(2002) 09 AHC CK 0169

Allahabad High Court

Case No: Habeas Corpus Writ Petition No. 16452 of 2002

Anil alias Pappu Sharma		APPELLANT
	Vs	
State of Uttar Pradesh and Others		RESPONDENT

Date of Decision: Sept. 5, 2002

Acts Referred:

- National Security Act, 1980 - Section 3

Citation: (2003) CriLJ 696

Hon'ble Judges: S.K. Agarwal, J; K.K. Misra, J

Bench: Division Bench

Advocate: K.M. Garg, for the Appellant; A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

1. This habeas corpus writ petition was filed by Anil alias Pappu Sharma against his detention u/s 3(2) of the National Security Act. 1980 dated 17-1-2002. The order was served upon the petitioner on the same day in district jail Bijnor where he was confined in connection with an offence, Crime No. 756 of 2001, under Sections 364A/120B. I.P.C.. P. S. Kotwali. District Bijnor.

2. The petitioner is brother of informant Sushil Kumar Sharma. The abducted boy was son of Sushil Kumar Sharma and nephew of the petitioner. The F.I.R. of this offence was registered at the said police station on 16-11-2001 at 12.30 p.m. at the instance of Sushil Kumar Sharma. Written report was lodged on receiving of a letter of ransom by informant''s family members.

3. On 3-12-2001 this petitioner was arrested by the police at about 11.40 a.m. from his house. On an enquiry from him he admitted the abduction of his nephew through his own brother-in-law Sonu alias Shamsher Sharma and Sanjeev Kumar son of Jai Prakash. On

7/8-12-2001 Shamsher was also arrested. He along with Dilawar was arrested from railway line, railway station Bijnor at about 1.00 in the night. They also admitted in their statements made to the police that they committed abduction of the boy. Nonu alias Lakki Sharma in league or conspiracy with the petitioner. The boy was recovered from the house of one Rajendra Goel, who was given in custody of this Rajendra Goel by the Meerut police. Co-accused Sanjeev was arrested on 12-12-2001.

4. On a second statement of Sushil Kumar Sharma, the informant, recorded on 22-12-2001 it became known to the police that he was repeatedly receiving threats that "Now keep quiet. You have got your son back. If you will do any pairvi you will bear its consequences." These threats were extended by the petitioner and his companions. A letter was also received which contained that if they will depose against them in Court both the sons of his shall be killed. About this second letter and the threat extended to his sons the informant held discussions with the people of his locality. People of his locality became panicy and they were not allowing their children to go out or play outside their houses. They were taken to school by their guardians who also managed to bring them back of their own. The locality was gripped by terror and panic. Additional force was deployed in the locality to allay their fear and check panic since 23-12-2001. The administration addressed itself too promptly to this sense and feeling of insecurity of theirs. Constables on Gast duty also confirmed the above fact, which was recorded in G. D. No. 25 at 10.35 hours on 24-12-2001. It was further reported by Constables 626 Balkishan and 314 Sheo Kumar on their return from the locality that the family members of the informant as also the people of the locality were living in shock and panic. The fact was recorded in G. D. entry No. 29 at 11.10 hours. As a consequence at about 10.40 p.m. Head Constable Roshan Singh along with constables Dharamveer Singh and Vir Singh were sent to the concerned locality for keeping a vigil and to provide residents of that locality with a sense of security. These constables on their return on 25-12-2001 at 5.40 a.m. gave a report that on account of the above said letter of threat received by the informant not only people of that locality but also the people of the adjoining localities are also feeling insecure and are panic stricken. Armed constables were deployed in the region for security purposes and to evince confidence amongst them. Such deployment of force persisted for a long time. The locality wherein this abduction occurred was in the heart of the town. These are the facts and circumstances, which constituted the material for the subjective satisfaction of the detaining authority, Bijnor, it resulted into the passage of the impugned detention order dated 17-2-2002.

5. Learned counsel for the petitioner stressed purposefully that the impugned detention order suffers from non-application of mind by the detaining authority. The fact that he took into consideration some extraneous material in the passage of this order is also urged. However, in the course of his submissions he did not invite our attention to any such material. We have already referred to in the preceding paragraphs all the relevant material, which in our opinion cannot be termed to be extraneous. The sponsoring authority recommended for his detention after the threats to the witnesses were extended

endangering life of two sons of the informant. It is not a case where the detaining authority was approached soon after the occurrence. In this view of the matter we are not inclined to accept the contention that the detention order suffers from any non-application of mind as well as based upon consideration of some extraneous material. The material that we have referred to above is neither extraneous nor insufficient.

6. The second limb of the submission made by learned counsel for the petitioner was that the incident did not cause any infraction of the public tranquillity or public order as such. The detention is based upon a solitary incident in which there is no evidence of any direct participation of the petitioner. Apart from it, it is simply a situation concerning law and order and not any public order.

7. We have given our anxious consideration to the submission. We are of the opinion that taking the facts and circumstances, detailed above and provided in the grounds of detention, these facts in fact caused complete infraction of public tranquillity. Subsequent letter threatening to kill the two sons of the informant unerringly created such a situation. The detention order came into being only after the existence of these facts. Until the informant did not receive the subsequent letter of threat to the life of his sons the detention was not sponsored even. As a matter of tact his father divested the petitioner of his property. This is apparent from a careful reading of the grounds of detention and the averments made in the petitions. As a consequence to this grouse the petitioner abducted his own nephew in broad day light through the agency of his own brother-in-law Shamsher and one Sanjeev. The ransom demanded by them, a sum of Rs. 2,00,000/-, was in writing pushed through a window of the house which was received by his own father containing threat that if this demand is not met the abducted boy will be killed. The admission made by the arrested accused persons including his own brother-in-law reveal his participation in the incident unerringly. Many other facts, which have been averred in different paragraphs of the writ petition, clearly concern the trial and not his detention. They cannot be looked into by us in this connection. In our opinion the events narrated in the grounds of detention makes out a clear case of disturbance to public tranquillity not only of the locality but also of the adjoining localities. Other families have young school going kids. The guardians were overburdened, inasmuch as they have to take precaution in dropping their wards to their school personally and thereafter fetching them back from there. The normal process as these children being sent either by a rickshaw or a rickshaw-trolley or by any other means was abandoned. This was enough proof of the fact that the people of the locality and the adjoining localities were terror-stricken and living in panic of the similar incident likely to happen with their own children. The subsequent incident of sending a letter of threat to life of both sons of the informant added fuel to the fire. Fear psychosis was further emboldened by this conduct of the associates of the petitioner. The offence of abduction for ranson in itself is heinous and has the potential of causing such panic in the public mind their can be no denying.

8. In these circumstances, both the submissions raised by learned counsel for the petitioner have no force. The petition accordingly fails and is dismissed. The detention

order dated 17-1-2002 is hereby confirmed.