje, for the respondents.

The Judgment of the Court was delivered by

Grover, J. This is a petition under Art. 32 of the Constitution by Sushanta Goswami and 46 others for a writ in the nature of Habeas Corpus challenging the detention of the petitioners under the provisions of the Preventive Detention Act 1950, hereinafter called the "Act".

Petitioner No. 4 Krishna Mondal and Petitioner No. 21 Madhu Kanjilal are stated to have been released. No orders need be

A made with regard to them. As regards petitioners Nos. 2, 8, 9, 15, 22, 24, 32, 41 and 47 their matters will be taken up for consideration later as the State has been directed to file further affidavits. We now proceed to dispose of the cases of the other petitioners.

B *Petitioner No. 1 (Sushanta Goswami).*—This petitioner was detained by an order of the District Magistrate 24 Parganas dated July 30, 1968. His detention was directed under s. 3(2) of the Act on the ground that it was necessary with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. The grounds were supplied to him and he made a representation to the Advisory Board which, after hearing the petitioner and considering his representation, expressed its opinion that there was sufficient cause for his detention. Consequently the detention order dated July 30, 1968 was confirmed on September 20, 1968 by the Government of West Bengal. The grounds for detention have been perused by us. According to the first ground the petitioner had been committing offences of forming unlawful assembly, assaulting the police and peaceful inhabitants, snatching away cash and valuables, teasing school girls and criminal intimidation. The instances which were given are seven out of which it is necessary to mention only the following which are typical :

E “(ii) That on 14-11-66 at 21.15 hrs., you with your associates formed an unlawful assembly on Dum Dum Road in front of the Fire Brigade Office and assaulted Shri Pranab Bose of P-18 Matijheel Avenue and you snatched away a fountain pen worth Rs. 10 from his pocket.

F (vi) That on 18-3-68 at 19.30 hrs., you with your associates closely followed Sm. Sipra Kundu (18) from Satgachi crossing on Jessore Road and uttered indecent language towards her, as a result of which she got terrified and ran away to save her modesty.”

G Ground No. II is to the effect that as a result of the petitioner's nefarious activities prejudicial to the maintenance of public order he has become a nuisance to the society and there have been disturbances and confusion in the lives of peaceful citizens of Dum Dum police station and the inhabitants thereof are in constant dread of disturbance of public order.

H We do not consider that the above grounds are relevant to public order and if some of the grounds which are given are irrelevant the order of detention cannot be upheld because the court cannot predicate what the subjective satisfaction of the authority would have been on the exclusion of those reasons; vide *Dwarka*

Das Bhatia v. The State of Jammu & Kashmir⁽¹⁾, and the recent decision of this Court in *Pushkar Mukherjee v. State of West Bengal*⁽²⁾. There the order of detention is hereby set aside.

Petitioner No. 3 Panchu (Gopal Mondal).—This petitioner was detained by an order of the District Magistrate 24 Parganas dated March 23, 1968 made in exercise of the power conferred by s. 3(2) of the Act on the ground that the detention was necessary with a view to preventing him from acting in any manner prejudicial to the maintenance of supplies essential to the community. He was supplied with the grounds and he made a representation. It was sent to the Advisory Board which, after hearing him and considering all the material placed before it, expressed its opinion that there was sufficient cause for his detention. The Government of West Bengal confirmed the detention order on July 17, 1968.

We have perused the grounds of detention and we find that most of them relate to matters for which penal or other action could be taken under the relevant statutes. For instance ground No. I(ii) is as follows :

"That on 12-1-68 at 11.30 hrs. you were found operating your husking machine at puraton Bongaon and on demand by S.I.S. Chatterjee of S.E.B. (7) you could not produce the requisite license or permit.

That though you were prosecuted for operating your husking machine on 12-1-68, you carried on further operation with it as it was left on your bond of production, violating again the provisions of West Bengal Husking Machine (Control of Operation) Amendment Order 1967."

