

(1997) 02 AHC CK 0112

Allahabad High Court

Case No: Civil Miscellaneous Habeas Corpus Petition No's. 27916 and 27917 of 1996

Vinod (In Jail)

APPELLANT

Vs

Secretary, Ministry of Home
Affairs Government of India and
Others

RESPONDENT

Date of Decision: Feb. 28, 1997

Acts Referred:

- Constitution of India, 1950 - Article 14, 22(5)
- National Security Act, 1980 - Section 3(2)
- Penal Code, 1860 (IPC) - Section 147, 148, 149, 302

Citation: (1997) 21 ACR 393

Hon'ble Judges: R.R.K. Trivedi, J; D.C. Srivastava, J

Bench: Division Bench

Advocate: B.N. Rai, for the Appellant; A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

D.C. Srivastava, J.

These writ petitions involving common questions of law and fact and arising out of the same incident are being disposed of by common Judgment. In Petition No. 27916 of 1996, Vinod is the Petitioner whereas in other Petition No. 27917 of 1996, Rajesh is the Petitioner.

2. The brief facts are that on 15th November, 1995 Case Crime No. 222 of 1995 under Sections 147, 148, 149 and 302, I.P.C. was registered at police station Panki, Kanpur Nagar in which the two Petitioners Vinod and Rajesh besides three others Puttai, Babui and Ram Autar were named, vide part of Annexure I. The two Petitioners were in jail. They applied for bail. The authorities inferred that their bail applications may be allowed. Order dated 6th April, 1996 u/s 3(2) of National Security Act was served upon the Petitioners in jail on 8th April, 1996, Annexure I to

the writ petition. Upon receipt of the order, the Petitioners moved representations against their detention order to Respondents No. 1 and 2 on 24th April, 1996 vide copy Annexure 2. It is stated that the representations of the Petitioners were not decided within one month in accordance with law and the same was delayed by the Advisory Board also. The representations were rejected by the U.P. Government by the order dated 5th June, 1996, vide Annexure 3, which was served on the Petitioners on 8th June, 1996. The representations of the Petitioners were also rejected by Respondent No. 1 in the month of July, 1996 (1.7.1996) and the order of rejection was served upon the Petitioners on 11th July, 1996, vide Annexure 4. It is further stated that the basis of the detention order is only the first information report, which is part of Annexure 1, dated 15th November, 1995 and the contents of this first information report have no nexus with public order and public safety. At the most, it may be a case of personal enmity or law and order which is not sufficient for action under preventive detention. It is further stated that individual action does not affect the tempo of life of society, hence it cannot be a ground for disturbance of public order. At the most the allegations in the first information report can be termed as breach of any law and order problem, but not disturbance of public order or peace. It is further stated that the detention of the Petitioners is illegal as the detention order was passed without application of mind. Unreasonable delay between the date of incident and the date of order of detention also renders the detention order bad in law. There was no compelling reason for passing the detention order against the Petitioners when they were in jail. The District Magistrate, Kanpur Nagar, failed to report to the State Government forthwith as contemplated u/s 3(4) of the National Security Act, 1980 and also the provisions of Section 3(5) have been violated since the State Government has not submitted its report to the Central Government within seven days of the order passed by the State Government. Another attack is that on identical grounds, four persons were named in the first information report, namely, Vinod, Rajesh, Babui and Ram Autar and they were served with the detention order and out of them, the representations of Babui, son of Munni Lal was allowed by the Central Government and he was released, but on identical allegations, the representations the Petitioners have been illegally rejected. It is further stated that the representations of the Petitioners have not been decided within one month of the communication of the order, which is violative of Article 22(5) of the Constitution of India. It is also averred that the Petitioners have not been informed of the consideration of their representations by appropriate authority independent of reference to the Advisory Board, hence the rejection of the representations becomes illegal. In the course of argument, it was stressed that Ram Autar one of the co-accused filed Habeas Corpus Writ Petition No. 8296 of 1996 which was allowed by this Court on 6th August, 1996 and he was directed to be set at liberty unless wanted in any other case, hence on grounds of parity the Petitioners are also entitled to be set at liberty forthwith.

