

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

W.P. (Crl.) No. 16 of 2025

Lunminthang Guite

Petitioner

Vs.

State of Manipur; & Ors.

Respondents

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH
(ORDER)**

(Order of the Court was made by M. Sundar, CJ)

18.09.2025

[1] In the captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity], Mr. Samuel Haokip for the writ petitioner is before us on the VC platform. Mr. Athouba Khaidem, learned State Counsel for respondent Nos. 1, 2, 4 & 5; and Mr. Boboy Potsangbam, learned CGSC on behalf of respondent No. 3 are before us in the physical Court.

[2] Factual matrix in a nutshell is that the writ petitioner was arrested on 08.04.2025 *vide* FIR No. 14(4) 2025 KPI-PS, dated 08.04.2025 (05:10 am) on the file of Kangpokpi Police Station, Kangpokpi District, for alleged offences punishable under Sections 308(2), 310(6) and 3(5) of BNS.

[3] Thereafter, R2 (District Magistrate, Kangpokpi) made a detention order dated 12.05.2025 bearing Reference DC(KPI)10/15/2017, by resorting to Section 3(2) of National Security Act, 1980 (Act. No. 65 of 1980) [hereafter 'NSA' for the sake of convenience and clarity]. This order of R2

shall hereinafter be referred to as 'impugned detention order' for the sake of convenience and clarity.

[4] Notwithstanding myriad grounds raised in the support affidavit *qua* captioned HCP, learned counsel for the petitioner predicates his campaign against the impugned detention order on two points and those two points are as follows:

- (i) There is infraction of Section 8(1) of NSA as the grounds on which the impugned detention order was passed has not been served on the HCP petitioner/detenu within five days and it remains unserved until today.
- (ii) The State Government has not approved the impugned detention order which is a statutory requirement *vide* Sub-section 4 of Section 3 of NSA.

[5] We have the benefit of perusing the HCP file as well as the written instructions to the State counsel for R1, R2, R4 and R5, to be noted, R2 is the detaining authority.

[6] As regards first point, the same has been articulated in ground (C) in paragraph 16 of the writ affidavit and the same reads as follows:

"C. That as per section 8(1) of the National Security Act, 1980, the grounds of detention has to be communicated by the officer making the detention order as soon as may be, but not later than five days and in exceptional cases not later than fifteen days from the date of detention whereas even after 81 days from the impugned Detention Order dated 12.05.2025, the detenue has not been provided with the grounds of detention due to which the petitioner is not able to make representation

to the concerned authority. Hence, the detention order is illegal and has to be set aside”

[7] Though the impugned detention order is dated 12.05.2025, it is fairly submitted on behalf of respondents that the Superintendent of Police has not effected service on the detenu the grounds of detention. This means that the grounds of impugned detention order, or in other words, the grounds on which the impugned detention order has been made, has not been served on the detenu until this day. This Court is also informed by learned State Counsel that there is no grounds of detention in the file.

[8] As regards the second point, the instructions given to the learned State counsel and the file placed before us makes it clear that the State Government has not approved the impugned detention order much less within 12 (twelve) days as required under Sub-Section 4 of Section 3 of NSA.

[9] Be that as it may, there is one other feature of this matter which we noticed as regards the ground case, *i.e.*, the aforementioned FIR No. 14(4) 2025 KPI-PS, dated 08.04.2025 on the file of Kangpokpi Police Station, Kangpokpi District, is the only FIR pending against the HCP petitioner and in that FIR also, the HCP petitioner has been granted default bail on 24.07.2025 by the Trial Court, namely, the Court of Judicial Magistrate First Class, Kangpokpi. This means that the final report has not been filed by the State within the required time. Filing of final report in Trial Court is in the realm of law and order. As final report has not been filed even in the realm of law and order, we find no reason to sustain the impugned detention order which is in public order realm.

[10] This Court also reminds itself of the indisputable legal position that not furnishing grounds of detention hampers right to make representation and results in infraction of Article 22(5) of the Constitution of India.

[11] The narrative, discussion and dispositive reasoning, set out supra leads this Court to the sequitur that both the points urged by the writ petitioner deserve to be sustained, or in other words, both points find favour with us and the further sequitur is the impugned detention order is deserves to be dislodged in exercise of our powers under Article 226.

[12] Ergo, sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 12.05.2025 made by R2 (District Magistrate, Kangpokpi) Reference DC(KPI)10/15/2017 is set aside and the detenu, Lunminthang Guite, aged about 27 years, son of (L) Ngamjapao Guite, now lodged in Temporary jail, Senapati, is directed to be set at liberty forthwith, if not required in connection with any other case/cases. There shall be no order as to costs.

JUDGE

Sandeep

CHIEF JUSTICE

P.S. I : Upload forthwith

P.S. II. All concerned will stand bound by web copy uploaded in High Court website