

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Cril.) No. 33 of 2022

Satminthang Kipgen, aged about 32 years, S/o Lalsat Kipgen of Ningel Mollen Village, P.O. Yairipok, P.S. Kasom Khullen, Kangpokpi District, Manipur now in the custody of Manipur Central Jail, Sajiwa.

..... Petitioner/s

- Versus -

1. The Special Secretary (Home), Government of Manipur at Old Secretariat, Imphal, P.O. & P.S. Imphal, Imphal West, Pin Code – 795001, Manipur.
2. The State of Manipur represented by Chief Secretary, Government of Manipur, at Old Secretariat, Imphal, P.O. & P.S. Imphal, Imphal West, Pin code-795001, Manipur.
3. The Union of India, through the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Dept. of Revenue, Add: Near North Block, Room No. 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, Adv.
For the respondents	::	Mr. Kh. Athouba, G.A. and Mr. B.R. Sharma, CGC.
Date of Order	::	23.02.2023

ORDER (ORAL)

A. Guneshwar Sharma, (J)

[1] The petitioner was arrested on 03.06.2022 in connection with FIR No. 9(06)2022 NSK-PS U/S 18(b)/60(3)/27-A/29-ND & PS Act, 1985 for illegal possession of 8.9 kg of opium. On 07.06.2022, he was remanded to judicial custody by the Ld. Special Judge (ND & PS), Thoubal. While he was in judicial custody vide order dated 02.09.2022, the Special Secretary (Home), Government of Manipur, issued a detention order under Section 3(1) of the Prevention of Illicit Traffic in Narcotic 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 3 months until further orders. It is stated that the petitioner filed a Bail Application being Cril.Misc.(B) Case No. 223 of 2022 in the Court of Special Judge (ND & PS), Thoubal and it is suspected that the petitioner would continue in illicit trafficking of drugs even after his release.

[2] Vide order dated 06.09.2022, the petitioner was furnished with the grounds of detention wherein it was stated that the petitioner was indulged in illicit trafficking of drugs of commercial quantity and that he would likely to be released on bail and on release, he would continue to indulge in illicit trafficking of drugs and there is an urgent need to keep him under preventive detention.

[3] The petitioner submitted the representations dated 12.09.2022 to the Chief Secretary (Home), Government of Manipur and to the Deputy Secretary (PIT-ND & PS), Government of India, Ministry of Finance, Department of Revenue, New Delhi through the Superintendent of Police, Manipur Central Jail, Sajiwa, for revoking the detention order dated 02.09.2022 passed by the Special Secretary (Home), Government of Manipur. It is stated that the petitioner never purchased 8.9 kg of opium

and no recovery was made from his possession. The detaining authority did not furnish detail of the relevant documents or statements of the witnesses to him. It is stated that he is a cultivator by profession and simple villagers living from hand to mouth.

[4] Vide letter dated 15.09.2022, the Deputy Secretary (Home), Government of Manipur, forwarded the representation dated 12.09.2022 submitted by the petitioner to the Central Government. Vide letter dated 21.09.2022, the State Government informed the petitioner that his representation was rejected being devoid of merit and also stated that similar representation to the Central Government was forwarded on 15.09.2022 by the State Government.

[5] Vide memorandum dated 27.10.2022, the Secretary, Department of Revenue, Ministry of Finance, New Delhi, rejected the representation dated 12.09.2022 after a gap of 24 days delay. The State Government has filed counter affidavit wherein it is stated that there is no delay on the part of the State Government. The detention order was passed as the petitioner was involved in illicit trafficking of drugs suspected to be opium of commercial quantity. The grounds of detention were duly supplied on 06.09.2022, i.e., within 4 days and the representation dated 12.09.2022 was rejected on 21.09.2022, i.e., within a period of 9 days and the detention order was confirmed on 02.12.2022. It is stated that there is no delay on the part of the State Government and it is prayed that the writ petition be dismissed. The Central Government did not file counter affidavit.

[6] Mr. BR. Sharma, learned CGC for the Union of India, submits that he has no specific instruction in this regard and this Court may pass appropriate order in the facts and circumstances of the present case.

[7] Heard learned counsel for the parties and perused the materials available on record. It is seen that in the present case, there is no

delay on the part of the State Government and the grounds of detention was intimated within the stipulated time of 5 days. The representation dated 12.09.2022 was disposed of on 21.09.2022 within a period of 9 days and the representation of the petitioner to the Central Government was forwarded on 15.09.2022. Admittedly, the Central Government rejected the representation dated 12.09.2022 of the petitioner on 27.10.2022. As per the record, the Central Government received the representation on 15.09.2022. Hence, there is a delay of 42 days from the date of receipt of the representation to the date of disposal of the representation. However, there is no explanation for the undue delay in disposal of the representation of the detenu.

[8] Reference may be made in the judgment of the Hon'ble Supreme Court in the case of **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** that non-disposal of the representation of the detenu by the State and the Central Authority and unexplained delay in disposal of the representation vitiates the detention order. Accordingly, the detention order dated 02.09.2022 is set aside for the delay of 42 days by the Central Authority in disposal of the representation submitted by the detenu and the detenu be released from detention immediately if not required in any other case.

[9] Accordingly, writ petition is allowed. No cost.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

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