

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP (Cril) No.5 of 2023

Shri Maibam Deban Dingh, aged about
53 years, s/o (L) Maibam Mitlu, a resident
of Langthabal Kunja Makha Leikai, PO
Canchipur & PS Singjamei, Imphal
West District, at present, Manipur
Central Jail, Sajiwa, Imphal

... Petitioner

-Versus-

1. The Union of India through the
Deputy Secretary (PIT-ND&PS),
Ministry of Finance, Department of
Revenue, Near North Block, Room
No.26, Church Road, RFA Barracks,
New Delhi-110001.
 2. Special Secretary (Home),
Govt of Manipur, Babupara,
Imphal 795001.
 3. Superintendent, Manipur Central Jail,
Sajiwa, Imphal East District, PO
Lamlong & PS Porompat,
Imphal 795114
- ... Respondents

**BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR.MV MURALIDHARAN
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA**

For the petitioner	:	Ms.L.Sillori, Advocate
For the respondents	:	Mr.B.R.Sharma, CGC & Mr.Athouba, Government Advocate
Date of hearing/ Judgment/order	:	13.02.2023

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WP(CRIL) NO.5 OF 2023

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JUDGMENT AND ORDER

A.Guneshwar Sharma,J.

The petitioner was arrested on 15.03.2022 at about 12.30 pm by the personnel of Narcotic and Affairs of Border Police Station Manipur (NAB) from Keishampat Traffic Point, Imphal West District, Manipur on allegation of carrying WY Tablets (Methamphetamine Tablets) weighing about 32 Kgs and Ice, Crystal Methamphetamine weighing about 1 Kg. Hence, FIR No.09 (03) 2022 NAB PS under Section 22(C) & 60 (3) of the ND & PS Act 1985 was registered.

The petitioner filed bail application being Cril Misc (B) Case No.250 of 2022 before the Special Court (ND & PS), Manipur, Imphal for releasing him on bail.

[2] Since Charge sheet was not submitted in time, upon lapses of six months, the bail application was allowed on 16.09.2022 and the petitioner was released on bail. However, vide order dated 07.10.2022, the Special Secretary (Home), Government of Manipur issued detention order under Sub Section 1 of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 for detaining the petitioner for effectively preventing from further involvement in illicit traffic of narcotic drug and psychotropic substances for a period of three months.

It is stated that the petitioner, after release on bail would continue his illegal activities of illicit trafficking. Vide letter dated 20.10.2022, the Special Secretary (Home), Government of Manipur furnished grounds of detention to the petitioner the same was received By him on 21.10.2022. It is stated that the petitioner is a habitual offender and in collusion with the co-accused involved in many activities of illicit trafficking of drugs and after release on bail, the petitioner was

likely to indulge in similar activities and a preventive measure is called for to prevent his further illegal activities.

[3] The petitioner submitted two similar representations both dated 5.12.2022 to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, RFA Barrack, New Delhi 110001 through the Superintendent, Manipur Central Jail, Sajiwa. Vide order dated 19.12.2022 the Deputy Secretary (Home), Government of Manipur informed through the S.P., Manipur Central Jail, Sajiwa that his representation is rejected as devoid of merit. It is was also informed that his representation to the Central Government was forwarded vide letter dated 16.12.2022.

Vide order dated 23.12.2022, the Commissioner (Home), Government of Manipur confirmed the detention order dated 29.09.2022 and period of detention was fixed for 12 months as provided under Section 11 of the PIT-ND&PS Act.

In the affidavit filed by the State respondent, it is submitted that there was no delay in any stage of the proceedings and representation was disposed within the stipulated time. It is stated that since the petitioner was involved in earlier case of illicit drug trafficking, the writ petition may be dismissed.

No affidavit has been filed on behalf of respondent No.1, Union of India.

[4] Ms.Sillori, learned counsel for the petitioner has submitted that the detention order was issued in a casual manner and routine manner without applying judicious mind without satisfying any cogent reason that the petitioner was involved in any activity of illicit drug trafficking. She points out to the history sheet supplied along with

the ground of detention. In para 17 of the history sheet of the Paper Book, the Superintendent of Police NAB, Manipur has recommended that the provision of the Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act 1988 may be proceeded against Mangkholien Haokip.

Ms.Sillori, learned counsel for the petitioner has pointed out that the name of the present petitioner is Maibam Deban Singh and not Mangkholien Haokip, which shows the total non-application of mind on the part of the detaining authority and the detention order was passed in a very routine and casual manner. She relies on the judgment of Hon'ble Supreme Court reported in (1982) 2 SCC 403: **Ashok Kumar Vs Delhi Admn & Ors** wherein it was held that the detention order could not be passed on vague and non-existent and irrelevant document. She further submits that the statement under Section 161 CrPC cannot be taken as sufficient ground in absence of any supporting corroborative ground to detain a person under preventive detention.

It is stated that the illicit drug did not belong to the petitioner as it was belonged to one Nanao. It is stated that there is an inordinate delay of 13 days in disposing the representation by the State Government. It is also stated that the detention order dated 17.10.2022 was passed after 21 days after the petitioner was released on default bail vide order dated 16.09.2022 without any material on record showing further involvement in illegal activities.

It is also stated that the Central Government has not disposed of the representation till date and on this ground alone the detention order is liable to be set aside.

[5] Mr.B.R.Sharma, learned CGC submits that as on date he has not received instruction in the matter. In the present case, it is seen that the representation dated 5.12.2022 submitted to the Central Government was forwarded by the State vide letter dated 8.12.2022 and parawise comment dated 16.12.2022 was submitted to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Govt of India, New Delhi. In spite of that the Central Government is sitting over the representation without passing any order.

[6] It is rightly pointed out by Ms.L.Sillori that the name of the detenu has been wrongly mentioned in the ground of detention in para 17 of the history sheet and it is total non-application of mind on the part of the detaining authority.

[7] In view of the non-disposal of representation and non-application of mind in the detention order while issuing the detention order dated 07.10.2022 and conformation order dated 23.12.2022, the writ petition is allowed, the order of detention dated 07.10.2022 and confirmation order dated 23.12.2022 are set aside. The detenu be released if not required in any other case.

JUDGE

CHIEF JUSTICE (ACTING)

Priyojit