

REPORTABLE

Sl. No. 1

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

W.P. (Crl.) No. 8 of 2026

Shri Wahengbam Bimal Meitei @ Luwang @ Mani, aged about 26 years, S/o W. Anilkumar Singh, resident of Thangmeiband Lourung Purel Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

.....Petitioner

Vs.

1. The District Magistrate, Imphal West District, DC Complex, Lamphel, P.O & P.S. Lamphel, District: Imphal West, Manipur-795001.
2. The Commissioner/ Secretary (Home), Govt. of Manipur, Manipur Secretariat, North Block, P.O. & P.S. Imphal, District Imphal West, Manipur - 795001.
3. The Union of India represented by Secretary (Home) Govt. of India, Ministry of Home Affairs, North Block, New Delhi-110001.
4. The Superintendent, Manipur Central Jail, Sajiwa, P.O. Lamlong, P.S. Porompat, District: Imphal East, Manipur-795114.

.....Respondents

BEFORE

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

For petitioner	Mr. L. Shashibhushan, Senior Advocate, instructed by Mr. Md. Fakharuddin, Advocate
For respondents	Mr. Phungyo Zingkhai, Deputy Government Advocate for respondent Nos. 1, 2 & 4 Mr. W. Darakeshwar, Senior Panel Counsel for Central Government (Sr. PCCG) for respondent No. 3
Date of Judgment & Order	05.05.2026

JUDGMENT AND ORDER
(ORAL)

(M. Sundar, CJ)

[1] The following abbreviations/short forms are used in this order:

Sl. No.	Abbreviation/Short Form	Full Form/Expansion
1.	W.P. (C) No.	Writ Petition
2.	R-1, R-2, R-3, R-4	1 st respondent, 2 nd respondent, 3 rd respondent, 4 th respondent respectively
3.	Detaining Authority	District Magistrate, Imphal West District (R-1)
4.	NSA	National Security Act, 1980 (65 of 1980)
5.	FIR	First Information Report
6.	UAPA	Unlawful Activities (Prevention) Act, 1967 (37 of 1967)
7.	Arms Act	Arms Act, 1959 (54 of 1959)
8.	Sponsoring Authority	Superintendent of Police, Imphal West District, Manipur
9.	COFEPOSA	Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974)

[2] Captioned WP has been filed seeking issue of a writ of habeas corpus, assailing a preventive detention order dated 20.02.2026 bearing Reference No. CrI. NSA/No.1 of 2026 made by R-1/detaining authority, an order dated 02.03.2026 bearing Reference No. H-14/1/2026-HD-HD made by R-2 approving the impugned preventive detention order and an order dated 16.03.2026 bearing Reference No. H-14/1/2026-HD-

HD whereby R-2 confirmed the impugned preventive detention order. To put it differently, impugned preventive detention order made by R-1 being order dated 20.02.2026 bearing Reference No. CrI. NSA/No.1 of 2026 in exercise of powers under Section 3(3) of NSA, approval of the same by R-2 under Section 3(4) of NSA *vide* order dated 02.03.2026 bearing Reference No. H-14/1/2026-HD-HD and confirmation order by R-2 under Section 12(1) of NSA being order dated 16.03.2026 bearing Reference No. H-14/1/2026-HD-HD stand assailed.

[3] Factual matrix in a nutshell, i.e., short facts, shorn off elaboration being facts which are imperative for appreciating instant order are that an FIR dated 21.01.2024 bearing FIR No 11(1)2025 on the file of City Police Station, Imphal West District for alleged offences under section 20/16 of UAPA was lodged *qua* writ petitioner; that 'writ petitioner' who shall also be referred to as 'detenu' was not arrested pursuant to this FIR which shall be referred to as '1st FIR' for the sake of clarity and convenience; that thereafter, he was arrested on 05.05.2025 pursuant to another FIR of even date, i.e., FIR dated 05.05.2025 bearing FIR No. 36(05)2025 on the file of Heingang Police Station, Imphal East District for alleged offences under Section 17/20 of UAPA and 25 (1-B) of Arms Act; that this '05.05.2025 FIR' shall be referred to as '2nd FIR' for the sake of convenience and clarity; that writ petitioner sought bail and the Trial Court granted bail on 04.08.2025; that thereafter, writ petitioner was arrested again on 08.01.2026 *vide* yet another FIR being FIR dated 09.01.2026

bearing FIR No. 09(01)2026 on the file of Lamphel Police Station, Imphal West District for alleged offences under Section 17/20 of UAPA; that this '09.01.2026 FIR' shall be referred to as '3rd FIR' for the sake of clarity and convenience; that when detenu remained incarcerated from 08.01.2026, he filed a bail application dated 15.02.2026; that when the bail application was pending, the sponsoring authority wrote a letter dated 20.02.2026 to R-1 recommending preventive detention of detenu under NSA enclosing certain documents (to be noted, 'Superintendent of Police, Imphal West District, Manipur' is the 'sponsoring authority' and the same has been set out in the tabulation supra; that pursuant to such letter from the sponsoring authority, the detaining authority (R-1) made the impugned preventive detention order, which, as already alluded to supra, was approved by the Government under Section 3(4) of NSA *vide* an order dated 02.03.2026 and confirmed by the Government under Section 12(1) of NSA *vide* another order dated 16.03.2026; that grounds of detention dated 23.02.2026 was prepared by the detaining authority; that this grounds of detention was served on the detenu on 24.02.2026; that thereafter, the detenu withdrew the bail application filed by him on 15.02.2026 *qua* 3rd FIR and such withdrawal (not pressed) was on 10.03.2026; that thereafter, R-3 sent a communication dated 11.03.2026 to detaining authority making it clear that the detaining authority has an obligation to inform the detenu about detenu's right to make a representation to the Central Government; that pursuant to such letter dated 11.03.2026 from the Central Government (Ministry of Home Affairs

