

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

W.P.(Crl.) No. 49 of 2023

Mangmuanlian, aged about 33 years, S/o (L) Lunchinmang of Haika (H)
Village, P.O. & P.S. Chakpikarong, Chandel - District, Manipur.

... *Petitioner*

- Versus -

1. The State of Manipur represented by the Chief Secretary, Govt. of Manipur, Bapupara, Old Secretariat Building, P.O. & P.S. Imphal, District – Imphal West, Manipur – 795001.
2. Special Secretary (Home), Govt. of Manipur, Bapupara, Old Secretariat Building, P.O. & P.S. Imphal, District – Imphal West, Manipur – 795001.
3. The Superintendent of Manipur Central Jail, Sajiwa, at Sajiwa near Khabeisoi, P.O. Porompat, P.S. Heingang, Imphal East District, Manipur – 795010.
4. 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.

... *Respondents*

B E F O R E

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

For the petitioner	:	Mr. L. Seityandra, Advocate.
For the respondents	:	Mr. Th. Vashum, GA for respondent Nos. 1, 2 & 3. Mr. N. Gautam, Advocate, representing Mr. Boboy Potsangbam, learned CGSC for respondent No. 4.
Date of Order	:	03.05.2023

ORDER

A. Guneshwar Sharma, J.

[1] Heard Mr. L. Seityandra, learned counsel for the petitioner; Mr. Th. Vashum, learned Government Advocate, appearing for respondent Nos. 1, 2 & 3; and Mr. N. Gautam, learned counsel representing Mr. Boboy Potsangbam, learned CGSC, appearing for respondent No. 4.

[2] Mr. L. Seityandra, learned counsel for the detenu, submits that the detenu Mr. Mangmuanlian was arrested on 27.05.2022 in connection with FIR No. 9(5)2022 SGN- PS u/s 21(c)/29/60(3) ND&PS Act and from his possession 40 soap cases containing Heroine No. 4 of 502 grams were recovered. It is stated that the detenu filed bail application being Cril. Misc. (B) Case No. 395 of 2022 in the Court of learned Special Judge (ND & PS), Thoubal. Vide order dated 05.12.2022, the Special Secretary (Home), Government of Manipur, issued detention order against the detenu under Section 3(1) of the Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act (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 three months until further orders. Vide letter dated 09.12.2022, the Commissioner (Home), Government of Manipur, furnished grounds of detention to the detenu stating that he was habitual offender and involved in the trafficking of narcotic drugs in commercial quantity and on released from bail he would continue in illegal activities of trafficking drugs. The detenu submitted common representation dated 12.01.2023 through the Superintendent, Manipur Central Jail, Sajiwa, to The Deputy Secretary (PIT-ND&PS), Ministry of Finance, Department of

Revenue, New Delhi, and to The Chief Secretary, Government of Manipur, for revocation of the detention order. Vide order dated 19.01.2023, the State Government disposed of the representation and vide memorandum dated 13.03.2023, the Central Government rejected the representation submitted by the detenu. Mr. L. Seityandra, learned counsel for the detenu, submits that the detention order is bad for non-application of mind; for violation of the mandatory provision of the Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act (PIT-ND&PS Act); delay in considering the representation. He prays that detention order and the confirmation order be set-aside.

[3] Mr. Th. Vashum, learned Government Advocate, submits that there is no delay on the part of the State Government. Representation dated 12.01.2023 was disposed on 19.01.2023. As such, there is no delay and prays that the writ petition may be rejected.

[4] Mr. N. Gautam, learned counsel representing Mr. Boboy Potsangbam, learned CGSC, appearing for the Union of India, submits that the representation dated 12.01.2023 was received by the Ministry from the State Government through an e-mail dated 17.01.2023 and the para-wise comments was received through an e-mail dated 23.01.2023. Representation along with the materials was placed before the Secretary (Revenue) on 02.03.2023 and the representation was rejected vide memorandum dated 13.03.2023. It is submitted that time taken by the Central Government in disposing the representation is not fatal and prays for rejecting the writ petition.

[5] We have considered the rival submissions of the parties and perused the materials on record. It is seen that there is no inordinate delay on the part of the State

Government in disposing the representation submitted by the detenu. However, the Central Government had not explained the period from 23.01.2023 to 02.03.2023 in placing the matter before the Secretary (Revenue), Government of India, after receiving the para-wise comments and also time taken by the Secretary (Revenue) from 02.03.2023 to 13.03.2023 in disposing the representation submitted by the Secretary (Revenue), Government of India. There is unexplained delay of 49 days on the part of the Central Government, even though the time period from 12.01.2023 to 23.01.2022 has been satisfactorily explained. We are of the view that detention order is vitiated for the unexplained delay while disposing the representation by the Central Government as held in the case of **Sarabjeet Singh Mokha Vs. the District Magistrate, Jabalpur reported as MANU/SC/1011/2021** in which the Hon'ble Supreme Court held that unexplained delay in considering the representation and the failure to communicate its rejection vitiates the detention order.

[6] Accordingly, detention order dated 05.12.2022 is set-aside and the detenu Mr. Mangmuanlian, be immediately released from detention, if not required in any other case.

Writ petition is allowed and disposed of.

No costs.

JUDGE

ACTING CHIEF JUSTICE

Indrajeet

FR/NFR