3. Counter-affidavits have been filed by O.P. Singh, Deputy Jailor, District Jail Kanpur, Sri Har Bhajan Singh, District Magistrate, Kanpur Nagar and Bansi Dhar Pandey, Upper Division Assistant in Confidential Section 6, U.P. Secretariat, Lucknow. The material facts emerging from the counter-affidavits are that the representation dated 24th April, 1996 of the Petitioners was forwarded by the District Magistrate, Kanpur Nagar to the State Government on that day itself which was received by the State Government on 25th April, 1996. This representation was not accompanied by the comments of the District Magistrate. The State Government placed the aforesaid representation before the Advisory Board on 26th April, 1996 and a copy of the representation was also sent to the Secretary, Ministry of Home Affairs, New Delhi by the State Government on 26th April, 1996. The comments of the District Magistrate on the representation were sent to the State Government on 27th April, 1996 which was received on 30th April, 1996. 28th April, 1996 and 29th April, 1996 were public holidays due to Sunday and Idul-Juha. These comments were placed before the Advisory Board on 1st May, 1996 and on the same day, a copy of the comments was sent to the Secretary, Ministry of Home Affairs, New Delhi. Through telex message dated 27th June, 1996, the Ministry of Home Affairs, New Delhi, intimated the Superintendent, District Jail Kanpur that the representations of the Petitioners were rejected by the Central Government. The State Government rejected the representations on 1st May, 1996 after considering the material on record and the rejection was communicated to the Petitioners on 6th May, 1996. The material documents were received by the State Government on 10th April, 1996 and after examining every aspect in detail, the detention order was approved within 12 days by the State Government on 11th April, 1996. There was thus no non-compliance of Section 3(4) of the Act. The approval of detention was communicated to the Petitioners through district authorities by the State Government on 13th April, 1996 and the report to this effect was also sent to the Central Government, the same day and in this way compliance of Sections 3(4) and 3(5) of the Act was made. The Petitioners were actually detained on 8th April, 1996. The case of the Petitioners was referred to the Advisory Board by the State Government on 17th April, 1996 and the Advisory Board heard the Petitioners personally on 17th May, 1996. The State Government once again examined the entire material including the report of the Advisory Board and the detention order was confirmed for 12 months.

4. Rejoinder-affidavits have also been filed by the Petitioners.

5. We have heard Sri B.N. Rai, learned Counsel for the Petitioners and the learned Addl. Government Advocate, Sri A.K. Tripathi.

6. The detention order has been challenged on 8 grounds mentioned in the writ petition, but in the course of argument learned Counsel for the Petitioners confined his attack only on three grounds. The first was that because Babui was released by the Central Government and Ram Autar was released under the orders of this Court

in Habeas Corpus Writ Petition No. 8296 of 1996 and further because the allegations against the Petitioners are the same and all of them are named in the same first information report, they are entitled to be released on the ground of parity.

7. The second attack has been that the Petitioners have been detained on the basis of one incident only mentioned in the first information report, which is part of Annexure 1 and single incident is not enough to detain the Petitioners under National Security Act. The last attack has been that the incident mentioned in the first information report may indicate that it might have been law and order problem for the administration or law and order situation in the locality, but it did not amount to disturbance of public or tempo of the life of the society and as such also the detention order is illegal.

8. Coming to the first attack against the detention order on grounds of parity, it may be mentioned that the factual position from the counter-affidavit of Deputy Jailor, District Jail, Kanpur is that Ram Autar alias Om Prakash was set at liberty in pursuance of the orders of this Court on 13th August, 1996 and Babui another accused was released and set at liberty on the telex information received from the Central Government on 10th May, 1996. On these facts it was contended that because one co-accused having identical role was set at liberty under the orders of this Court and the other under the orders of the Central Government, the Petitioners are also liable to be released and their detention order on the ground of parity is liable to be quashed. Few cases were cited in support of the contention that on ground of parity, the Petitioners are liable to be released.

9. The case of Hari Narain Awasthi v. State of U.P. and Ors. 1996 All JIC 623, to our mind does not help the Petitioners. In this case no doubt out of three persons, who were detained on the same first information report and on same set of facts, one was set at liberty by the State Government and the other by the Central Government, after revoking the detention order, but the detention order of the Petitioner was confirmed. It was held that it amounts to discrimination and non-consideration of relevant facts. It is clear from this case that the claim of parity was accepted on the ground that the first information report was the same and the allegations against the three accused were the same. It has to be seen in the case before us whether the case of the Petitioners is at par with", the case against co-accused Ram Autar and Babui. A detenu can claim parity only when he is successful in establishing that his case is identical with the case of the co-accused in all respects except the name. Simply because two accused were released, one under the orders of this Court and the other under the orders of the Central Government, it would not be enough to accept the claim of parity. In Hari Narain Awasthi's case, the case against the three accused was apparently identical and similar as was observed by this Court.

