

(2003) 03 PAT CK 0116

Patna High Court

Case No: Cr.W.J.C. No. 439 of 2002

Pintu Singh @ Daroga Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: March 11, 2003**Acts Referred:**

- Bihar Control of Crimes Act, 1981 - Section 12(2)

Citation: (2003) 3 PLJR 218**Hon'ble Judges:** S.N. Jha, J; A.K. Verma, J**Bench:** Division Bench**Advocate:** Y.C. Verma, N.A. Shamsi and Arjun Prasad, for the Appellant; A.N. Singh and Shailendra Kumar for the State, for the Respondent**Final Decision:** Allowed

Judgement

S.N. Jha & A.K. Verma, JJ.

The petitioner has been detained u/s 12(2) of the Bihar Control of Crime Act, 1981 (in short "the Act") by the District Magistrate, Gopalganj vide memo no. 2001/ C dated 4.6.2002. The detention was approved u/s 12(3) on 10.6.2002 and confirmed u/s 21(1) read with Section 22 of the Act by the State Government on 10.8.2002. The petitioner seeks quashing of the said orders and a direction for his release. The order of detention along with the grounds was served on the petitioner on 5.6.2002. On 24.6.2002 he filed representation. The representation was rejected and rejection was communicated on 29.8.2002.

2. After hearing the counsel for the parties and perusing the records we are satisfied that the detention is fit to be set aside on the solitary ground of delay in disposal of the representation. The relevant facts in this regard are as follows.

3. The representation filed on 24.6.2002 was sent to the Home Department on 3.7.2002 which was received there on 9.7.2002. On 16.7.2002 comments of the detaining authority i.e. District Magistrate, Gopalganj was called for. A reminder was

sent on 27.7.2002. The comments of the detaining authority was received on 12.8.2002. The Under Secretary dealt with the matter on 17.8.2002. The Home Secretary submitted his notes on 19.8.2002. Agreeing with his notes, the Minister Incharge i.e. Chief Minister was pleased to reject the representation on 22.8.2002.

4. It would thus appear that there was delay in consideration of the representation at all levels. While the jail authorities took 9 days to send the representation and the comments were called after 7 days of the receipt of the representation, the detaining authority took 27 days to send the comments. Thereafter too the Deputy Secretary and the Home Secretary took their own time to deal with the matter. The right to expeditious consideration of the representation is a valuable right guaranteed to a detenu not only under the relevant statute but also under the Constitution under Article 22(5) and, in the facts and circumstances, we are satisfied that the said right has been violated. We have therefore no hesitation in holding that continuance of detention is not in accordance with law. In the result, the detention order dated 4.6.2002 and the consequential orders referred to above are quashed. The petitioner is directed to be set free forthwith, if not wanted in any other case. The writ petition is thus allowed.