

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Cril.) No. 9 of 2023

Shri Aslam Shah, aged about 23 years, S/o Najir Shah, resident of Lilong Khunou, P.O. & P.S. Lilong, District: Thoubal, Manipur presently under detention at Manipur Central Jail, Sajiwa, P.O. Lamlong, P.S. Heingang, District: Imphal East, Manipur – 795102.

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Special Secretary (Home), Government of Manipur, Manipur Secretariat, South Block, P.O. & P.S. Imphal, District, Imphal West, Manipur-795001.
2. The Union of India represented by Secretary (Finance), Government of India, Ministry of Finance, North Block, New Delhi – 110001.
3. The Superintendent, Manipur Central Jail, Sajiwa, P.O. Lamlong, P.S. Porompat, District: Imphal East, Manipur – 795114.

.....Respondent/s

B E F O R E

**HON'BLE THE ACTING CHIEF JUSTICE M.V. MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioner	::	Mr. L. Shashibhushan, Adv.
For the respondents	::	Mr. Th. Vashum, G.A. and Mr. S. Kaminikumar, CGC
Date of Order	::	17.02.2023

ORDER(ORAL)

A. Guneshwar Sharma, (J)

[1] The petitioner was arrested on 28.09.2022 at about 2:00 am in connection with FIR No. 65(09)2022 LIL-PS U/S 21(C)/60(3) ND & PS Act by a team of Lilong P.S. while conducting routine mobile patrolling in an area of Lilong Turel Ahanbi Yangbi Leikai. From his possession 32 Nos. of “ANREX-CP” Cough Syrup bottles containing 10 mg codeine phosphate each in every 5 ml were seized and he was remanded to police custody and later on judicial custody by a Special Judge, ND & PS, Thoubal. During interrogation in police custody, it was stated that the petitioner was a member of an organized partnership of trafficking illicit item. He was connected with other accused arrested in connection with FIR No. 41(06)2022 LIL-PS U/S 21(b)/18(c) ND & PS Act. It was stated that he would likely to be released on bail in connection with Cril.Misc.(B) Case No. 348 of 2022 and on release, he would continue in the illicit drug trafficking and he was detained under Section 3 of the of the NIT-ND & PS Act in order to prevent him from further involvement. The petitioner was detained while he was in police custody and he was issued the detention order dated 20.10.2022 under Section 3 (1) of the PIT-ND & PS Act by the Special Secretary (Home), Government of Manipur. On 24.10.2022, he was given the grounds of detention.

[2] The petitioner submitted 2 (two) similar representations both dated 10.01.2023 through the Superintendent of Jail, Sajiwa, Imphal to the Chief Secretary, Government of Manipur and to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India for setting aside the detention and setting liberty. It is stated that he was wrongly detained without any material and he did not have any past criminal activities especially with respect to the illicit trafficking of drugs.

[3] The main ground in the petition is that the detention order is based on irrelevant ground and non-application of mind and that the respondent Nos. 1 & 2 have failed to dispose of the representation till date and the petitioner prayed that the detention may be set aside. The State Government filed a reply stating that the petitioner was detained in order to prevent him from further involvement in illicit trafficking of drugs on his release from bail.

[4] The representation dated 10.01.2023 was considered and rejected on 13.01.2023 by the State Government. It is stated that there is no delay on the part of the State Government. The Central Government has not filed any reply and during the course of hearing, Mr. S. Kaminikumar, learned CGC submits that he has no specific instruction from the Central Government in this matter.

[5] Mr. L. Shashibhushan, learned counsel for the petitioner, submits that the Central Government has failed to dispose of the representation dated 10.01.2023 submitted by the petitioner without assigning any reason. He prays that the detention order is liable to be set aside on this ground. He relied upon the order passed by the Hon'ble Supreme Court in the case of **Ranbir Singh vs. T. George Joseph, District Magistrate, Meerut & Anr.** reported in **1990 (Suppl.) SCC 54** where it was held that failure of the authorities to consider the representation made by the petitioner makes his continued detention is illegal and constitutionally impermissible.

[6] We have heard the learned counsel for the parties and perused the materials available on record.

[7] It is seen that the representation dated 10.01.2023 submitted by the petitioner through jail authority to the Central Government has not been considered and disposed of till date. Even para-wise comment was also submitted to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India on 18.01.2023 by the State Government. This long inaction on the part of the Central Government in considering and disposing of the representation of the petitioner renders the detention order impermissible and illegal.

[8] Reference may be made to the judgment passed by the Hon'ble Supreme Court in the case of **Rajammal v. State of T.N.** reported in **(1999) 1 SCC 417: 1999 SCC (Cri) 93, at page 421** and **Sarabjeet Singh Mokha v. The District Magistrate, Jabalpur** reported as **MANU/SC/1011/2021** where it was held that unexplained and inordinate delay in disposing the representation vitiates the detention order. Accordingly, the detention order dated 20.10.2022 passed by the Special Secretary (Home), Government of Manipur, detaining the petitioner is set aside and the petitioner be released from detention if not required in any other case.

Accordingly, writ petition is allowed and disposed of. No cost.

JUDGE

ACTING CHIEF JUSTICE

joshua

KH. JOSHUA
MARING

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JOSHUA MARING
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