10. The other case relied upon was [Wazir Yadav Vs. The State of U.P. and Others](#), . In this case also, the grounds against the detenu-Petitioner and the co-accused were

identical. Co-detenu was released by the State Government after revoking the detention order. In view of the opinion of the Advisory Board the Petitioner was, however, not released. It was held that the detention of the Petitioner was liable to be set aside inasmuch as it was violative of Article 14 of the Constitution of India. Here also the emphasis was that the case of the co-detenu and the Petitioner was identical.

11. In two unreported decisions in Habeas Corpus Writ Petitions No. 11 of 1991 and 12 of 1991, decided by the Lucknow Bench of this Court on 2nd April, 1991 on ground of parity the detention order of the co-detenu was set aside. In *Khalil v. State of U.P.*, Writ Petition No. 9493 of 1988, decided on 1st May, 1989, the same view was taken. In *District Magistrate and Anr. v. Kulbirchand* 1990 SCC 538, also the Supreme Court observed that the detention order could be quashed merely on the ground that the detention order in similar cases had earlier been revoked.

12. From all these cases, it is clear that unless it is found that the case of the Petitioners is similar on all particulars to the cases of Ram Autar and Babui, they cannot claim parity.

So far as parity with co-accused Ram Autar is concerned. Habeas Corpus Writ Petition No. 8296 of 1996, *Ram Autar v. State of U.P. and Ors.* was decided by this Court on 6th August, 1996. The detention order of Ram Autar was revoked on the ground that his representation was not decided at the earliest and there was inordinate delay on the part of Station Officer in sending the comments to the Senior Superintendent of Police and the District Magistrate for recording the comments of the State Government and the Advisory Board. The explanation of delay was not accepted and on this ground alone, the detention order was set aside. This Court did not consider it necessary to enter into other arguments raised by the learned Counsel for the Petitioner. The following observation in Ram Autar's case on this point can be quoted:

We do not consider it necessary to enter into the other arguments of the learned Counsel that the controversy in the case was confined related to individual private dispute and animosity between the parties.

13. From the above observation, it is clear that the Petitioners can claim parity with Ram Autar only if they satisfy that their representation was also unnecessarily delayed and disposal was unnecessarily held up. On this point, the Petitioners have miserably failed. In Paragraph 2 of the counter-affidavit of Bansi Dhar Pandey, Upper Division Assistant, Confidential Section 6, U.P. Secretariat, Lucknow, it is stated that the representation of the Petitioners dated 24th April, 1996 was forwarded by the District Magistrate, Kanpur Nagar to the State Government on 24th April, 1996. The State Government received it on 25th April, 1996. It was not accompanied with the comments of the District Magistrate. The comment of the District Magistrate was sent on 27th April, 1996 which was also forwarded with

promptness and was received by the State Government on 30th April, 1996. It may be stated that 28th April, 1996 and 29th April, 1996 were public holidays. In the meantime, the representation of the Petitioners was forwarded to the Advisory Board on 26th April, 1996. The State Government placed the comments before the Advisory Board on 1st May, 1996. On the same day copy of the comments was sent to the Secretary, Ministry of Home Affairs, New Delhi. On 26th April, 1996 itself the copy of representation was sent by the State Government to the Central Government. The Central Government rejected the Petitioners representation on 27th June, 1996. The State Government rejected the Petitioners representation on 1st May, 1996. The detention of the Petitioners was approved by the State Government on 11th April, 1996. In view of all these facts, there remains little scope for the contention that there was delay in disposal of the representation of the Petitioners by the authorities. Consequently, the Petitioners cannot be permitted to claim parity with Ram Autar.

14. There is nothing on the record to show that on what grounds the representation of the co-detenu Babui was allowed by the Central Government and his detention was revoked. As such, it cannot be said without material being available on the record as to on what grounds the detention of Babui was revoked, hence the Petitioners cannot claim parity with Babui.

