

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL
W.P. (Crl.) No. 32 of 2025**

Smt. Thokchom Bembem Devi

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)

16.12.2025

[1] Captioned 'Writ Petition' ('WP' for the sake of brevity) has been filed with a writ of habeas corpus plea assailing 'a preventive detention order dated 05.09.2025 bearing Reference No. Cril. NSA Case No. 13 of 2025' ('impugned preventive detention order' for the sake of convenience) made by R-2 (District Magistrate, Thoubal District, Manipur), to be noted, 'R-2' is an abbreviation/short form reference to '2nd respondent' and similar short forms/abbreviations will be used with regard to other respondents also. It is further to be noted that 'R-2' shall also be referred to as 'detaining authority' for the sake of clarity.

[2] The impugned preventive detention order made by R-2 was approved by R-1{Commissioner (Home) Government of Manipur} *vide* approval order dated 11.09.2025 bearing Reference No. H-1401/22/2025-HD-HD, thereafter, there was confirmation of the impugned preventive detention order by R-1 *vide* order dated 26.09.2025 bearing Reference No. H-1401/22/2025-HD-

HD. This 'impugned preventive detention order, approval and confirmation of the same' shall collectively be referred to as 'impugned orders' for the sake of convenience and clarity. The impugned preventive detention order has been made in exercise of powers under the under 'the National Security Act, 1980 (Act No. 65 of 1980)' [hereinafter 'NSA' for the sake of brevity].

[3] The detenu is Shri Abujam Hemchandra Singh @ Naoba @ Pandamba and spouse of the detenu is writ petitioner before us.

[4] Short facts (shorn off elaboration) or in other words, factual matrix in a nutshell containing facts which are imperative for appreciating this order are that there are two FIRs (FIR is an abbreviation for First Information Report); that one FIR is dated 15.05.2025 on the file of Heirok Police Station in Thoubal District Manipur, for alleged offences under Section 20 of the Unlawful Activities (Prevention) Act, 1967 (UAPA), Section 25 (1C) of the Arms Act, 1959 and Section 5 of Explosives and Substance Act ('1st FIR' for the sake of convenience) and the other FIR is dated 02.08.2025 also on the file of Heirok Police Station in the Thoubal District Manipur for alleged offences under Section 20 of the UAPA, Sections 308 (2)/140(3)/351(2) of BNS (Bharatiya Nyaya Sanhita, 2023) and Section 25 (1C) of Arms Act, 1959 ('2nd FIR' for the sake of convenience and clarity); that the detenu was arrested on 02.08.2025 pursuant to 2nd FIR and remanded to police custody on the same day, *i.e.*, 02.08.2025; that thereafter the detenu was remanded to judicial custody on 12.08.2025; that thereafter, a formal arrest of detenu was made on 30.08.2025 pursuant to 1st FIR; that on

the same day, a bail application moved by detenu *qua* 2nd FIR was rejected by the Court concerned; that on 06.09.2025, detenu was remanded to judicial custody pursuant to 1st FIR; that in the interregnum, on 05.09.2025, impugned preventive detention order was made; that thereafter approval of the impugned preventive detention order was on 11.09.2025 (as already alluded to *supra*); that thereafter the detenu sent a representation dated 20.09.2025 to the detaining authority (R-2); that thereafter, there was confirmation order *qua* impugned preventive detention order on 26.09.2025 (about which there is allusion *supra*); that assailing the impugned orders, captioned WP has been filed by spouse of detenu.

[5] In the hearing today, Mr. Ph. Sanajaoba learned counsel along with Mr. RK Kulajit Singh, learned counsel for writ petitioner, Mr. Y. Ashang, learned senior counsel instructed by Mr. Phungyo Zingkhai, learned State counsel for R-1 and R-2 and Mr. Boboy Potsangbam, learned Central Government Standing Counsel (CGSC) are before this Court.

[6] This Court, with the consent of the afore-referred counsel and senior counsel took up the main WP and heard out the same.

[7] Learned counsel for writ petitioner, notwithstanding myriad grounds raised in the captioned WP and notwithstanding other grounds which were projected in the hearings in the previous listings, in the hearing today, submitted that he would predicate his campaign against the impugned orders on one solitary ground and that the solitary ground on which learned counsel for

writ petitioner predicates his campaign against the impugned preventive detention order/impugned orders is, the impugned preventive detention order is vitiated as it records that there is possibility of detenu being released on bail without relying on any 'cogent material'.

