

**1975 KHC 915**  
Supreme Court of India  
*V. R. Krishna Iyer; R. S. Sarkaria, JJ.*  
Md. Sahabuddin v. District Magistrate 24 Parganas  
W. P. No. 537 of 1974  
21 January, 1975

*Maintenance of Internal Security Act, 1971, S.3 - Detention -- Inordinate delay in passing order of detention after the occurrence of the theft on the basis of which the detaining authority professed to be "satisfied" about the necessity of the detention -- Held, the bona fides of the "satisfaction" was not established (Para 3)*

**JUDGMENT**

Krishna Iyer, J.

1 The petitioner who was detained under an order of the District Magistrate, 24 Parganas, in exercise of his powers under S.3 of the Maintenance of Internal Security Act, 1971 has moved this Court for release from custody on the ground that the order has been passed without any real subjective satisfaction and that another person who had been detained under the Maintenance of Internal, Security Act, on the same ground, has already been released by the High Court.

2. On one short ground, the order of detention must fail. The single instance relied on by the detaining authority for the subjective satisfaction reached by him is dated 27/ 28th July 1973 and relates to stealing of telephone cables. If really this ground had been the basis of the detention order, one would have reasonably expected the District Magistrate to act promptly. In any case, the order seemed to have been passed nearly seven months after the criminal incident. No explanation whatever in the shape of a counter affidavit by the District Magistrate or anyone else on behalf of the State has been filed. We have to presume that there is no explanation worthwhile offering. Time was taken by counsel for filing a counter affidavit when this writ petition came up for hearing last time; but none is forthcoming yet.

3. On the basis that there is long unexplained delay between criminal occurrence and the order, this Court has held that such detention must be held illegal because the subjective satisfaction has no proximate rational nexus with the pre- judicial act. We have to follow same view here also. The order of detention is quashed, the rule nisi made absolute and the petitioner is directed to be released forthwith.