

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Cril.) No. 26 of 2023

Seilenthang Kilong, aged about 31 years, S/o Thangkhosat Kilong, a resident of Thangkanphai Village, Sardar Hill East Sub-Division, P.O. & P.S. Saikul, Kangpokpi District, Manipur-795114 (now detained in Manipur Central Jail, Sajiwa)

..... Petitioner/s

- Versus -

1. The State of Manipur, through the Chief Secretary, Government of Manipur, South Block, Manipur Secretariat, P.O & P.S. Imphal Imphal West District, Manipur-795001.
2. The Commissioner (Home), Government of Manipur, South Block, Manipur Secretariat, Government of Manipur-795001.
3. The Special Secretary (Home), Government of Manipur, South Block, Manipur Secretariat, Government of Manipur-795001.
4. 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-Barrack, New Delhi-110001.
5. The Superintendent, Manipur Central Jail, Sajiwa, Imphal East District, Manipur-795010.

.....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. A. Priyokumar Sharma, Advocate
For the respondents : Mr. O. Ratankumar, Dy. G.A. for the State
and Mr. S. Sarmarjeet, Sr.PCCG for the
Union of India.
Date of Order : 14.03.2023

O R D E R (Oral)

A. Guneshwar Sharma, J.

[1] On 15.06.2022, the detenu, namely Seilenthang Kilong, aged about 31 years, S/o Thangkhosat Kilong, a resident of Thangkanphai Village, Sardar Hill East Sub-Division, P.O. & P.S. Saikul, Kangpokpi District, Manipur was arrested by a team of NAB-PS in connection with FIR No. 26(6)2022 NAB-PS u/s 21(c)/29/60(3) ND & PS Act. From his possession, 5 packets of brown sugar weighing about 3 kgs were seized and he was taken into custody. Vide order dated 14.07.2022 in Cril. Misc.(B) Case No. 42 of 2022, the learned Special Judge (ND & PS), Senapati, granted bail to the detenu and he was released on interim bail on medical ground for a period of 2 months for medical treatment.

[2] After release from bail on medical ground, the Special Secretary (Home), Government of Manipur issued the detention order dated 20.10.2022 for detaining the detenu under Section 3(1) of the PIT-ND & PS Act for effectively preventing him from further involvement in drug

trafficking on the ground that after release on bail, he would continue to indulge in illegal activities of drug trafficking.

[3] Vide letter dated 24.10.2022, the Special Secretary (Home), Government of Manipur furnished the grounds of detention to the detenu and it was stated that the detenu was a habitual offender and being a police personal, he was involved in illicit trafficking of drugs, the kingpin of drug racket has to be arrested. Vide order dated 23.12.2022, the State Government confirmed the detention order dated 20.10.2022.

[4] The detenu submitted a representation dated 31.01.2023 to the Chief Secretary, Government of Manipur through the Superintendent, Manipur Central Jail, Sajiwa for revocation of the detention order with a request to send a copy of the same to the Deputy Secretary (ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi for kind consideration.

[5] Vide order dated 08.02.2023, the Commissioner (Home), Government of Manipur rejected the represented dated 31.01.2023 submitted by the detenu as being devoid of merit. It was stated that the representation dated 31.01.2023 of the detenu was forwarded to the Advisory Board and to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi.

[6] The detention order dated 20.10.2022 was challenged mainly on the ground that after his released, there was no fresh ground for issuing the detention order.

[7] The respondents have not filed any counter affidavit.

[8] Heard Mr. A. Priyokumar Sharma, learned counsel for the petitioner, Mr. O. Ratankumar, learned Dy. G.A. for the State respondents and Mr. S. Samarjeet, learned Sr. PCCG for the Union of India.

[9] Mr. A. Priyokumar Sharma, learned counsel for the petitioner, submits that there is no fresh material to detain the detenu by the detention order 20.10.2022 after being released on bail on medical grounds. Moreover, till date, no order has been passed by the Central Government with regard to the representation. So, the detention order dated 20.10.2022 be set aside for non-application of mind.

[10] Mr. O. Ratankumar, learned Dy. G.A. for the State respondents, submits that there is no delay on the part of the State Government in dealing with the present case. The representation dated 31.01.2023 was rejected vide order dated 08.02.2023 and as such, there is no delay on the State Government. He prays that the writ petition be rejected.

[11] During the course of hearing, Mr. S. Samarjeet, learned Sr. PCCG for the Central Government, produced a copy of the e-mail dated 13.03.2023 sent by the PITNDPS Division, Ministry of Finance, Department

of Revenue, Government of India, New Delhi stating that the representation of the detenu was rejected vide memorandum dated 13.03.2023 sent by the Central Government to its standing counsel. It is seen that the representation dated 31.01.2023 (it was wrongly mentioned as 07.01.2023 in the e-mail dated 13.03.2023) took 42 days for the Central Government while considering and rejecting the representation submitted by the detenu and the same has not been explained in the e-mail dated 13.03.2023. Accordingly, detention order dated 20.10.2022 and confirmation order dated 23.12.2022 are liable to be set aside on the ground of delay in disposal of the representation submitted by the detenu.

[12] 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.

[13] Accordingly, the detention order dated 20.10.2022 and confirmation order dated 23.12.2022 are set aside and the detenu, namely Mr. Seilenthang Kilong, aged about 31 years, S/o Thangkhosat Kilong, a resident of Thangkanphai Village, Sardar Hill East Sub-Division, P.O. & P.S. Saikul, Kangpokpi District, Manipur be released from detention forthwith, if not required in any other case.

[14]

Accordingly, writ petition is allowed. No cost.

JUDGE

ACTING CHIEF JUSTICE

FR/FNR

joshua

KH. JOSHUA
MARING

Digitally signed by KH.
JOSHUA MARING
Date: 2023.05.03
10:54:54 +05'30'