

n IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Cril.) No. 20 of 2023

W. Rukeiya, aged about 29 years, W/o Md. Riyajuddin @
Riyaj Khan of Lilong Turel Ahanbi, P.O. & P.S. Lilong, Thoubal
District, Manipur.

..... Petitioner/s

- Versus -

1. The State of Manipur through the Chief Secretary,
Government of Manipur, Old Secretariat Building, Babupara,
Imphal West District -795001.
2. The Special Secretary (Home), Government of Manipur, Old
Secretariat Building, Babupara, Imphal West District-795001.
3. The Union of India through the Deputy Secretary (PIT-ND &
PS), Department of Revenue, Government of India, 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. S. Dijeshwor, Advocate.
For the respondents	::	Mr. O. Ratankumar, Dy. G.A. for the State and Mr. W. Darakishwor, Sr.PCCG for the Union of India.
Date of Order	::	02.03.2023

ORDER (ORAL)

A. Guneshwar Sharma, (J)

[1] The husband of the petitioner, namely Md. Riyajuddin @ Riyaj Khan (46) years, S/o (L) Md. Sirajuddin of Lilong Turel Ahanbi, P.O. & P.S. Lilong, District-Thoubal, Manipur, was arrested on 10.06.2022 by a team of Lilong PS in connection with FIR No. 41(06)2022 LIL-PS u/s 21(b)/18(c) ND & PS Act and from his possession, seized 4 (four) boxes (cartoon) containing cough syrup bottles and one gunny sack of cement bag containing cough syrup totalling 590 bottles of cough syrup and one plastic packet containing 750 grams of suspected heroin powder. The detenu filed a bail application being Cril.Misc.(B) Case No. 148 of 2022 in the Court of Special Judge (ND & PS), Thoubal. During the period of judicial custody, vide letter dated 02.09.2022, the detenu was taken into preventive detention under Section 3 (1) of the PIT-ND & PS Act, 1988 for effectively preventing him from further involvement in illicit trafficking of narcotic drugs and psychotropic substances for a period of 3 (three) months until further orders.

[2] Vide letter dated 06.09.2022, the detenu was furnished the grounds of detention wherein it was stated that the detenu was a drug peddler and was a member of organized partnership of trafficking illicit items. The detenu submitted 3 (three) representations all dated 14.11.2022 to the Advisory Board, the Chief Secretary (Home), Government of Manipur

and to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi through the Superintendent of Manipur Central Jail, Sajiwa, for revoking the detention order. It was stated that there was no seizure of illicit items from his possession nor at his instance and he was not likely to be released on bail. As such, there was no sufficient grounds for detaining him under the preventive detention.

[3] Vide letter dated 25.11.2022, the Deputy Secretary (Home), Government of Manipur informed the detenu that the representation dated 14.11.2022 was rejected by the State Government as being devoid of merit. The representation of the detenu was forwarded to the Central Government by Deputy Secretary (Home), Government of Manipur vide letter dated 16.11.2022. Vide order dated 02.12.2022, the State Government confirmed the detention order and fixed the period of detention as 12 months.

[4] The State Government filed counter affidavit stating that the detenu was a habitual drug peddler of illicit drug including opium and was part of drug racket supplying of illicit drugs across the state. It was also stated that from his possession, a large quantity of cough syrup and heroin No. 4 was seized and he has been detained in order to prevent him from further involvement in illicit trafficking of drugs. The Central Government did

not file any reply but during the course of hearing, submitted an e-mail dated 15.02.2023 stating that the representation is still under process.

[5] Heard Mr. S. Dijeshwor, learned counsel for the petitioner, Mr. O. Ratankumar, learned Dy. G.A. for the State respondents and Mr. W. Darakishwor, learned Sr.PCCG for the union of India.

[6] Mr. S. Dijeshwor, learned counsel for the petitioner, submits that there is no material for taking the detenu into preventive detention and the Central Government has failed to dispose of the representation dated 14.11.2022 submitted by the detenu till date. On this ground alone, the detention order be set aside.

[7] Mr. O. Ratankumar, learned Dy.G.A. for the State respondents, submits that there was no delay on the part of the State Government in dealing with the detention, disposal of the representation and forwarding of the necessary information and documents to the Central Government. He prays that the writ petition be dismissed.

[8] Mr. W. Darakishwor, learned Sr.PCCG for the Central Government, submits that even though the Central Government did not file any reply, he produced a copy of the e-mail dated 15.02.2023 sent by the Section Officer, PIT-ND & PS Division, Ministry of Finance, Department of Revenue, Government of India wherein the relevant portion of the e-mail is reproduced herein below:

“The representation dated 14.11.2022 of Md. Riyajuddin @ Riyaj Khan was received in this Ministry vide email on 24.11.2022 from State Government of Manipur. Para-wise comments were also received from Government of Manipur vide email dated 24.11.2022. The confirmation order in respect of above detenu has been sent by Government of Manipur vide email dated 10.01.2023. The representation is under process.”

He prays that appropriate order may be passed by this Court in the facts of the present case.

[9] Having considered the submission of the learned counsel for the parties and the materials available on record, it is seen that there is no inordinate delay on the part of the State Authority in dealing with the detention of the detenu. However, the Central Government is yet to pass any order on the representation dated 14.11.2022 of the detenu and the same is kept pending. From the e-mail dated 15.02.2023, it is clearly mentioned that the representation dated 14.11.2022 was received on 24.11.2022 from the State Government and the para-wise comments were also received on the same day. There is no justification for keeping the matter for more than 2 (two) months and that too, without any explanation at all.

[10] In a catena of cases including **Rajammal v. State of T.N.** reported in (1999) 1 SCC 417; 1999 SCC (Cril.) 93, at page 421 and **Sarabjeet Singh Mokha v. The District Magistrate, Jabalpur** reported as

MANU/SC/1011/2021, the Hon'ble Supreme Court held that the delay in disposing of the representation vitiates the detention order. Accordingly, the detention order dated 02.12.2022 is set aside on the sole ground of non-disposal of the representation by the Central Government for more than 2 (two) months. The detenu, namely Md. Riyajuddin @ Riyaj Khan (46) years, S/o (L) Md. Sirajuddin of Lilong Turel Ahanbi, P.O. & P.S. Lilong, District-Thoubal, Manipur, be released immediately from detention, if not required in any other case.

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

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

joshua

KH. JOSHUA
MARING

Digitally signed by KH.
JOSHUA MARING
Date: 2023.03.29
14:10:39 +05'30'