

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

W.P.(CrI.) No. 11 of 2025

Ahanthem Sunolata Devi

Petitioner

Vs.

The District Magistrate, Imphal East and 3 others

Respondents

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. KEMPAIAH SOMASHEKAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

ORDER

(K. Somashekar, C.J.)

29.07.2025

[1] This writ petition has been initiated by the petitioner namely, Smt. Ahanthem Sunolata Devi, mother of the detenu/accused/perpetrator.

[2] Whereas, under this writ petition, the petitioner is challenging the orders rendered by the District Magistrate, Imphal East District, Manipur dated 07.05.2025.

[3] Heard Mr. L. Shashibhushan, learned senior counsel for the petitioner and Mr. Th. Vashum, learned GA for the respondents No. 1 and 2 and Ms. Pamchui MK Shimray for the respondents No. 3.

[4] Perused the order dated 07.05.2025.

[5] Whereas, the learned senior counsel for the petitioner in this matter submitting that the petitioner is the natural mother of the

detenu/accused. The petitioner's son who is a family member and consisting the family members as his wife and two minor children and the accused, was apprehended by the arresting authority/CDO, Imphal East on 13.04.2025 at around 9:00 pm and while he was returning to the residence of the said Nandakumar situated at Khurai Kongpal after attending a meeting of the top functionaries of the aforesaid organization which is indicating in this material.

[6] It is further contended that the arresting authority was apprehending the accused on the premises that a 9 mm Pistol with 18 live rounds in the magazine which was issued to him for the protection of Shri Irengbam Nandakumar @ Tonsana. The xerox copy of the said identification card of the accused is produced vide Annexure-A/1 to the petition.

[7] It is further contended that the arresting authority/personnel of CDO, Imphal East on the aforesaid date, the accused was handed over to the Officer-in-Charge of Porompat P.S along with the report in detail. The report is indicating that on random frisking and checking the petitioner's son was found to be in possession of one 9mm pistol loaded with 15 live round/cartridges in the magazine. The same has been indicating therein and also the contention is taken by the learned senior counsel that the report as been prepared by the arresting authority to suit their purposes.

[8] It is further contended that based upon the report, the case has been registered by recording an FIR in FIR case being FIR Case No.

81(4)2025 PRT-P.S. for the offences u/s 17/20 UA(P) Act, 2025(1-B) of the Arms Act and section 5 of the Expl. Subs. Act. The same has been indicating in FIR which was recorded by the jurisdictional police to proceed in further and also framing of chargesheet against the accused.

[9] It is further contended that the petitioner's son was in judicial custody since from the date of his arrest but now, he is admitted to the Psychiatry ward of the Jawaharlal Nehru Institute of Medical Sciences (for short 'JNIMS') at Porompat for treatment of psychiatric illness. The accused was discharged on 01.06.2025 on account of severe flooding of JNIMS. These are all the contentions which have been taken by the learned senior counsel and to support his contention he has produced xerox copies of the medical certificate issued by the Consulting Psychiatric Doctor dated 12.05.2025 and also the discharge Certificate dated 01.06.2025 vide Annexure – A/2(Colly) to the petition.

[10] The accused who is not other than the son of the petitioner, was in judicial custody and also undergoing treatment for his Psychiatric illness at JNIMS Hospital. To that effect, the learned senior counsel produced the document vide Annexure-A/3 i.e. the detention order dated 07.05.2025.

[11] It is further contended that in Annexure-A/3 to this petition, the respondent No. 1 has furnished the grounds of his detention bearing No. Cril/NSA/No. 2 of 2025/2080 dated 07.05.2025. In order to substantiate

his submission, he has produced the document as vide Annexure-A/4 (Colly) that the aforesaid grounds of detention and documents enclosed therein for the purpose of perusal and also for consideration.