The fact that the petitioner could not produce the requisite licence or permit can hardly be regarded as relevant for detention on the ground of activities prejudicial to the maintenance of supplies essential to the community.

For the aforesaid reasons this petitioner is also entitled to be released.

Petitioner No. 5 (Debendra Nath Das).—This petitioner was detained by an order dated May 9, 1968 made by the District Magistrate 24 Parganas under s. 3(2) of the Act. His detention was considered necessary for preventing him from acting in any manner prejudicial to the maintenance of public order. His representation was sent to the Advisory Board which, after hearing him personally and considering all the materials, expressed an opinion that there was sufficient cause for the petitioner's detention. His detention was confirmed by the Government of West

(1) [1956] S.C.R. 945.

(2) [1969] 2 S.C.R. 635.

- A** Bengal by an order dated July 17, 1968. The grounds of detention have been considered by us and we are of the opinion that they relate mainly to the question of law and order and are not relevant to public order. Moreover there are allegations of offences under the Indian Penal Code for which prosecution could be launched. As has been observed in *Pushkar Mukherjee & Ors. v. State of West Bengal*⁽¹⁾ the contravention of any law always affects order but before it can be said to affect public order it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is not necessarily sufficient for action under the Act but a disturbance which will affect public order can alone justify detention under that head.
- C** Ground No. 1(viii) which is typical may be specifically mentioned :

“That on 26-2-68 at about 09.00 hrs. you and your associates stabbed Constable Bhupendra Nath Chakraborty of Gouripur T.O.P. under Dum Dum P.S. near Birati Railway Level Crossing gate and stole away his wrist watch.”

D

We are satisfied that the petitioner could not have been detained on the grounds which are before us. He is, therefore, entitled to be released.

- E** *Petitioner No. 7 (Abdul Waheb).*—He was detained by an order dated May 27, 1968 of the District Magistrate 24 Parganas under s. 3(2) on the ground that his detention was necessary for preventing him from acting in a manner prejudicial to the maintenance of public order. He was supplied the grounds on which he made a representation to the Advisory Board which heard him personally and after considering all the material an opinion was expressed that there was sufficient cause for his detention. The Government of West Bengal confirmed the detention order on August 21, 1968.
- F**

We have perused the grounds for the petitioners' detention. They relate mostly to the question of law and order and are not relevant to public order. Consequently the petitioner is entitled to be released.

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- H** *Petitioner No. 6 (Anil Das).* This petitioner was detained by an order of the District Magistrate, Howrah dated May 18, 1968 made under s. 3(2) of the Act, the detention being considered necessary in order to prevent him from acting in any manner prejudicial to the maintenance of public order. The representation made by the petitioner was forwarded to the Advisory Board which considered all the material before it and was of the opinion

(1) [1969] 2 S.C.R. 635.

that sufficient cause for his detention existed. On July 29, 1968 the Government confirmed the order of detention. A

Most of the grounds are not at all relevant to maintenance of public order. Ground No. 1(a) is that on August 12, 1966 at about 10.00 hrs. "you being drunk demanded Rs. 2 from Shri Santi Das.....near the betel shop of Shalta Lal.....and threatened him with murder when he refused to pay you the said money". B

We are satisfied that the petitioner's detention cannot be upheld and it is hereby set aside.

Petitioner No. 10 (Dilip Kr. Chakraborty @ Konkan) This petitioner was detained by an order dated June 13, 1968 made by the District Magistrate 24 Parganas under s. 3(2) of the Act on the ground that his detention was necessary in order to prevent him from acting in any manner prejudicial to the maintenance of public order. One of the grounds, namely, 1(ii) is . C

"That on 13-3-67 you with your associate Debu Biswas assaulted one Paresh Nath Koley of Ghosepara with fists and blows". D

Such a ground cannot possibly relate or be relevant to public order. In view of our previous decisions mentioned before we are of the opinion that the petitioner is entitled to be released. It may be mentioned that this petitioner had also filed a petition under Art. 226 in the Calcutta High Court but his counsel has undertaken to withdraw that petition. E