[8] Before this Court proceeds further, it is deemed appropriate to make it clear that though learned counsel for writ petitioner used the expression 'cogent material', the same necessarily means 'material which are of rationally probative value'.

[9] Elaborating on the above arguments, learned counsel for writ petitioner drew our attention to paragraph 4 of the impugned preventive detention order made by the detaining authority, wherein it has been recorded as follows:

'... I am satisfied with the report submitted by the Superintendent of Police, Thoubal that there is high chance of Shri Abujam Hemchandra Singh @ Naoba @ Pandamba being released on bail and hence, an alternative preventive measure is immediately called for;...'

[10] Learned counsel for writ petitioner also drew our attention to paragraph 12 of the grounds of detention order and a portion of the same which reads as follows :

'... Further, there is also high chance of you obtaining bail and apprehension of continuing with such prejudicial activities...'

[11] Learned counsel for writ petitioner submitted that the afore-referred subjective satisfaction of detaining authority is not based on any material

of rationally probative value. It was also pointed out that rejection of the bail application of detenu *qua* 2nd FIR on 30.08.2025 was not placed before the detaining authority. To be noted, this point is not subjected to any disputation or contestation and the impugned orders also make it clear that this rejection of bail order dated 30.08.2025 was not before the detaining authority when the impugned preventive detention order was made on 05.09.2025. Learned counsel for writ petitioner, in support of his sole ground of challenge, pressed into service **T.V. Sravanan alias S.A.R. Prasana Venkatachaariar Chaturvedi vs. State through Secretary and another** reported in **(2006) 2 SCC 664** and **A. Shanthi (Smt) vs. Govt. of T.N. and others** reported in **(2006) 9 SCC 711** which were rendered by the same Hon'ble two Member Bench of the Supreme Court on 16.02.2006 and 12.05.2006 respectively. Relying on **T.V. Sravanan** and **A. Shanthi**, learned counsel for writ petitioner contended that detaining authority not relying on cogent material for arriving at subjective satisfaction as regards imminent possibility of detenu being enlarged on bail is fatal.

[12] In response to the afore-referred solitary ground on which writ petitioner's counsel predicated his campaign against impugned preventive detention order/impugned orders, Mr. Y. Ashang, learned senior counsel appearing on behalf of State counsel for R-1 and R-2, submitted that not recording subjective satisfaction regarding imminent possibility of being enlarged on bail will not vitiate a preventive detention order and in support of his

contention, he pressed into service a case law and that case law is **Union of India and another Vs. Dimple Happy Dhakad** reported in **(2019) 20 SCC 609**.

[13] Learned senior counsel relying on **Dimple Happy Dhakad**, submitted that Hon'ble Supreme Court, addressed itself to the question as to whether a preventive detention order can be quashed merely on the ground that the detaining authority has not expressly satisfied itself about imminent possibility of detenu being released on bail and answered the same in the negative. To put it differently, learned senior counsel contended that in a preventive detention order, if the detaining authority does not record that it has expressly satisfied itself about imminent possibility of detenu being enlarged on bail, the same will not be fatal *qua* impugned preventive detention order and this would not vitiate the impugned preventive detention order.

[14] As regards learned counsel for respondent No. 3, Mr. Boboy Potsangbam, learned CGSC, very fairly submitted that R-3 is only a formal party and he is concerned only with representation made to R-3 which in any event has been disposed of with promptitude.

[15] This Court now embarks upon the legal drill of considering the rival contentions made by learned counsel for parties before this Court.

[16] The entire matter hinges on imminent possibility of detenu being enlarged on bail and subjective satisfaction that has been recorded by detaining authority in this regard. In the case on hand, as would be evident from the

extracts in the impugned preventive detention order and the grounds of detention, *i.e.*, paragraph 4 and 12 respectively it is clear as daylight that detaining authority has recorded subjective satisfaction that there is 'high chance of detenu being released on bail'.

[17] At the outset, we find that that **T.V. Sravanan** and **A. Shanthi**, have not been considered in **Dimple Happy Dhakad**.