[12] Lastly, the learned senior counsel for the petitioner submitting that the documents vide Annexure-A/5 i.e. the copy of the application dated 12.05.2025 has been submitted and Annexure-A/6 i.e. the copy of the order dated 15.05.2025 is also enclosed therein and the copy of the Annexure-A/7 i.e. the representation dated 21.05.2025, the postal receipts dated 21.05.2025 and inclusive of the postal tracking records. Vide Annexure-A/8 i.e. copy of the order dated 27.05.2025 which confirmed the order of detention vide Annexure-A/3 to the petition and these are all the documents which have been produced by the learned senior counsel for the petitioner for seeking intervention for consideration of the grounds and also setting aside impugned order issued by the competent authority/District Magistrate, Imphal East District, Manipur.

[13] Whereas, the learned senior counsel in this matter in further taken us to the grounds of detention and orders relating to them in detail, wherein the learned senior counsel in this matter referred the provision of Section 8 of the National Security Act, 1980 which reads as thus :

“8. Grounds of order of detention to be disclosed to persons affected by the order.—

(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later

than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.”

[14] The grounds of order of detention should be disclosed to a person affected by the orders but in this matter, the detenu/accused who is not other than the son of the petitioner and mother of the accused has approached this Court by filing this writ petition seeking for intervention and also for consideration of setting aside the impugned order of detention rendered by the District Magistrate, these are all the contentious contentions which have been taken by the learned senior counsel for the petitioner and submitting emphatically that many judgments have been rendered by the Hon'ble Supreme Court of India relating to the issues under Section 8 of the NSA Act, 1980 and inclusive of the various Articles of the Constitution of India and specifically, Article 20, Article 18, Article 21, Article 22(5) and Article 13 of the Constitution of India and the scope of these Articles has been extensively addressed by the Hon'ble Supreme Court of India in the case of ***A.K. Gopalan v. State of Madras***, reported in ***AIR 1950 SC 27*** in detail, these are all the contentious contentions which have

been taken in by the learned senior counsel in this matter and whereby seeking for intervention and if not, there shall be some miscarriage of justice to the detenu/accused, on this premises only seeking setting aside the impugned order which was rendered by the District Magistrate/competent authority.

[15] On contrary, the learned GA in this matter has taken us to the orders rendered by the competent authority dated 07.05.2025 vide Annexure-A/3, the application of the accused person has been submitted to the District Magistrate, Imphal East District as under Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 43(D) UA(P) Act of 1967 and even praying for release him on bail has been filed on 24th April 2025 in the Court of the Special Judge (NIA), Imphal East at Cheirap Court Complex, Imphal, Manipur. The same has been specifically stated in para 2 of the order dated 7th May, 2025.

[16] Whereas, the learned GA in this matter has taken us to the order dated 7th May, 2025 vide Annexure-A/3 rendered by the District Magistrate, Imphal East District but the capacity of the District Magistrate, Imphal East District, Manipur and he has been satisfied with the materials which have been secured and subjected to the examination in detail of the police report and relevant document and consequently, passing of orders keeping in view Section 3 (2) of the NSA Act, 1980 and there is likelihood of his release on bail as he has applied for the same on 24th April, 2025. These are all the contentions which have been taken by the learned GA

submitted that to support the orders rendered by the District Magistrate, Imphal East District dated 7th May, 2025 and also justified the said orders, on this premises only seeking for dismissal of this writ petition filed by the petitioner who is none other than the mother of the detenu/accused.

[17] In this background of the contentious contentions taken by the learned senior counsel for the petitioner which is stated supra and inclusive of the submission which is made by the learned GA who has referred the orders dated 7th May, 2025 and thereby the order has been confirmed by the Commissioner (Home), Government of Manipur, i.e. orders by the Governor of Manipur dated 27.05.2025 and wherein the Advisory Board constituted under Section 9 of the said Act has carefully considered the case of the said person in its sitting held on 21.05.2025 and to that effect submitted the report on 25.05.2025 and unanimously held that there are grounds and sufficient causes for detention of the detenu under the provision of the said Act. The same is also indicating in para 3 of the order dated 27th May, 2025 whereby confirming the orders rendered by the District Magistrate, Imphal East District, Manipur.