Petitioner No. 12 (Ashoka Kumar Mukherjee). This petitioner was detained by the order of the District Magistrate, 24 Parganas, dated May 25, 1968 made under s. 3(2) of the Act; the reason for his detention being the prevention of activities prejudicial to the maintenance of public order. The grounds were supplied to him and he made a representation which was considered by the Advisory Board which, after giving a personal hearing, expressed an opinion that his detention was justified. The Government confirmed the original order of detention on August 8, 1968. We have examined the grounds and they suffer from the same infirmity as in the case of petitioner No. 7 (Abdul Waheb). Ground No. 1(i) may be reproduced : F G

"That on 3-6-67, you assaulted one Nabalchandra Saha a hawker, with knife."

This petitioner is also entitled to be released.

Petitioner No. 13 (Ram Kamal Dhar @ Leda)

This petitioner was detained by an order dated July 30, 1968 passed by the District Magistrate, 24 Parganas, under s. 3(2) of the Act on the ground that his detention was necessary with a view H

A to preventing him from acting in any manner prejudicial to the maintenance of public order. The grounds of detention disclose the same infirmities which are to be found in the case of petitioner No. 7 (Abdul Waheb) and Petitioner No. 10 (Dilip Chakraborty @Konkan). For instance one of the grounds, No. 3 is in these terms :

B "On 1-5-68 at about 12.35 hrs. you along with your two associates being armed with daggers, snatched away a wrist watch worth Rs. 130 from the person of the Kulak Chandra Sarkar S/o Late Sahadeb Sarkar of Madhab Nibas Colony, P. S. Titagarh, Dist. 24 Parganas near Dum Dum South home signal at the point of dagger causing bleeding injury.

C You were arrested with property red handed."

Therefore the petitioner is entitled to be released.

D *Petitioner No. 14 (Gopal Show)*. This petitioner was detained by an order dated July 11, 1968 made by the District Magistrate Howrah on the ground that his detention was necessary with a view to prevent him from acting in any manner prejudicial to the maintenance of public order. The grounds were supplied to him on which he made a representation which was considered by the Advisory Board by which he was also personally heard. On the report of the Advisory Board that there was sufficient cause for his detention the original order was confirmed by the Government of West Bengal on October 7, 1968. This case falls very much in the same group as that of the petitioners Nos. 7, 10 and 12 above mentioned.

F According to one of the grounds the petitioner had, on October 12, 1967 along with his associates committed a daring burglary in Howrah Tobacco Store by breaking open 6/7 padlocks and removed Cigarette cases worth Rs. 10,000. He is thus entitled to be released.

G *Petitioner No. 16 (Makhan Lal Saha)*. This petitioner was detained by an order dated March 23, 1968 made by the District Magistrate 24, Parganas, under s. 3(2) of the Act on the ground that his detention was necessary with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. The grounds were supplied to him on which he made a representation which was sent to the Advisory Board. After hearing him personally and considering all the materials, the Advisory Board reported that there was sufficient cause for his detention. Thereupon the Government confirmed the original order of detention on July 29, 1968. An examination of the grounds shows that they relate mostly and are relevant to the head "maintenance of supplies and services essential to the community"

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For instance ground No. 1(i) is that on March 28, 1968 the petitioner together with his associate committed theft of over-head traction wires including contact wire disrupting the train services in Bongaon Section for more than 7 hours. The grounds may have been relevant to the other head but none of them appears to be relevant to "maintenance of public order". It is somewhat surprising and altogether incomprehensible how any District Magistrate or even the Government could have missed seeing that the detention of this petitioner might have been justified under the head "maintenance of supplies and services essential to the community" but not the "maintenance of public order". Therefore the detention order cannot be sustained and must be set aside.

