

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

WP (Crl.) No. 7 of 2023

Smt. Shougaijam (ongbi) Nirupama Devi, aged about 31 years,
wife of Shougaijam Ronan Singh, of Kakching Wairi Kamala
Pareng, P.S. Kakching, District – Kakching, Manipur – 795103.

Petitioner

Vs.

- 1.** The State of Manipur, represented by the Chief Secretary,
Government of Manipur, Babupara, P.O. and P.S. Imphal,
Imphal West District, Manipur – 795001.
- 2.** The District Magistrate, Thoubal District, P.O. & P.S.
Thoubal, District – Thoubal, Manipur- 795138.
- 3.** The Union of India, through the Secretary to the Government
of India, Ministry of Home Affairs, Department of Internal
Security, North Block, New Delhi – 110001

Respondents

BEFORE
**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

For the Petitioner	: Mr. K. Pradeep, Advocate
For Respondent Nos. 1 & 2	: Mr. Th. Vashum, Government Advocate
For Respondent No. 3	: Mr. Y. Paikhomba, Advocate
Date of Order	: 18.01.2023

ORDER (ORAL)

Sanjay Kumar (C.J.):

[1] By way of this writ petition, the petitioner challenges the order dated
04.10.2022 of the District Magistrate, Thoubal District, whereby her husband was
subjected to preventive detention in exercise of power under Section 3 (3) of the

National Security Act, 1980. She seeks a writ of *habeas corpus* to set her husband at liberty forthwith.

[2] Heard Mr. K. Pradeep, learned counsel, appearing for the petitioner.

Mr. Th. Vashum, learned Government Advocate, offers to take notice for the State authorities, respondent Nos. 1 & 2. Mr. Y. Paikhomba, learned counsel representing Mr. Kh. Samarjit, learned DSGI, offers to take notice for the Union of India, respondent No. 3.

[3] However, we find that the matter is amenable to final disposal at the threshold and does not require any replies from the respondents on merits.

[4] Perusal of the grounds of detention reflects that the detaining authority was conscious of the fact that the detenu had been arrested in connection with FIR No. 39(8)2022 Khongjom PS and was thereafter formally arrested in connection with FIR No. 77(6)2022 Kakching PS, whereupon he was remanded to police custody till 09.09.2022. On 09.09.2022, he was remanded to judicial custody and lodged in Manipur Central Jail, Sajiwa. Despite his knowledge of the fact that the detenu was incarcerated at the time of passing of the detention order, the detaining authority, *viz.*, the District Magistrate, Thoubal District, did not mention either in the detention order or in the grounds of detention as to whether any bail petition had been filed by the detenu in connection with the 2(two) FIRs under which he had been arrested, whereby he could have formed an opinion as to the likelihood of his release on bail.

[5] In **Rekha vs. State of Tamil Nadu, through Secretary to Government and another [(2011) 5 SCC 244]**, the Supreme Court observed that there would be a real possibility of release of a person who is already in custody

provided he has moved a bail application, which is pending, as in such a case, the detaining authority can reasonably conclude that there is likelihood of the detenu being released on bail.

[6] Therefore, it is incumbent upon a detaining authority to verify whether or not the person in custody has moved a bail petition so as to determine the possibility of his being released on bail and only thereafter, proceed to exercise power under the special law of preventive detention. In the case on hand, the District Magistrate, Thoubal, did not even undertake this exercise as is evident from the order of detention and the grounds of detention. On this short ground, the writ petition has to succeed.

[7] W.P. (Crl.) No. 7 of 2023 is accordingly allowed, setting aside the order of detention dated 04.10.2022 passed by the District Magistrate, Thoubal District, in exercise of power under Section 3 (3) of the National Security Act, 1980. All consequential proceedings based thereon shall also stand set aside.

The detenu, Shri Sougaijam Ronan Singh, presently incarcerated in Manipur Central Jail, Sajiwa, shall be set at liberty forthwith unless his continued incarceration is validly required in connection with any other case.

In the circumstances, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Sandeep