15. Even otherwise from the first information report itself, it is clear that it was not a case of parity. No doubt the incident is the same and the first information report is also the same, but the allegations in the first information report are not identical against the Petitioners. Different role has been assigned to different accused. The role assigned to the Petitioners Vinod and Rajesh is that they and their associates were armed with knives and countrymade pistols. They appeared at the scene of occurrence, caught hold of the victim and threatened the Mohalla people not to come forward to save Rajesh. Ram Autar and Babui fired in the air and thereafter caught hold of Rajesh from behind. Accused Rajesh, Petitioner accused Vinod and another accused Putai inflicted several knife injuries to Rajesh on the head and face whereupon Rajesh fell down. Thereupon all the five persons caught hold of the hairs of the deceased and proclaimed that the deceased was dead. On these averments in the first information report, it is clear that the role of catching hold of Rajesh was assigned to Ram Autar and Babui whereas the Petitioners Vinod and Rajesh were assigned the main role of inflicting knife injuries to the deceased. The post-mortem report shows that the deceased received incised injuries, which could be caused by knife. It is, therefore, this distinguishable feature in the first information report which differentiates the case of the Petitioners Vinod and Rajesh from the case of Ram Autar and Babul

16. It can hardly be said that the State Government took a discriminatory stand. It rejected the representations of Ram Autar, Babui, Vinod and Rajesh. If, however, the Central Government accepted the representation of Babui, it cannot be said that the

order of the Central Government is discriminatory. It might have been possible because of the role assigned to Babui, that the Central Government might have thought it proper to revoke the detention order of Babui. Even this Court in the Habeas Corpus Writ Petition of Ram Autar did not observe that the allegations against all the accused were identical. Consequently, in our opinion, the claim of parity set up by the Petitioners cannot be accepted and on this ground, the detention order of the Petitioners can neither be said to be illegal nor discriminatory. This ground, therefore, fails.

17. The second attack against the detention order against the Petitioners is that they have been detained on the basis of single incident mentioned in the first information report and single incident is not enough for passing the detention order under National Security Act. Several cases were cited by Shri B.N. Rai, learned Counsel for the Petitioners and Shri A.K. Tripathi, learned Addl. Government Advocate on this point. After examining those cases, it cannot be said that absolute rule of law has been laid down in any of these cases that, single incident is not enough for passing the detention order.

18. In *Mukesh Tyagi v. State of U.P. and Ors.* 1996 AWC 1147, it was held by this Court that only one solitary ground is not sufficient to sustain the order of detention and there must be indication that the act is an organised act or a manifestation of organised activity. In this case the allegation was that a shot was aimed at by the Petitioner, but no injury was caused to any one. On these facts, it was held that such solitary incident is not sufficient to give rise to an inference of organised activity on the part of the detenu. Consequently, the solitary ground on which the detention order was passed was not sufficient to sustain it.

It is, therefore, clear from this case also that there is no absolute rule of law that a single incident is not sufficient for sustaining the detention order.

19. In *Attorney General for India and Ors. v. Amratlal Prajiwandas and Ors.* 1994 SCC 1325, the Supreme Court observed that ordinarily one act may not be held sufficient to sustain an order of detention, one act may sustain an order of detention if the act is on such a nature as to indicate that it is an organised act or a manifestation of organised activity. The gravity and nature of the act is also relevant. According to this verdict of the Supreme Court, a single incident which is of grave nature can be a ground for detention. Likewise if the nature of single act is the result of organised act or a manifestation of organised activity then also the detention order on single incident can be upheld.

20. In *Smt. Bimla Rani v. Union of India and Ors.* 1989 ACC 589, the Supreme Court again observed that even one incident may be sufficient to satisfy the detaining authority upon the nature of the incident about the apprehension of breach of public order. A single incident may disturb the tranquillity and the even tempo of the life of the community and in such cases the detention order based on single

incident cannot be revoked.

21. In *Altaf alias Bare Abba v. District Magistrate, Kanpur and Ors.*, 1994 AWC 1, again this Court held that considering nature of the single incident and its gravity, action under the National Security Act can be taken on that solitary ground if it has the effect of disturbing public order.

22. In [Attorney General for India and Others Vs. Amratlal Prajivandas and Others](#), the Supreme Court has again held that on single incident action can be taken for detention of an accused and that order of detention can be sustained even on the basis of a single ground. It was a case under COFEPOSA, but the principles laid down in this case will apply to the detention order passed under the National Security Act.