Petitioner No. 17 (Sk. Yunus Ali). This petitioner was detained by an order made by the District Magistrate, Howrah, on March 7, 1968 under s. 3(2) of the Act on the ground that his detention was necessary with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. He was supplied the grounds and he made a representation which was considered by the Advisory Board. The Board heard him personally and made a report that there was sufficient cause for his detention. Thereupon the Government confirmed the order of detention on July 3, 1968. The grounds suffer from the same infirmity as in the cases of petitioners Nos. 7 and 10. For instance ground No. 1(b) is :

"That on 12-3-67 at about 06.00 hrs., you and your associates showed ugly gesture and posture to some women vendors of vegetables in platform no. 6 of Ulu-beria Rly. Station and started whistling in mouth on seeing those women. RPF head Rakshak K. C. Chandra of Santragachi Crime Branch objected to such indecent behaviour towards women by you all 'when Shri Chandra was physically assaulted with slaps by you and was threatened with dire consequences by you and your associates.'"

The detention of this petitioner cannot be upheld and is hereby set aside.

Petitioner No. 18 (Gaddu Ghosh). This petitioner was detained by an order of the District Magistrate, Malda, dated June 3, 1968 made under s. 3(2) of the Act with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. The grounds were supplied to him and he made a representation which was considered by the Advisory Board. The Board after hearing him personally and considering all the materials before it, expressed an opinion that there was sufficient cause for his detention. Thereupon the Government of West Bengal confirmed the order of his detention. Practically all the grounds

- A do not appear to be relevant to public order. Ground No. 2(a) is typical and may be reproduced :

B “That on the midnight of 21-7-67 you grazed your 17 heads of cattle on maize plants in the land of Amal Roy of Kbasbari P. S. English Bazar. You threatened Amal Roy with further mischief for impounding your cattle.”

His detention cannot be upheld and is hereby set aside.

- C *Petitioner No. 19 (Ratanlal Kairi)*. This petitioner was detained by an order of the District Magistrate, 24 Parganas, dated April 19, 1968; his detention being considered necessary in order to preventing him from acting in any manner prejudicial to the maintenance of public order. His representation was referred to the Advisory Board which considered it along with the other material and expressed an opinion that there was sufficient cause for his detention. The Government made an order on July 10, 1968 confirming the order of detention. The grounds have been perused by us and they appear to be relevant. The activities which are mentioned therein show that they are of such a nature that they relate to public order.

We would therefore decline the prayer for setting aside the order of detention.

- E *Petitioner No. 20 (Farid Ali Naskar)*. This petitioner was detained by the order of the District Magistrate, 24, Parganas, dated July 30, 1968 made under s. 3(2) of the Act on the ground that it was necessary to detain him in order to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was sent to the Advisory Board which considered it along with the other materials but made a report against him. F The Government thereupon confirmed the order of detention on September 19, 1968. We have seen the grounds of detention and they appear to relate mostly to removal of rice bags in a clandestine manner. These activities might have some relevance to the head “maintenance of supplies and services essential to the community but by no stretch of reasoning can they be regarded as relevant to public order. G

The detention of the petitioner therefore is set aside.

- H *Petitioner No. 23 (Sk. Makbul)*. The petitioner was detained by the order dated March 8, 1968 made by the District Magistrate, Howrah, under s. 3(2) of the Act on the ground that his detention was necessary with a view to preventing him from acting in a manner prejudicial to the maintenance of public order. On receiving the grounds of his detention, he made a representation to the Advisory Board which, after considering the same and giving

him a personal hearing, reported that there was sufficient cause for his detention. Thereupon the Government of West Bengal confirmed the detention order. The grounds disclose the same infirmity as in other cases *e.g.* Petitioner Nos. 7 and 10. Ground No. 1(a) is typical and may be reproduced :

“That on 10-2-67 at about 21.50 hrs. you and your associates threatened R.P.F. Head Rakshak Prakash Chandra Mitra of CID Kharagpur at Andul Railway Station with stabbing when Shri Mitra objected to your passing of indecent remarks at a lady passenger.”

Consequently the detention order is set aside.