[18] This Court finds that **Dimple Happy Dhakad** is a case of detention under the COFEPOSA (Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974). This Court also finds that **Dimple Happy Dhakad** is distinguishable on facts *qua* the factual matrix of the case on hand. The reason is, in **Dimple Happy Dhakad**, the detaining authority has not recorded subjective satisfaction that there is imminent possibility of detenu being enlarged on bail, but in the case on hand, in complete contradistinction, the detaining authority has recorded subjective satisfaction that there is 'high chance of detenu being enlarged on bail'. Therefore, we are of the considered view that **Dimple Happy Dhakad** does not come to the aid of learned State counsel for R-1 and R-2 in his effort and endeavor to defend the impugned orders *qua* the ground on which the impugned preventive detention order is being assailed. Be that as it may, in **Dimple Happy Dhakad**, paragraph 11 and a portion of paragraph 46 are of relevance. Before we extract and reproduce the same, we make it clear that paragraph 11, more particularly sub-paragraph (ii) of paragraph 11 captures the question which the Hon'ble Supreme Court addressed

itself to and in paragraph 46, the question has been answered. Paragraph 11 in its entirety reads as follows:

'11. We have carefully considered the rival submissions and perused the impugned order and other materials on record. We have also carefully gone through the various judgments relied upon by both sides. The following points arise for consideration in these appeals:

- (i) Whether the orders of detention were vitiated on the ground that relied upon documents were not served along with the orders of detention and grounds of detention? Whether there was sufficient compliance of the provisions of Article 22(5) of the Constitution of India and Section 3(3) of the COFEPOSA Act?
- (ii) Whether the High Court was right in quashing the detention orders merely on the ground that the detaining authority has not expressly satisfied itself about the imminent possibility of the detenus being released on bail?

That portion of paragraph 46 in which the question which Hon'ble Supreme Court addressed itself to has been answered, reads as follows:

'46. The court must be conscious that the satisfaction of the detaining authority is "subjective" in nature and the court cannot substitute its opinion for the subjective satisfaction of the detaining authority and interfere with the order of detention. It does not mean that the subjective satisfaction of the detaining authority is immune from judicial reviewability. By various decisions, the Supreme Court has carved out areas within which the validity of subjective satisfaction can be tested...'

(Underlining made by this Court for ease of reference)

[19] A careful and respectful perusal of **Dimple Happy Dhakad** brings to light that Hon'ble Supreme Court, even in **Dimple Happy Dhakad** has made it clear that Supreme Court has carved out areas within which the validity of subjective satisfaction can be tested.

[20] This takes this Court to **Ameena Begum vs. State of Telangana and others** reported in **(2023) 9 SCC 587**.

[21] It was submitted by Mr. Y. Ashang, learned senior counsel that **Dimple Happy Dhakad** was not considered in **Ameena Begum**. Though it was argued by both sides that it is because the facts are different, we are of the considered view that the sequitur or in other words the proposition which emerges from **Dimple Happy Dhakad** not being considered in **Ameena Begum** is, both will hold the field. Law of precedence makes it clear that when two Co-ordinate Benches of equal strength make orders and the former order is not considered in the latter, both will operate. In this view of the matter, **Dimple Happy Dhakad** as well as **Ameena Begum** would hold the field. In the light of this proposition, as already alluded to *supra*, we find that **Dimple Happy Dhakad** is clearly distinguishable on facts about which there is allusion and elaboration *supra*. As regards a case law/precedent being distinguishable on facts, this Court respectfully reminds itself of the declaration of law made by a Constitution Bench of Hon'ble Supreme Court in **Padma Sundara Rao (Dead) and Others v. State of T.N and Other** reported in **(2002) 3 SCC 533**.

Padma Sundara Rao, on facts, was a case of land acquisition under Central Act, namely, Land Acquisition Act, 1894 and the question as to whether the State will get a fresh period for declaration after quashing of land acquisition proceedings arose. In this backdrop of facts, Hon'ble Supreme Court, *i.e.*, a Constitution Bench went into the question of the manner in which case laws, citations and precedents should be considered and made it clear that a ratio in a case law is rendered in the light of fact setting of that particular case and even minor differences in facts can make a world of difference. Hon'ble Supreme Court declared the law in this regard by placing reliance on the celebrated **Lord Morris in Herrington v. British Railway** reported in **(1972) AC 877 (HL)**, relevant paragraph in **Padma Sundara Rao** is paragraph 9 and the same reads as follows:

'9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington Vs. British Railways Board. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.'

As regards **Padma Sundara Rao**, this Court respectfully refers to the same as 'declaration of law' rather than 'ratio' as **Padma Sundara Rao** has been rendered by a Constitution Bench. Applying **Padma Sundara Rao** principle and testing the factual matrix of case in hand *qua* **Dimple Happy Dhakad**

principle, we have no hesitation in coming to the conclusion that the case on hand is clearly factually distinguishable *qua* **Dimple Happy Dhakad** as in **Dimple Happy Dhakad** which was a case of preventive detention under COFEPOSA (Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974) the detaining authority has not recorded subjective satisfaction regarding imminent possibility of detenu being enlarged on bail whereas in the instant case, detaining authority has recorded subjective satisfaction and written that there is high chance of detenu being released on bail/obtaining bail and this subjective satisfaction is being tested on whether it is grounded on material which are of rationally probative value.