[18] It further reveals that the Governor of Manipur after considering the proximate past of the detenu being an underground worker of the banned organization, United Liberation Front, UNLF(P), which are prejudicial to the maintenance of Public Order and there is apprehension of his continuing to commit similar prejudicial activities, unless his activities are prevented by preventive measures under the provision of NSA, 1980,

and therefore, is of the opinion that the said person should be detained for the maximum period of 12 (twelve) months as provided under Section 13 of the said Act. However, the FIR has been recorded by the Investigating Agency which is based upon the reports submitted by the concerned authorities, but the offences have been lugged in by the accused under the relevant provisions of the UA(P) Act of 1967 and inclusive of the Indian Arms Act but the last paragraph of the orders rendered by the Commissioner (Home), Government of Manipur dated 27.05.2025 reveals as in consonance with the opinion expressed by the Advisory Board and in exercise of the powers conferred under Section 12(1) of the said Act, the Governor of Manipur is pleased to order that the detention detaining the detenu/accused is hereby confirmed and further fixing the period of detention for a period of 12 (twelve) months from the date of detention.

[19] Whereas, under this writ petition challenging the order of the District Magistrate subsequently the confirmation orders rendered by the Governor of Manipur on 27.05.2025 and these two orders have been challenging under this writ petition raising the various grounds and also facilitated the various documents vide Annexures which has been stated supra. However, keeping in view the contentious contentions taken by the learned senior counsel for the petitioner in this matter are concerned, it is deemed appropriate for referring the ratios which have been rendered by the Hon'ble Supreme Court of India :

In the case of **Mohinuddin @ Moin Master vs District Magistrate, Beed & Ors.** reported in **1987 (4) SCC 58** :

Preventive Detention - Representation - Inordinate and unexplained delay in disposal of detenu's representation to Chief Minister, held, rendered continued detention of the detenu illegal and unconstitutional - Explanation that Chief Minister remained on tour and busy with important matters of the State not acceptable - Mandate of Article 22(5) explained - Constitution of India, Article 22(5)

Preventive Detention - Representation - Detenu's representation to the State Government must be disposed of expeditiously without waiting for opinion of Advisory Board, otherwise continued detention of the detenu will become illegal and unconstitutional

Preventive Detention - Affidavit - Persons competent to file counter-affidavit on behalf of the State

Constitution of India - Articles 226 and 32 - Habeas corpus petition - Burden of proof on the State - Court not justified in dismissing such a petition merely on ground of imperfect pleadings of the petitioner - Preventive Detention

In **Rekha vs. State of T. Nadu Tr.Sec. to Govt.& Anr.** reported in **2011 (5) SCC 244** :

A. Preventive Detention - Detention order - Detenu already in jail or custody - Legality of detention order - Real possibility of release on bail - Pendency of bail application - Relevance - Though bail application must be pending to justify detention order, even in absence of pending bail application, detention order can still be sustained if detaining authority reaches conclusion about likelihood of detenu's release on bail on basis of similar cases in which co-accused had been granted bail and authority furnishes details in that

regard - Bail application not filed but detention order passed on ground that relatives of detenu were proposing to move bail application in higher courts since "in similar cases bail was granted after lapse of time" - No details of "similar case" provided - Held, such bald statement being mere ipse dixit of detaining authority, not sufficient to sustain detention order- T.N. Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982 (14 of 1982), S. 3(1)

B. Preventive Detention- Detention order – Legality-Grounds for challenging, reiterated

In Abdul Nasar Adam Ismail vs State Of Maharashtra &

Ors. reported in 2013 (4) SCC 435;

A. Preventive Detention – Representation to appropriate authority/Government – Independent consideration of representation by detaining authority – How to be established – If established in present case - Said issue raised for first time before Supreme Court - Effect