Petitioner No. 25 (Uday Chand Namadas). This petitioner was detained by an order of the District Magistrate Jalpaiguri, dated the 11th July 1968 made under s. 3(2) of the Act on the ground that his detention was necessary in order to prevent him from acting in any manner prejudicial to the maintenance of public order. On receiving the grounds he made a representation which was considered by the Advisory Board. The Board gave a personal hearing and after considering all the materials reported that there was sufficient cause for his detention. Thereupon the Government of West Bengal confirmed the detention order. Ground No. 1 is altogether vague and may be reproduced :—

“That you have been for a long time engaged in anti-social, illegal and high-handed criminal activities and in the course of such activities you have on different occasions held out threats to different persons and that you have associated yourself with anti-social elements. Whenever the peace-loving citizens questioned your *bona fide* and protested against your activities and whenever they offered themselves as witnesses to your activities you threatened to burn down their houses.”

The detention of this petitioner cannot be sustained because of the existence of the above ground which is so vague that the petitioner could not possibly have made any representation with regard to it. In view of our previous decisions referred to his detention is set aside.

Petitioner No. 26. (Abdul Bari Karikar). This petitioner was detained by the order made by the District Magistrate, Murshidabad, on July 6, 1968 under s. 3(2) of the Act on the ground that the detention was necessary in order to prevent the petitioner from acting in any manner prejudicial to the maintenance of public order. On receiving the grounds he made a representation to the Advisory Board which was considered by it. The Board, after giving a personal hearing and considering all the materials expressed an opinion that there was sufficient cause for detention.

- A The Government of West Bengal confirmed the order of detention on September 12, 1968. We have read the grounds and we consider that some of them are so irrelevant that it is incomprehensible how any order of detention could have been made on those grounds. For instance ground No. 1 is
- B “On 26-8-65 you were committed to trial before the court under section 406 of the Indian Penal Code on a charge of deceitfully misappropriating the cycle belonging to Bishu Khan of village Chonya Pathan Para.”
- Ground No. 4 is equally irrelevant. It has been stated that
- C “On 19-5-67 at about 7.30 a.m. you threatened Karim Sheikh of village Chonya Pathan Para with assault as he had instituted a case against you.”
- If such grounds can be considered to be relevant to public order it would be open to the authorities to detain citizens without a trial for such petty matters as have been mentioned in these
- D grounds. Moreover the first ground is also not reasonably proximate in time. It relates to some incident which happened in the year 1965 whereas the detention order was made on July 6, 1968. The detention of the petitioner cannot possibly be upheld and is hereby set aside.
- E *Petitioner No. 27 (Nagendra Nath Saha)*. This petitioner was detained by an order dated April 19, 1968 made by the District Magistrate, 24 Parganas, under s. 3(2) of the Act; the grounds of detention being the prevention of activities prejudicial to the maintenance of public order. On receiving the grounds he made a representation to the Advisory Board which reported that there was sufficient cause for his detention. On July 10, 1968 the Gov-
- F ernment of West Bengal confirmed the detention order. Two of the grounds may be reproduced :—
- “2(c) That your complicity transpired during investigation of Sealdah GRPS Case No. 181 dt. 26-3-65 u/s 379 I.P.C. and you were reasonably suspected in the
- G case.
- (d) That your complicity transpired during investigation of Sealdah GRPS Case No. 180 dt. 26-3-65 u/s 379 I.P.C. and you were reasonably suspected in the
- H case.”
- These cannot possibly have any relevance to “maintenance of public order”, the proper implications of which expression have been fully discussed in the decisions of this Court including the recent decision in *Pushkar Mookherjee & Ors. v. The State of*

West Bengal⁽¹⁾. The petitioner's detention cannot therefore be upheld and it is hereby set aside : A

Petitioner No. 28 (Habibullah Khan). This petitioner was detained by an order dated February 17, 1968 made by the District Magistrate, 24 Parganas, under s. 3(2) of the Act in order to prevent him from acting in any manner prejudicial to the maintenance of public order. On receiving the grounds he made a representation to the Advisory Board which expressed an opinion in favour of his detention. The Government of West Bengal confirmed the detention on April 17, 1968. B

We have perused the grounds of detention which do not relate to public order; for instance one of the grounds 1(iv) is to the following effect : C

"that on 27-12-67 at about 03.30 hrs. you and your associates committed theft of signalling and telecommunication materials from location box No. L-60 worth about Rs. 3,000."

