

**1975 KHC 902**

Supreme Court of India

*\*V. R. Krishna Iyer; N. L. Untwalia, JJ.*

Rabindra Kumar Ghosel v. State of W.B.

W. P. No. 563 of 1974

17 March, 1975

*Maintenance of Internal Security Act, 1971, S.3 - Detention -- District Magistrate passing order of detention about three months after placing of the case of detention before him -- Purpose and object of the Act is that persons who are likely to imperil public order are not allowed to be free to indulge in this dangerous activity -- Chain of connection between the dangerous activities relied on and the detention order passed is snapped by the lone and unexplained delay of about 3 months. (Para 1)*

**JUDGMENT**

Krishna Iyer, J.

1 The detention order of the detenu who has moved this petition of habeas corpus was passed on 14-3-1974. Certain grounds which induced the detaining authority were the subject matter of two criminal cases which ended in discharge on 5th December, 1973 and 20th December, 1973 respectively. The Superintendent of Police, according to the counter affidavit, placed the case of detention before the District Magistrate on 30th November, 1973. We find that the actual order of detention was passed only around three months thereafter. The whole purpose and object of the Maintenance of Internal Security Act is that persons who are likely to imperil public order are not allowed to be free to indulge in this dangerous activity. We cannot understand the District Magistrate sleeping over the matter for well-nigh three months and then claiming that there is a real and imminent danger of prejudicial activity affecting public order. The chain of connection between the dangerous activities relied on and the detention order passed is snapped by this long and unexplained delay. If there were some tenable explanation for this gap we would have been reluctant to interfere with the detention order but none has been stated in the counter affidavit filed today many months after time was taken for filing a return. In these circumstances, we are not satisfied that there is any justification for the claim of subjective satisfaction put forward by the District Magistrate. The petition is allowed, the rule nisi confirmed and the petitioner directed to be set at liberty.