(1997) 03 PAT CK 0065

Patna High Court

Case No: Criminal W.J.C. No. 808 of 1996

Guddu Singh @ Chandan Singh		APPELLANT
	Vs	
The State of Bihar and Others		RESPONDENT

Date of Decision: March 3, 1997

Acts Referred:

- Constitution of India, 1950 - Article 22

Citation: (1997) 2 PLJR 241

Hon'ble Judges: D.P. Wadhwa, C.J; S.J. Mukhopadhaya, J

Bench: Division Bench

Advocate: Vishnu Kumar Sharma, for the Appellant; Farooque Ahmad Khan and S. Azim, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

D.P. Wadhwa, C.J. and S.J. Mukhopadhaya, J.
The Petitioner, in this case, has been detained under the National Security Act, 1980. In fact, the Petitioner was in jail when he was served with the order of detention dated 17-5-1996 (annexure-1).

2. It is not necessary for us to set out the facts in detail, except to note that the representation of the Petitioner against his detention was not considered expeditiously by the authorities. His representation was received in the Home Department of the State Government on 29-8-1996, which representation is dated 20-8-1996. It was forwarded to the Superintendent of District Jail, Siwan. It is stated that comments of the District Magistrate, Siwan was called on 4-9-1996 and the same was received on 7-10-1996. Thereafter, the representation of the Petitioner was rejected by the Chief Minister on

7-10-1996 and the file was received back in the office on 15-10-1996. The Petitioner was informed of the rejection of his representation on 18-10-1996. No explanation has been given as to why it took over a month by the District Magistrate, Siwan to send his comment.

3. Mr. Khan, learned Counsel for the Respondents submits that in spite of his having tried to contact the District Magistrate, Siwan even telephonically, he is not receiving any instruction. No counter affidavit from the District Magistrate, Siwan has also been filed. There is thus a great delay in considering the representation of the Petitioner. His right under Article 22 of the Constitution stands violated.

4. In this view of the matter, the order of detention dated 17-5-1996 (Annexure-1) cannot stand. It is, Accordingly, quashed. The Petitioner (Guddu Singh @ Chandan Singh) shall be released fortwith unless required in connection with some other case(s).

5. The writ petition stands allowed.