His detention is consequently set aside.

Petitioner No. 29. (Naba Kumar Ghosh). This petitioner was detained by an order of the District Magistrate, 24 Parganas, dated July 13, 1968 made under s. 3(2) of the Act on the ground that it was necessary to detain the petitioner in order to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board which made a representation that there was sufficient cause for his detention. On September 19, 1968 the detention order was confirmed by the Government. Some of the grounds are not at all relevant to maintenance of public order; for instance ground No. 1(ii) is D E

"That on 1-3-68 at about 02.00 hrs., you and your associate Ram Nehore Kouri were seen to conceal your presence by the side of a wagon standing at Chitpur yard with a view to commit theft from standing wagons. Being chased, you and your associates, were arrested by the (1) on duty RPF staff and prosecuted." F

The detention of the petitioner cannot be upheld and is set aside. G

Petitioner No. 30 (Abdul Main Mirza). This petitioner was detained by the order of the District Magistrate, Howrah, dated March 7, 1968 on the ground that his detention was necessary in order to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board which reported that there was sufficient cause for his detention. On June 12, 1968 the Government confirmed the detention order. Most of the grounds are not relevant H

(1) [1969] 2 S.C.R. 635.

- A to the maintenance of public order. For instance ground No. 1(a) is :

B "That on 24-2-67 at about 21.26 hrs. you and your associates abused C.I.B. Head Rakshak 3646 Hara Kumar Mukherjee of Shalimar and also threatened him with dire consequences at Andul Rly. Station when Shri Mukherjee objected to the passing of indecent remarks at a lady passenger of 358 Dn. (Midnapur-Howrah Passenger) train."

The detention of this petitioner cannot be upheld and is hereby set aside.

- C *Petitioner No. 31 (Nripen Chakraborty)*. This petitioner was detained by an order made by the District Magistrate, 24 Parganas on April 4, 1968 on the ground that his detention was necessary in order to prevent him from acting in a manner prejudicial to public order. His representation was sent to the Advisory Board which on considering the same with other material reported that there was sufficient cause for the detention. The detention order was consequently confirmed by the Government on June 12, 1968. Most of the grounds do not appear to be relevant to maintenance of public order. Ground No. (ii) may be reproduced :—
- D

E "That on 7-10-66 you pulled the alarm chain of the train at Bongaon Ranaghat Section while you were bringing rice for sale from Ranaghat to Bongaon, without having booked them and without having any ticket."

His detention cannot therefore be upheld and it is hereby set aside.

- F *Petitioner No. 33 (Nanda Kishore Rubi Das)*. This petitioner was detained by an order dated April 25, 1968 made by the District Magistrate 24, Parganas under s. 3(2) of the Act on the ground that his detention was necessary for preventing him from acting in any manner prejudicial to the maintenance of public order. He made a representation to the Advisory Board which after considering all the materials reported that there was sufficient cause for his detention. The detention order was consequently confirmed by the Government of West Bengal on July 2, 1968. The grounds for detention in the case of this petitioner appear to be relevant to maintenance of public order. He has apparently been acting with a large number of associates and committing acts which could have led to disturbance of public order. His detention is therefore upheld.
- G

- H *Petitioner No. 34 (Samiron Sarkar)*. This petitioner was detained by an order dated August 2, 1968 made by the District Magistrate 24, Parganas under s. 3(2) of the Act on the ground that his detention was necessary to prevent him from acting in any

manner prejudicial to the maintenance of public order. His representation was forwarded to the Advisory Board which reported that there was sufficient cause for his detention. Thereupon the Government confirmed the order of detention on October 9, 1968. His case is similar to that of many others inasmuch as most of the grounds are not relevant to the maintenance of public order. By way of example ground No. 1(ii) is reproduced :—

