

1975 KHC 910

Supreme Court of India

**V. R. Krishna Iyer; R. S. Sarkaria, JJ.*

Jagan Nath Biswas v. State of W.B.

Maintenance of Internal Security Act, 1971, S.3 - Detention -- Inordinate delay in passing order of detention after the occurrence of the incidents relied on -- One should have expected some proximity in time to provide a rational nexus between the incidents relied on and the satisfaction arrived at -- Delay not explained -- Bona fides of "subjective satisfaction" of detaining authority held not established (Para 2)

JUDGMENT

Krishna Iyer. J.

1 The order of detention challenged before us is dated 27th February, 1973. The subjective satisfaction of the District Magistrate of Nadia, who directed the detention, is based upon three criminal adventures of the petitioner dated 8th November 1971, 9th December 1971 and 25th August 1972.

2. The incidents themselves look rather serious but also stale, having regard to the long gap between the occurrences and the order of detention. One should have expected some proximity in time to provide a rational nexus between the incidents relied on and the satisfaction arrived at. This Court has repeatedly pointed out that unexplained and long delay will be fatal to the plea of subjective satisfaction. In the present case, counsel for the State. Shri G. S. Chatterjee, took time to furnish an explanation as to why there was such a long delay for the District Magistrate to pass the order of detention. Unfortunately, we are no wiser to-day than at the previous hearing. In short, we are not taken into confidence by the District Magistrate as to why there should have been such an inordinate delay. We, in turn therefore, are not satisfied about the bona fides of the subjective satisfaction of the District Magistrate.

3. In result, the order of detention must fail as illegal. The petition is allowed, the rule nisi is made absolute and the petitioner directed to be released forthwith.