[22] Reverting to **Ameena Begum**, as already alluded to in **Dimple Happy Dhakad** itself, Hon'ble Supreme Court has made it clear that it has carved out areas within which validity of subjective satisfaction can be tested. In **Ameena Begum**, it was made clear that subjective satisfaction of detaining authority is not wholly immune *qua* judicial reviewability and justiciability of subjective satisfaction has been held permissible in limited areas and on illustrative list of areas carved out are as follows:

- a) When the detaining authority has not applied its mind at all;
- b) When there is a dishonest exercise of power by detaining authority;
- c) Exercise of power of detaining authority for improper purpose;
- d) Detaining authority acting under dictation of another body;

- e) When the subjective satisfaction recorded by detaining authority is based on application of a wrong test or misconception of a statute;
- f) When the detaining authority has arrived at and recorded subjective satisfaction without the same being grounded on material which are of rationally probative value.

(underlining made by this Court for ease of reference)

[23] The law that emerges is, subjective satisfaction recorded by a detaining authority in a preventive detention order is justiciable albeit to a very limited extent and on areas carved out, an illustrative adumbration of which has been set out *supra*, to be noted, this Court has recorded illustrative adumbration *supra* by respectfully following **Ameena Begum**.

[24] Reverting to the case on hand, as already alluded to *supra*, the bail rejection order dated 30.08.2025 was not placed before the detaining authority at all. There was no bail application pending on 05.09.2025 when the detaining authority made the impugned preventive detention order. In this backdrop, without any material of rationally probative value, the detaining authority appears to have recorded subjective satisfaction that there is high chance of detenu being released on bail, in paragraph 4 of impugned preventive detention order and paragraph 12 of the grounds of detention. Therefore, respectfully applying **Ameena Begum** principle *qua* justiciability of impugned preventive detention order, this Court finds that subjective satisfaction recorded by detaining authority

as regards the imminent possibility of detenu being enlarged on bail is clearly flawed, it suffers from vice of non-application of mind and it is certainly not based on any material much less material of rationally probative value which has been described as 'cogent material' by learned counsel for writ petitioner.

[25] Before concluding, this Court deems it appropriate to record that the obtaining factual position is, detenu has been granted default bail in both the FIRs by the court concerned as Final Report has not been filed by the State within the prescribed time limit. However, learned senior counsel appearing on behalf of State counsel for R-1 & R-2, submitted that an application for extension of period of remand and extension of time for filing Final Report has been filed but much after 90 days elapsed and after default bail applications were filed and in any event, default bail had been granted. We make it clear that this is not the ground on which we are testing the habeas corpus legal drill and this is not the ground on which we are dislodging the impugned orders. On the contrary this has been recorded only for the sake of capturing complete facts and for a comprehensively capturing of the trajectory the matter has taken. We also deem it appropriate to add that all other proceedings in the Trial Court will continue on its own merits and in accordance with law untrammelled by the instant order which has been made for the limited purpose of testing the impugned preventive detention order/impugned orders.

[26] In the light of the narrative, discussion and dispositive reasoning set out supra, by respectfully following the law laid down by Hon'ble Supreme

Court, this Court comes to the conclusion that the impugned orders deserve to be dislodged in the instant habeas corpus legal drill.

[27] Ergo, sequitur is, captioned writ petition is allowed. Impugned preventive detention order dated 05.09.2025 bearing Reference No. Cril. NSA Case No. 13 of 2025, made by R-2 (District Magistrate, Thoubal, Manipur), approval of the same by R-1{Commissioner (Home) Government of Manipur} vide order dated 11.09.2025 bearing Reference No. H-1401/22/2025-HD-HD followed by Confirmation order dated 26.09.2025 bearing Reference No. H-1401/22/2025-HD-HD made by R-1 are set aside and the detenu, Shri Abujam Hemchandra Singh @ Naoba @ Pandamba, aged about 35 years, S/o A. Sudam Singh of Heirok Part-III, Kabo Leikai, PO Wangjing, PS Heirok, District Thoubal, now lodged in Manipur Central Jail, Sajiwa, 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 remain bound by this order as uploaded in the official website of High Court