“That on 30-9-67 at about 21.00 hrs. you with your associates Amal Karali, Bapu, Tripti and others forced Shri Dulal Chandra Kundu, Abdul Jabbar and Gobinda Das Roy Choudhury of Barisha to go to the shop of Nilan Maity inside Sakher Bazar and you forcibly took away Rs. 65 from the pocket of Gobinda Das Roy Choudhury, one wrist watch, a gold ring and cash Rs. 18 from Abdul Jabbar and Rs. 70 and 20 packets of cigarettes from Dulal Chandra Kundu.”

His detention cannot be upheld and is set aside.

Petitioner No. 35 (Ashwini Kumar Karmakar). This petitioner was detained by an order dated July 30, 1968 of the District Magistrate 24 Parganas made under s. 3(2) of the Act, the detention being considered necessary with a view to prevent the petitioner from acting in a manner prejudicial to the maintenance of public order. His representation was sent to the Advisory Board which, after considering all the materials, reported that there was sufficient cause for his detention. Thereupon the Government confirmed the order of detention on September 19, 1968. The activities which have been alleged in the grounds are again of a type which cannot be relevant to public order. For instance ground No. 1(c) which is in these terms :

“That on 6-10-67 at about 06.30 hrs. you and your associates were seen to remove sugar bags from a sealed wagon of a goods train and to despatch the same by hand pulling car while the train stopped at Bagmari Rly. Bridge for red signal.”

His detention cannot be upheld and is set aside.

Petitioner No. 36 (Sri Panchanan Das). The District Magistrate, 24 Parganas, made an order dated June 13, 1968 directing under s. 3(2) of the Act petitioner's detention with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. His representation was sent to the Advisory Board which, after considering all the materials, reported that there was sufficient cause for his detention. Thereupon the Government confirmed the detention order on August 29, 1968. Most of the grounds are not at all relevant to the maintenance of public order; see for instance ground No. 1(c) which is

- A "That on 18-2-68 at about 11.30 a.m. you and your associates were found to remove rice from a running Railway wagon by breaking seal of the wagon door at Bagmari Rly. pool and overhead Chitpur Bridge."

His detention cannot be upheld.

- B *Petitioner No. 37 (Indrajit Debnath)*. This petitioner was detained by an order of the District Magistrate 24 Parganas dated May 23, 1968 made under s. 3(2) of the Act on the ground that his detention was necessary with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board along with the other materials. The Board reported that there
- C was sufficient cause for his detention. Thereupon the Government confirmed the order of detention on August 1, 1968. Most of the grounds contain allegations of theft of overhead traction wire. They cannot possibly be relevant to maintenance of public order. The detention order cannot be upheld and is hereby set aside.

- D *Petitioner No. 38. (Surjit Singh)*. This petitioner was detained by the order of the District Magistrate, 24 Parganas under s. 3(2) of the Act on April 4, 1968; the detention being considered necessary to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board along with the other materials and the Board
- E reported that there was sufficient cause for his detention. Thereupon the Government confirmed the detention order on June 29, 1968. Some of the grounds cannot possibly relate to maintenance of public order. Ground No. 1(viii) is in these terms :

- F "That on 16-2-68 you fled away from the R. G. Kar Hospital while you were undergoing treatment under police guard."

His detention consequently cannot be upheld and is hereby set aside.

- G *Petitioner No. 39 (Badal Pal)*. This petitioner was detained by an order, dated July 30, 1968 made by the District Magistrate 24 Parganas under s. 3(2) of the Act, his detention being considered necessary to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board with other materials which reported that there was sufficient cause for his detention. Thereupon the Government confirmed the order of detention. Some of
- H the grounds have absolutely no relevance to the maintenance of public order. See for instance grounds Nos. 1(d), (e) and (f).

