

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

W.P.(CRIL) No. 25 of 2025

Khundongbam Lukhoi Singh

... Petitioner

- Versus -

State of Manipur & 2 Ors.

... Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

O R D E R

[M. Sundar, CJ]

24.09.2025

[1] Mr. Ph. Sanajaoba, learned counsel for petitioner, Mr. Th. Vashum, learned Public Prosecutor for respondents Nos. 1 & 2 and Mr. Vijayanand, learned senior PCCG for the respondent No. 3 are before this Court.

[2] Captioned writ petition, seeking issue of writ of habeas corpus qua a 19 years old young man and captioned writ has been filed assailing a preventive detention order dated 23.07.2025 made by R-2 (The District Magistrate, Thoubal District, P.O. & P.S. Thoubal, Manipur, 795138, who shall hereinafter be referred to as 'detaining authority' for the sake of convenience and clarity).

[3] The detenu is Shri Khundongbam Kalambiya Singh @ Atomba, son of Shri Khundongbam Lukhoi Singh who is writ petitioner before this Court.

[4] In the hearing today, Mr. Ph. Sanajaoba, learned counsel for writ petitioner, notwithstanding myriad grounds raised in the writ petition, predicated his campaign against impugned preventive detention order made by the detaining authority on one point and that one point is, the detaining authority has at the first instance directed detention of writ petitioner's son ('detenue' for the sake of convenience) for maximum period of detention i.e. 12 months from the date of order, this according to learned counsel is impermissible. Learned counsel resorted to Clause (4) of Article 22 of Constitution of India to support his argument.

[5] Be that as it may, this Court finds that the impugned order has been made by the detaining authority in exercise of power under 3(3) of 'National Security Act, 1980' ('NSA', for the sake of brevity). Powers under Section 3(3) are clearly controlled by proviso thereat. Section 3(3) of NSA together with the proviso to Section 3(3) read as follows:

'3. Power to make orders detaining certain persons.—

(3) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2), exercise the powers conferred by the said sub-section:

Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.'

[6] A careful perusal of proviso to Section 3(3) of NSA makes it clear that the detaining authority [to be noted, State Government has delegated powers to R-2 (detaining authority)] cannot at the first instance make an order of preventive detention exceeding 3 months.

[7] In response to the above argument, learned prosecutor fairly submitted that the delegation of powers by the State Government to the detaining authority is vide proceedings dated 26.05.2025 and delegation itself makes it clear that the detaining authority can make an order only for a period of 3 (three) months and therefore, the impugned order is in excess of powers qua detaining authority and it deserves to be dislodged. Therefore, it may not be necessary to dilate further on this aspect of the matter, however, as ***Cherukuri Mani Vs. Chief Secretary Government of Andhra Pradesh & Ors.*** reported in ***(2015) 13 SCC 752***, was pressed into service, it has become necessary to write that in ***Pesala Nookaranu Vs. Government of Andhra Pradesh & Ors.*** reported in ***(2023) 14 SCC 641***. ***Cherukuri Mani*** was overruled to a limited extent whereby it was made clear that State Government need not review orders of detention every three months after passing confirmatory order.

[8] In the aforesaid case laws, preventive detention order was made by the detaining authority in exercise of power under ***Andhra Pradesh Prevention Of Dangerous Activities Of Bootleggers, Dacoits, Drug Offenderes, Goondas, Immoral Traffic Offenders And Land-Grabbers Act, 1986*** ('APPD Act', for the sake convenience and clarity).

[9] To be noted, proviso to Section 3(2) of APPD Act and proviso 3(3) NSA are in paramataria.

[10] In the case on hand, as already alluded to supra, the detaining authority at the first instance has made impugned detention order for the maximum period of 12 months which is evident from paragraph No. 6 of the impugned detention order which reads as follows:

'6. Now, therefore, I, Hannah Kahmei, IAS, District, Magistrate, Thoubal, Manipur in exercise of the powers conferred under Section 3(3) of the National Security Act, 1980 read with Home Department's Order No. H-1701/86/2020-HD-HD: dated 26th June, 2025 hereby order Shri Khundongbam kalambiya Singh @ Atomba, 19 years, S/o, Kh. Lukhoi Singh of Heirok Part – II Bazar, P.O. & P.S. Heirok, Thoubal District, Manipur, who is now in judicial custody, be detained under Section 3(2) of National Security Act, 1980 for a period of 12(twelve) months from the date of issue of this order, or until further orders.'

[11] This takes this Court back to Article 22(4) of Constitution of India argument of learned counsel for writ petitioner. Section 10 of NSA captioned 'Reference to Advisory Board' reads as follows:

'10. Reference to Advisory Board.—

Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this Act, the appropriate Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer mentioned in sub-section (3) of section 3, also the report by such officer under sub-section (4) of that section.'

[12] The above has admittedly not been done and this is clear as daylight as representation dated 12.08.2025 has been made to Advisory Board, this point has been raised vide paragraphs 10, 10.1 and 10.2 and ground (h) but in the affidavit in opposition it has been averred that State has no comments to offer as regards ground (h) and only approval of State Government dated 31.07.2025 has been cited in response to paragraph 10, 10.1 and 10.2 (para 5 of affidavit in opposition). There is no dispute that Section 10 of NSA has not been adhered to. The sequitur is, there is clear infraction of Article 22(4) of Constitution of India which declares that there can be no preventive detention for a period longer than three months unless an Advisory Board opines that there is sufficient cause for detention. To be noted, clause (4) is controlled by clause (7) of Article 22 but in the instant case, it is nobody's case that clause (7) comes into play.

[13] This infraction of Article 22(4) point and fair submission of learned prosecutor that impugned order is in excess to powers delegated to detaining authority and therefore liable to be dislodged makes it clear that impugned detention order has to be set aside.

[14] Ergo, the sequitur is, captioned is allowed. Impugned preventive detention order dated 23.07.2025 bearing No. Cril. NSA Case No. 11 of 2025 made by the R-2 is set aside and the detenu Shri Khundongbam Kalambiya Singh @ Atomba, 19 years, S/o, Kh. Lukhoi Singh of Heirok Part – II Bazar, P.O. & P.S. Heirok, Thoubal District, Manipur is set at liberty forthwith, if not required in connection with other case or cases. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Bipin

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