

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

**WP (Crl.) No. 50 of 2022**

Md. Sagir Khan, aged about 26 years, S/o Managing Director  
Tomba of Yairipok Singa Ethei Mapal. P.O. and P.S. Yairipok,  
District-Thoubal, Manipur, 795138.

***Petitioner***

**Vs.**

- 1.** The State of Manipur, represented by the Chief Secretary,  
Government of Manipur, Babupara, P.O. and P.S. Imphal,  
Imphal West District, Manipur – 795001.
- 2.** The District Magistrate, Thoubal District, P.O. & P.S.  
Thoubal, District – Thoubal, Manipur- 795138.
- 3.** The Union of India, through the Secretary to the Government  
of India, Ministry of Home Affairs, Department of Internal  
Security, North Block, New Delhi – 110001

***Respondents***

BEFORE  
**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR  
HON'BLE MR. JUSTICE MV MURALIDARAN**

|                           |                                       |
|---------------------------|---------------------------------------|
| For the Petitioner        | : Mr. Ph. Sanajaoba, Advocate         |
| For Respondent Nos. 1 & 2 | : Mr. Th. Vashum, Government Advocate |
| For Respondent No. 3      | : Mr. BR Sharma, CGSC                 |
| <b>Date of Order</b>      | <b>: 27.01.2023</b>                   |

**ORDER (ORAL)**

***Sanjay Kumar (C.J.):***

**[1]** Challenge in this writ petition is to the order dated 11.11.2022 of the  
District Magistrate, Thoubal District, subjecting the petitioner's mother,  
Mrs.Thambalmani @ Laila, to preventive detention in exercise of power under

Section 3 (2) of the National Security Act, 1980. He seeks a consequential writ of *habeas corpus* to set her at liberty forthwith.

**[2]** Heard Ph. Sanajaoba, learned counsel for the petitioner; Mr. Th. Vashum, learned Government Advocate, appearing for respondents No. 1 & 2; and Mr. BR Sharma, learned CGSC, appearing for respondent No. 3.

**[3]** The primary ground of attack urged by Mr. Ph. Sanajaoba, learned counsel, is that there was no material before the detaining authority to surmise that there was any likelihood of the petitioner's mother being released on bail in the near future. He would point out that she was arrested in September, 2022, in connection with 3 FIRs, viz., FIR No. 25 (5) 2022 Khongjom PS; FIR No. 77 (6) 2022 Kakching PS; and FIR No. 26 (7) 2022 Andro PS. Two of these FIRs pertained to offences under the Unlawful Activities (Prevention) Act, 1967.

**[4]** Perusal of the impugned order of detention reflects that the District Magistrate, Thoubal District, noted in unnumbered para 4 thereof as follows:-

'And whereas, I am satisfied from the police report that Mrs. Thambalmani @ Laila (46 yrs.) W/o, Md. Tomba of Yairipok Singa Ethei Mapal, P.O & P.S. Yairipok, District-Thoubal, Manipur who is now in judicial custody and is likely to be released on bail in the near future and also she is likely to continue to act in the manner prejudicial to the security of the State and maintenance of public order, and also that an alternative preventive measure is called for.'

However, the documents furnished to the detenu along with the grounds of detention made no mention of any bail petition having been filed by the detenu in connection with any of the FIRs registered against her.

**[5]** The affidavit-in-opposition filed by the Deputy Secretary (Home), Government of Manipur, also does not shed any light on this aspect of the matter.

No mention is made therein of any bail petition having been filed by the detenu in relation to any of the cases registered against her, whereby it could be apprehended that there was a likelihood of her being released on bail.

**[6]** The original files pertaining to this detention case were produced by Mr. Th. Vashum, learned Government Advocate. However, there is not a single document found in either of the files referring to bail applications, if any, filed by the detenu in relation to the 3 FIRs registered against her. In effect, the statement made by the District Magistrate, Thoubal District, in unnumbered para 4 of the impugned detention order had no basis whatsoever and there was no material placed before him to infer that there was a likelihood of the detenu being released on bail, necessitating issuance of the detention order.

**[7]** Significantly, in **Rekha vs. State of Tamil Nadu, through Secretary to Government and another [(2011) 5 SCC 244]**, the Supreme Court observed that there would be a real possibility of release of a person who is already in custody provided he has moved a bail application, which is pending, as in such a case, the detaining authority can reasonably conclude that there is likelihood of the detenu being released on bail. Reference may also be made to **A. Shanthi (Smt) vs. Govt. of T.N. and others [(2006) 9 SCC 711]**, wherein, the Supreme Court noted its earlier judgment in **T.V. Saravanan vs. State [(2006) 2 SCC 664]** holding to the effect that the imminent possibility of the appellant therein coming out on bail was merely the *ipse dixit* of the detaining authority unsupported by any material whatsoever as there was no cogent material before the detaining authority on the basis of which he could satisfy himself that the detenu was likely to be released on bail. The Supreme Court pointed out that the inference in that regard had to be drawn from the available material on record and in the absence of such

material, the mere *ipse dixit* of the detaining authority would not be sufficient to sustain the order of detention.

**[8]** In the light of the aforestated precedential edicts, it would be incumbent upon a detaining authority to verify whether or not the person in custody has actually moved a bail petition so as to determine the possibility of his/her being released on bail and only thereafter, proceed to exercise power under the special law of preventive detention.

**[9]** In the case on hand, except for the bald statement in unnumbered para 4 of the impugned detention order, there is no material whatsoever to support the conclusion that the detenu may be released on bail. Based on the mere *ipse dixit* of the detaining authority, the impugned order of detention cannot be sustained.

**[10]** W.P. (Crl.) No. 50 of 2022 is accordingly allowed, setting aside the order of detention dated 11.11.2022 passed by the District Magistrate, Thoubal District, in exercise of power under Section 3 (2) of the National Security Act, 1980. All consequential proceedings based thereon shall also stand set aside.

The detenu, Mrs. Thabalmani @ Laila, presently incarcerated in Manipur Central Jail, Imphal, shall be set at liberty forthwith unless her continued incarceration is validly required in connection with any other case.

In the circumstances, there shall be no order as to costs.

**JUDGE**

**CHIEF JUSTICE**

*Sapana*