[Anil Dey Vs. State of West Bengal](#), it was held that single incident is enough for subjective satisfaction of the detaining authority to pass a detention order if such single incident disturbed public order.

[Madhab Roy alias Madha Roy Vs. State of West Bengal](#), the same view was taken. From the facts it was found that there was some prior planning, meeting or organising the said single act and on these facts it was held that such single Act will be a valid ground for detention.

23. In [Arun Ghosh Vs. State of West Bengal](#), the detention based on single act was held to be valid. It was laid down that 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 or public order. The case of [Dr. Ram Manohar Lohia Vs. State of Bihar and Others](#), was followed by the Supreme Court in this case.

24. The case of [Debu Mahato Vs. The State of West Bengal](#), cannot help the Petitioners in these petitions. In that case, single incident was not found enough for passing the order of detention. It was a case of wagon breaking by the Petitioner. Public order was hardly disturbed by such single activity. Consequently, the detention order was not upheld.

25. The case of [Yogendra Murari Vs. State of U.P. and Others](#), also indicates that the detention order passed on the basis of single incident of murder cannot be quashed on that ground alone or on the ground that other co-detenus have not been detained on the basis of the same incident.

26. The case of [Mustakmiya Jabbarmiya Shaikh Vs. M.M. Mehta, Commissioner of Police and Others](#), does not help the Petitioners. In this case, the Supreme Court was interpreting the expression "habit" "habitual" or "habitually" in relation to Gujarat Prevention of Anti-Social Activities Act, 1985 and in that context it observed that Section 2(c) of the Act does not contemplate a single or isolated Act. This case is, therefore, distinguishable on facts.

27. Thus, from the above cases it can be said that even on the basis of single incident, a person can be detained under the National Security Act provided such single act has the effect of disturbing public order and even tempo of the life of the community or the society or the locality. Consequently, on the basis of single incident, the detention order cannot be quashed and this ground also in our view has no merit.

28. The third ground is that the incident in question did not disturb public order and it was a case of mere law and order and on the basis of such incident, detention order is illegal.

29. On facts, this contention does not appear to be correct. A bare reading of the first information report indicates that on the date of incident in the early morning at 7.15 a.m., the Petitioners and three others with a prior meeting of mind reached the scene of occurrence having firearms and knives and captured the deceased Rajesh and were shouting and threatening the Mohalla people that if any person came forward, he would also be done to death and that if some body raised alarm or attempted to inform the police, he will also face the same consequence as Rajesh was going to meet. Ram Autar and Babui fired in air and captured Rajesh from behind. The two Petitioners and Putai holding knife caused several knife injuries on the face and head of the deceased. He fell down, even then they were not satisfied. They caught hold of the hairs of the deceased and examined the proclamaed that Rajesh was dead. They also shouted that Rajesh was habitual in getting the cases of Harijan v. Sabarn registered. The people of the locality started closing the doors and windows of their houses. The persons on the spot seeing this grave incident ran for safety. There was atmosphere of terror all around near the place where the incident took place. Children were going to Schools. They were also terror-stricken. They left their "Bastas" and ran for safety, while on the scene of occurrence the Petitioners and other accused were shouting that if any one disclosed their names, he would also meet the same fate. Those facts are mentioned in the first information report, which was lodged at the earliest opportunity by an eye-witness. There were other materials also confirming the averments in the first information report. Enclosures 2 and 3 to Annexure I can be mentioned. Enclosure 2 is the letter from Navneet Rana, Superintendent of Police, City South, Kanpur Nagar and Enclosure 3 is the general diary entry dated 17th November, 1995 by S.H.O., Saiyad Riyaz Ahmad and in those documents also it is mentioned that when these police officers reached the scene of occurrence, they found that the entire locality was terror-stricken and complete sense of insecurity was prevailing in the locality. Harijans of the locality felt totally insecure and they were planning to leave the locality in totality. No person who was called from his house was willing to come out of his house and that the Harijans in entirety were planning and ready to leave the village. The incident could give rise to clash between Scheduled Caste and Upper Caste residents of the locality. The above material was sufficient before the Detaining Authority to come to the conclusion that the incident was not a simple incident which created law and order

problem rather it was an incident which disturbed the public order in the locality. Sufficiency of material before the Detaining Authority for coming to such conclusion that there existed disturbance of public order is not to be judged by this Court. If there was material before the Detaining Authority that the incident created disturbance of public order and even tempo of society, the detention order cannot be quashed.