-Held, whether representation is considered by detaining authority independently or not is for detaining authority to say on affidavit since it is within exclusive personal knowledge of detaining authority – Had this point been raised in writ petition, detaining authority would have dealt with it in her affidavit - Absence of categorical statement in affidavit of detaining authority that she had independently considered representation, in such circumstances, irrelevant – No inference can be drawn that detaining authority did not consider representation independently – Besides, in affidavit detaining authority had stated that representation was processed through Assistant, Under-Secretary and Deputy Secretary concerned who had merely put their signatures on file and entire procedure was completed

within four days – Thus, submission that detaining authority had not considered representation independently and was swayed by endorsements made by subordinate officers, rejected –Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, S. 3

(Paras 5 and 11)

B. Preventive Detention – Detention order – Delay in passing or serving or executing detention order or arresting detenu/Stale order or grounds – Delay in issuance of detention order – Effect – Detention order, reiterated, cannot be quashed where delay is satisfactorily explained and subjective satisfaction of detaining authority is genuinely reached – On facts held, explanation given by detaining authority was satisfactory and reasonable, and hence, detention order is valid - Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, S. 3

(Para 13)

C. Preventive Detention - Detention order - Delay in passing or serving or executing detention order or arresting detenu/Stale order or grounds - Delay in execution of detention order - Detenu, being resident of Mangalore, relevant documents forwarded to State of Karnataka, and hence, detention order dt. 16-4-2012 served only on 10-5-2012 - Thus held, there was no unexplained delay in execution of detention order – Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, S. 3

(Para 13)

D. Preventive Detention – Representation to appropriate authority/Government - Delay in consideration/disposal of representation-Expeditious disposal of detenu's representation - Constitutional obligation cast on Government - Principles governing – Reiterated - Unexplained delay, is fatal - Test is not duration or range of delay, but how it is explained

-On facts held, detaining authority and sponsoring authority had properly explained time-lag between 6-7-2012 i.e. date when representation was received by detaining authority and date of communication of rejection to detenu i.e. on 30-7-2012 - Representation was taken up for consideration as soon as it was received and dealt with continuously until a final decision was taken and communicated to detenu - Undoubtedly, time was taken to obtain parawise comments from sponsoring authority, which is permissible - Thus, time-lag between receipt of representation till its consideration and communication of rejection to the detenu is properly explained - Constitution of India, Art. 22(5)

(Paras 16 and 17)

E. Preventive Detention - Representation to appropriate authority/Government - Delay in transmitting representation to detaining authority by jail authority - Effect of - Representation received by Superintendent of Jail on 23-6-2012 and by detaining authority on 6-7-2012 – Time-lag between 23-6-2012 and 6-7-2012 was unexplained – Such delay, held, renders continued detention of detenu illegal but not detention order dt. 16-4-2012-Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, S. 3

(Paras 19 to 24)

F. Preventive Detention- Detention order – Basis of detention – Gravity of offence – Reiterated, irrelevant in preventive detention matter

(Paras 4.3 and 10)

G. Constitution of India-Arts. 136, 226 and 32-Issue of writs - Habeas corpus-Issue of writ of habeas corpus and preventive detention - Imperfect pleadings - Held, habeas corpus petition cannot be dismissed on ground of imperfect pleadings – Hence, plea that there was no independent consideration of representation by detaining authority, though neither

raised in petition nor urged before High Court, allowed to be agitated, though rejected on merits

(Paras 5 and 6)

H. Practice and Procedure - Conduct of counsel - Supreme Court at close of hearing, directing counsel for petitioner to submit list of authorities in support of his submissions, but instead, counsel citing four decisions of Supreme Court under caption "new points" which points were also not formulated – Strong disapproval expressed of such conduct but cited cases considered, as instant case pertained to preventive detention order - Preventive Detention - Interpretation/Application of preventive detention law/Precedents

(Paras 7 and 12)

In **Mehrunissa vs. State of Maharashtra** reported in **(1981) 2 SCC 709;**

Preventive Detention – Copies of material documents referred to in the grounds of detention cannot be denied to the detenu on the mere ground that the detenu was already aware of the contents of those documents – Held, failure to furnish such copies to the detenu on demand vitiated the detention – Constitution of India, Article 22(5)

