(2000) 02 AHC CK 0180

Allahabad High Court

Case No: Writ Petition No. 825 of 1999 (HC)

Hajmat Khan		APPELLANT
	Vs	
State of U.P. and Others		RESPONDENT

Date of Decision: Feb. 22, 2000

Acts Referred:

- National Security Act, 1980 - Section 3(3)
- Penal Code, 1860 (IPC) - Section 272, 273
- Prevention of Food Adulteration Act, 1954 - Section 16, 7

Citation: (2001) 1 ACR 253

Hon'ble Judges: S.H.A. Raza, J; R.D. Mathur, J

Bench: Division Bench

Final Decision: Allowed

Judgement

S.H.A. Raza and R.D. Mathur, JJ.
The Petitioner was detained u/s 3 (3) of the National Security Act on 23.7.1999, by means of an order passed by the District Magistrate, Shahjahanpur, mainly on the ground that the Petitioner adulterated the milk with Urea.

2. According to the ground of detention, while the Petitioner was moving towards Hardoi to Shahjahanpur the canes of the milk which the Petitioner was carrying were checked by the officers. They have taken the sample of the milk after paying Rs. 6 to the Petitioner and sent it for test. The report from the laboratory was received on 10.7.1999. It was not found according to the standard and the milk was found to be adulterated with Urea which is hazardous to health. A case was accordingly registered against the Petitioner bearing No. 108 of 1999 u/s 272/273, I.P.C. and Section 7/16 of Prevention of Food Adulteration Act, as a result of which an atmosphere of fear was created in the area and the consumers were stopped to take milk from such persons who sell their milk to the consumers.

3. We are definitely of the view that the provisions of National Security Act can only be invoked when the public order is disturbed. At the most, in the present case it can be said that due to the action of the Petitioner, law and order situation was disturbed. On such matters, generally where the law provides the penal provisions of the I.P.C. as well as other Acts can be invoked the provisions of National Security Act ought not to have been invoked. It was solitary offence which may be said to be a criminal offence. The case of the Petitioner may be investigated and thereafter he will be put to trial.

4. We are definitely of the view that while passing the order of detention under the Provisions of National Security Act, the District Magistrate concerned did not apply his mind, as to whether on such a matter a person can be detained under the provisions of National Security Act or not. It seems that the District Magistrate was swayed by extraneous considerations in passing the order of detention.

5. The writ petition which is in the nature of habeas corpus is accordingly allowed. The order dated 23.7.1999, passed by the District Magistrate, Shahjahanpur, is accordingly quashed. The Petitioner will be set at liberty forthwith until and unless he is not detained in any other case.