His detention cannot, therefore, be upheld and is set aside.

Petitioner No. 40 (Sona Karmakar). This petitioner was detained by an order of the District Magistrate dated July 30, 1968 made under s. 3(2) of the Act on the ground that his detention was necessary for preventing him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board with the other materials but the Board reported that there was sufficient cause for his detention. On September 18, 1968 the Government confirmed the order of detention. Some of the grounds cannot possibly be regarded as relevant to maintenance of public order. See grounds Nos. 1(b) and (c).

His detention cannot be upheld and is hereby set aside.

Petitioner No. 42 (Jaganath Goila). This petitioner was detained by an order of the District Magistrate, 24 Parganas made under s. 3(2) of the Act on the ground that it was necessary to detain him in order to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board together with the other materials. The Board reported that there was sufficient cause for his detention. On October 7, 1968 the detention order was confirmed. A perusal of the grounds shows that most of the grounds are not relevant to maintenance of public order and in this connection reference may be made to ground Nos. 1(ii) and (iii).

The detention of this petitioner cannot, therefore, be upheld and is hereby set aside.

Petitioner No. 43 (Shyamal Pal). This petitioner was detained by an order of the District Magistrate, 24 Parganas made under s. 3(2) of the Act on the ground that it was necessary to detain him in order to prevent him from acting in any manner prejudicial to the maintenance of public order. On receiving the grounds of detention the petitioner made a representation which was considered by the Advisory Board together with the other materials. The Board reported that there was sufficient cause for his detention. On May 17, 1968 the Government confirmed the order of detention.

We have examined the grounds of detention. Most of them do not relate to or are relevant to maintenance of public order. The activities mentioned cover acts of theft, robbery etc. but they cannot be considered relevant for the purpose of public order, in view of our previous decisions. The detention is consequently set aside.

Petitioner No. 44 (Suvrangshu Mitra). This petitioner was detained by an order dated April 20, 1968 of the District Magis-

- A trate, 24 Parganas, made under s. 3(2) of the Act on the ground that it was necessary to detain him with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. His representation was forwarded to the Advisory Board which gave an opinion that there was sufficient cause for his detention. Thereupon the Government of West Bengal confirmed the order of detention on June 28, 1968. Some of the grounds are wholly irrelevant to maintenance of public order. For instance ground No. 1(i) is
- B

“That on 11-10-67 at about 11.45 hrs. you assaulted Shri Narayanchandra Das of 6A, Baikuntha Ghose Road, Calcutta-42 with fists and blows.”

- C He is therefore entitled to be released.

- Petitioner No. 45. (Madan Mohan Mandal).* This petitioner was detained by an order of the District Magistrate, 24 Parganas, dated January 16, 1968 on the ground that it was necessary to detain him in order to prevent him from acting in any manner prejudicial to the maintenance of public order. His representation was considered by the Advisory Board which gave an opinion that there was sufficient cause for his detention. Thereupon the Government of West Bengal confirmed the order of detention on May 1, 1968. Some of the grounds of detention do not appear to be relevant to maintenance of public order. See for instance ground No. 1(iv).
- D
- E

Consequently he is entitled to be released.

- Petitioner No. 46. (Rangalal Debnath).* This petitioner was detained by an order dated March 16, 1968 passed by the District Magistrate, 24 Parganas, under s. 3(2) of the Act on the ground that it was necessary to detain him in order to prevent him from acting in any manner prejudicial to the maintenance of public order.
- F

- On receiving the grounds he made a representation to the Advisory Board which gave an opinion that there was sufficient cause for his detention. The Government of West Bengal confirmed the order of detention on June 10 1968. His case is similar to others inasmuch as most of the grounds are not relevant to the maintenance of public order. See for instance ground No. 1 (iv).
- G

- The detention of the petitioner, therefore, cannot be upheld and is hereby set aside.
- H

G.C.

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Petitions allowed.