In **Kamlakar Prasad Chaturvedi vs State of M. P. & Anr.** reported in **(1983) 4 SCC 443;**

Preventive Detention - Grounds of detention - Stale grounds - Proximity of time between events referred to in grounds and passing of detention order – Determination of – Two old incidents of more than 5 and 2 years prior to the date of order of detention mentioned in the grounds - All the incidents

*proximate to each other showing history of prejudicial activity of the detenu
- Order of detention, if vitiated - National Security Act, 1980, Section 3(2)*

In the case of **Shyam Bahadur Basnet vs. The State of Manipur & 3 Ors.** in **W.P.(Crl.) No. 17 of 2023** decided on 28.02.2023 and also in the case of **Md. Aktar Khan vs. State of Manipur** in **WP(Cril.) No. 37 of 2023** decided on 19.04.2023 and in detail, the issues have been anticipated by the Hon'ble Supreme Court of India in the judgment of **A.K. Gopalan v. State of Madras**, reported in **AIR 1950 SC 27**.

However, all the relevant provisions have been addressed in detail in the aforesaid judgment and therefore, in this matter, it does not arise for bringing in detail about the issues and also the perusal of the FIR which has led against the accused in the FIR. However, the accused is required to be present and therefore, it is said that without expressing any opinion on merits of this matter, it is deemed appropriate to state that the order which has been rendered by the District Magistrate and also the order which was confirmed the concerned authority dated 27.05.2025 are found to infirmity and also to be violation of Section 8 of the National Security Act, 1980 and therefore, it is deemed appropriate for intervention by the aforesaid detention family and consequently, request for setting the order rendered by the detaining authorities and inclusive of the confirmation order dated 27.05.2025.

[20] In view of the above reasons and findings, we are to proceed to pass the following orders :

- 1) the orders rendered by the District Magistrate dated 07.05.2025 and inclusive of the confirmation order dated 27.05.2025 are hereby set aside;
- 2) whatever observation is made in this matter it can't pendente lite for to proceed in further in case of the accused are required to face the trial for the offences which has been lugged in the FIR and also lugged in the charge sheet framed against the accused.

[21] Whereas, keeping in view the contentious contentions which have been made by the learned senior counsel for the petitioner who is none other than the mother of the detenu/accused but the documents which have been perused and considered by the detaining authority and those documents which have been facilitated i.e., copy of the FIR No.39(11) 2007 IPS for the offences under Section 20 UA(P) Act, 1967.

[22] That a copy of the Manipur local daily "Poknafam" dated 08.03.1999 and theses documents has not been facilitated by the District Magistrate whereby he was rendering the detention orders that the document is required to be facilitated keeping in view the provision of Section 8 of the National Security Act, 1980. This contention is also taken by the learned senior counsel for the petitioner for seeking intervention of

the orders rendered by the District Magistrate, Imphal East District, Manipur.

[23] Whereas, keeping in view the submission made by the learned senior counsel Mr. L. Shashibhushan for the petitioner and so also referring Section 8 of the National Security Act, 1980, the contention is taken by the learned senior counsel for the petitioner for seeking intervention of the orders rendered by the District Magistrate are found to be justifiable. Accordingly, it is deserving for setting aside the detention order rendered by the District Magistrate, Imphal East District, Manipur.

[24] The above reliances have been referred and wherein the Hon'ble Supreme Court of India has addressed the issues in detail in respect of the scope of the provision and law and therefore, it is deemed appropriate that the detention order which has been rendered by the District Magistrate, Imphal East District, Manipur dated 07.05.2025 is suffered from infirmity and consequently, it is set aside in the aforesaid reasons and findings.

[24] The detenu/accused shall be released on bail if he is not required in any other case.

[25] Accordingly, this writ petition is hereby disposed of.

JUDGE

Sushil

CHIEF JUSTICE