30. It was, therefore, not a case where even tempo of the life of the locality was not disturbed. It was a broad daylight murder by five persons in the presence of so many persons and the children. The entire locality was terror stricken. The people residing in the vicinity ran inside their houses and closed the doors and windows of their houses. Thus, the first information report itself indicates that it was not an incident of simple murder in night where the society was not affected.

On the other hand, by committing such heinous offence in broad daylight, the Petitioners were rightly alleged to have caused disturbance of public order.

31. The distinction between the word public order and law and order has been the subject-matter of consideration in several cases.

32. In [Kamlabai \(Smt\) Vs. Commissioner of Police, Nagpur and Others](#), the facts were that the detenu caught hold of a Sub-Inspector of Police in a public place and threatened him to finish him in case he did not act according to his wish. It was held that such act has nexus to public order and such act would have created panic in the locality. The detention of the detenu was, therefore, upheld. The facts of this case were not so grave as the facts in two petitions under our consideration. Still the detention order in Smt. Kamlabai's case was upheld.

33. In [Mustakmiya Jabbarmiya Shaikh Vs. M.M. Mehta, Commissioner of Police and Others](#), it was laid down that the alleged activities must adversely affect the maintenance of public order. The incidents directed against single individual having no impact on public at large cannot be made basis for making a detention order. It is the degree of disturbance and its impact upon the even tempo of the life of the Society or the people of a locality which determines whether the disturbance caused by such activity amounts only to a breach of law and order or it amounts to breach of public order. The same view was taken in [State of U.P. Vs. Kamal Kishore and Another](#), where it was held that the incidents affecting even tempo of life of community, affect public order.

34. In [Dr. Ram Manohar Lohia Vs. State of Bihar and Others](#), it was laid down that the contravention of 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 thus not necessarily sufficient for action under the Defence of India Act. Thus from this case also it follows that an incident or fact which affects the community or the public at large amounts to disturbance of public order.

35. In the cases before us, incident not only affected the family members of the deceased, but the entire locality where the murder was committed in broad daylight in a preplanned manner. It has the affect in disturbance of public order.

36. In [Pushkar Mukherjee and Others Vs. The State of West Bengal](#), also, the same view was taken that the detention can be ordered to prevent subversion of public order but not in aid of maintenance of law and order. It was further held that 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. In this connection a line of demarcation must be drawn between serious and aggravated forms of disorder which directly affect the community or injure the public interest and the relatively minor breaches of peace of a purely local significance which primarily injure specific individuals and only in a secondary sense public interest. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Preventive Detention Act but a disturbance which will affect public order comes within the scope of the Act (public disturbance).

37. In [Ahmedhussain Shaikh Hussain @ Ahmed Kalio Vs. Commissioner of Police, Ahmedabad and Another](#), also distinction between public order and law and order was laid down by observing that there is a wide gap between law and order and public order. The offences relating to the field of law and order would not necessarily give rise to a situation of public order. Depending upon peculiar situations an act which may otherwise have been overlooked as innocuous might constitute a problem of public order. In the light of this observation again it can be said that the manner in which murder was committed in the case under our consideration, it can hardly be said that it was a law and order problem and not disturbance of public order.

38. Applying the test laid down in the above cases, we are of the opinion that in the case under our consideration, the incident in which the Petitioners were involved had certainly the effect of disturbing public order in the locality. It was not simply law and order problem, consequently detention order cannot be set aside on this ground.

39. It has also been argued by Sri B.N. Rai, learned Counsel for the Petitioners that single incident is not enough for detention of the Petitioners because there is no likelihood for the Petitioners repeating commission of the said offence or the like offences. This contention has no force inasmuch as first information report itself reveals that threats were given by the Petitioners to the witnesses not to come forward to save the deceased and not to disclose their names to the police and in case they would do so or would give evidence against them, they would also meet the same fate as the deceased Rajesh. This, therefore, was material before the detaining authority that repetition of commission of murder of witnesses may be possible from the Petitioners.

40. Since other grounds were not pressed before us and some of the other grounds are inter-connected with the grounds discussed by us, no finding on other grounds is necessary. In the result we do not find any merit in these petitions which are liable to fail.

41. The two Habeas Corpus Writ Petitions No. 27916 of 1996 and 27917 of 1996 are hereby dismissed. There will be no order as to costs.