

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Cril.) No. 18 of 2023

Md. Javed Kalam, aged about 21 years, S/o Md. Kalam of Kshetri Bengoon Makha Leikai, Imphal East-District, Manipur.

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Chief Secretary, Government of Manipur, Old Secretariat Building, Babupara, Old Secretariat Building, P.O. & P.S. Imphal, District-Imphal West.
2. The Special Secretary (Home), Government of Manipur, Babupara, Old Secretariat Building, P.O. & P.S. Imphal, District-Imphal West, Manipur.
3. The Superintendent of Manipur Central Jail, Sajiwa, at Sajiwa near Khabeisoi, P.O. Porompat, P.S. Heingang, Imphal East District, Manipur.
4. The Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Near North Block, Room N. 26, Church Road, RFA-Barrack, New Delhi-110001.

.....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. Th. Jugindro, Advocate.
For the respondents	::	Mr. O. Ratankumar, Dy. G.A. for the State and Mr. LH. Qulu, Adv. representing Mr. BR. Sharma, CGSC for the Union of India.
Date of Order	::	02.03.2023

ORDER (ORAL)

A. Guneshwar Sharma, (J)

[1] The detenu, namely Md. Zaved Kalam, was arrested on 22.05.2022 by a team of Commando, Imphal East in connection with FIR No. 147(5)2022 PRT-PS u/s 22(c)/29/60(3) ND & PS Act & 27 A.Act added 78 J.J. Act. From his possession, 134 nos. of boxes of Cough Syrup containing 13,400 nos. of bottles of Codeine were seized. Vide order dated 28.06.2022 in Cril.Misc.(B)Case No. 148 of 2022, the detenu was released on bail by the learned Special Judge (ND & PS), Manipur. Vide order dated 29.08.2022 issued by the Special Secretary (Home), Government of Manipur, the petitioner was detained under Section 3 (1) of the PIT-ND & PS Act, 1988 for effectively preventing him from further involvement of illicit trafficking of narcotics and psychotropic substances for a period of 3 (three) months until further orders as his bail application was allowed by the learned Special Court.

[2] Vide letter dated 02.09.2022, the Special Secretary (Home), Government of Manipur, furnished the grounds of detention to the detenu as he was involved in illicit trafficking of narcotic drugs and psychotropic substances and he has concealed the address of his associates including kingpin, financiers and on his release from bail, he would likely continue indulging in illicit trafficking of illegal drugs. The detenu submitted a common representation dated 23.09.2022 addressed to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi and to the Chief Secretary, Government of Manipur through the Superintendent,

Manipur Central Jail, Sajiwa, for revocation of the impugned detention order dated 29.08.2022 as there was no evidence against him. As he was released on bail in NDPS case, there was presumption of his innocence.

[3] Vide order dated 29.11.2022, the State Government confirmed the detention order and fixed the period of detention as 12 months. Vide order dated 06.12.2022, the Deputy Secretary (Home), Government of Manipur informed the detenu that his representation dated 23.09.2022 was rejected as being devoid of merit.

[4] The detention order was challenged mainly on the ground that:

- (i) There was no material before the detaining authority;
- (ii) There is no likelihood of continuing in prejudicial activities while on bail;
- (iii) Mandatory provisions of PIT-ND & PS Act were violated;
- (iv) The respondents failed to dispose of the representation dated 23.09.2022 till date; and it is prayed that the detention order be set aside.

[5] The State respondents have filed counter affidavit wherein it was stated that the detenu was habitually indulged in trafficking of illicit drugs and as such, ordinary criminal law cannot adequately prevent his illegal activities. It is prayed that the writ petition be rejected. The Central Government did not file any reply.

[6] Heard Mr. Th. Jugindro, learned counsel for the petitioner, Mr. O. Ratankumar, learned Dy.G.A. for the State respondents and Mr. LH. Qulu, learned counsel representing Mr. BR. Sharma, learned CGSC for the Union of India.

[7] Mr. Th. Jugindro, learned counsel for the petitioner, submits that there has been unexplained delay of 74 days by the State Government in disposing of the representation dated 23.09.2022 submitted by the detenu. On this ground alone, the detention order may be set aside. He further submits that the Central Government has not disposed of the representation of the detenu till date and no explanation is given by the Central Government in this regard. He prays that the detention order be set aside.

[8] Mr. O. Ratankumar, learned Dy.G.A. for the State respondents, submits that some delay has been caused but the detention of the petitioner is very much essential in order to prevent him from further indulgence in illicit activities.

[9] Mr. LH. Qulu, learned counsel representing Mr. BR. Sharma, learned CGSC for the Central Government, and submits that this Court may pass any appropriate order in the facts and circumstances of the case.

[10] Having heard the learned counsel for the parties and on perusal of the materials available on record, it is seen that there is delay of 74 days (70 days from the date of receipt) in disposing of the representation submitted by

the detenu and that too, without any explanation for the delay. On numerous occasions, this Court has expressed displeasure in inordinate and unexplained delay taken by the detaining authority while disposing of the representation submitted by the detenu. The detaining authority ought to have acted promptly while dealing with the case of preventive detention as the same involves personal liberty of a person enshrined under Article 21 of the Constitution. Moreover, the Central Government has not passed any order on the representation dated 23.09.2022 submitted by the detenu till date.

[11] Accordingly, the detention order dated 29.08.2022 is set aside on the ground of delay in disposal of the representation dated 23.09.2022 of the detenu by the State Authority as well as non-disposal of the representation by the Central Government. The detenu, namely Md. Zaved Kalam, be released immediately from detention if not required in any other case. Accordingly, writ petition is allowed and disposed of. No cost.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

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KH. JOSHUA
MARING

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