– ‘MHA’ for the sake of brevity); that the detaining authority, acting on this letter from MHA, sent a communication to the detenu, being communication dated 12.03.2026 informing the detenu of his right to make a representation to the Central Government; that the bail application *qua* 1st FIR was also not pressed by detenu on 17.03.2026; that 90 days from the date of arrest (arrested on 08.01.2026) elapsed on 09.04.2026; that admittedly final report/charge sheet has not been filed by the investigation/prosecution; that the prosecution has neither filed final report/charge sheet nor filed an application under Section 43D(2) of UAPA seeking extension of remand and extension of time for filing charge sheet; that therefore, the detenu is clearly entitled to seek default bail; that under such circumstances, captioned WP filed in this Court on 12.03.2026 came up for hearing; that notice was issued to respondents; that R-1 (detaining authority) filed an affidavit-in-opposition dated 07.04.2026 (adopted by R-2 and R-4); that R-3 {Union of India, represented by Secretary (Home) Government of India, Ministry of Home Affairs} filed a separate affidavit-in-opposition dated 23.03.2026;

[4] Mr. L. Shashibhushan, learned senior counsel instructed by Mr. Md. Fakharuddin, learned counsel on record for writ petitioner, Mr. Phungyo Zingkhai, learned State counsel for respondent Nos. 1, 2 & 4 and Mr. W. Darakeshwar, learned Senior Panel Counsel for Central Government (Sr. PCCG) for respondent No. 3 are before this Court (physical Court).

[5] Mr. Phungyo Zingkhai, learned State counsel submitted that the affidavit-in-opposition dated 07.04.2026 filed by R-1 is adopted by R-2 and R-4 and therefore, the same shall be construed and treated as affidavit-in-opposition filed by R-2 and R-4 too. This submission is recorded. This also means that pleadings are complete.

[6] Notwithstanding very many grounds, i.e., myriad grounds in the affidavit in support of the captioned WP, Mr. L. Shashibhushan, learned senior counsel predicated his campaign against the impugned preventive detention order, approval and confirmation of the same on 2 (two) points and the 2 (two) points are as follows:

- (i) in the grounds of detention dated 23.02.2026, served on the detenu on 24.02.2026, the detaining authority has not informed the detenu of his right to make a representation to the detaining authority though detaining authority continued to have the power to revoke or modify the detention order for at least twelve days *vide* Section 14 of NSA. This is infraction of detenu's sanctus rights *qua* Article 22(5) is his say;
- (ii) in the grounds of detention, served on the detenu on 24.02.2026 the detaining authority had not informed the detenu that he has a right to make a representation to Central Government and this was done belatedly/later on 12.03.2026 (after being put

on the wise by MHA) and this clearly is yet another infraction of Article 22(5) of the Constitution as the detenu has a right to make a representation to the Central Government also, owing to the language in which Section 14(1)(a) of NSA is couched and detaining authority has an obligation to inform detenu about such right at the earliest.

[7] We shall now consider the afore-referred 2(two) points on which writ petitioner predicated his campaign against the impugned preventive detention order, one after the other in the order in which it has been set out supra.

[8] As regards the first point, Mr. L. Shashibhushan, learned senior counsel drew our attention to the concluding paragraph of the grounds of detention and the same reads as follows:

'You have the right to make a representation to the Government of Manipur (through the Commissioner/Secretary, Home Department) and also to the Advisory Board constituted under the National Security Act, 1980, against the Detention Order. If you wish to make such a representation, the same may be addressed to the undersigned (who will forward it to the appropriate authorities) or directly to the aforementioned authorities. Any representation received from you will receive the earnest consideration of the Government and the Advisory Board.'

Adverting to the afore-referred concluding paragraph of the grounds of detention, learned senior counsel submitted that the detaining authority has informed the detenu of his right to make a representation to

the State Government and the Advisory Board but has not mentioned anything about the right of the detenu to make a representation to the detaining authority and the Central Government. Elaborating on this, Mr. L. Shashibhushan, learned senior counsel submitted that this point has been clearly articulated by writ petitioner in paragraph 9 of writ affidavit besides grounds A & B *vide* paragraph 12 of writ affidavit which is an adumbration of grounds of challenge. To be noted, paragraph 9 of writ affidavit and grounds A & B alluded to supra read as follows:

Paragraph 9 of writ affidavit

'9. That, a perusal of the grounds of detention dated 23/02/2026 as in Annexure A/2 to this petition will reveal that even though the petitioner has been informed of his right to make a representation to the Respondent No. 2 through the Commissioner/Secretary, Home Department and also to the Advisory Board constituted under the NSA, 1980 against the detention order in Annexure A/1 to the petition through the Respondent No. 1 or directly to the aforementioned authorities, the Respondent No. 1 has not informed the petitioner that he has a right to file representation to the Respondent No. 1 within 12 days from the date of order of detention dated 20/02/2026 as in Annexure A/1 to the petition or approval of the aforesaid order of detention by the Respondent No. 1 against the order of detention.

Further the Respondent No. 1 has not informed the petitioner that he also has a right to make a representation to the Respondent No. 3 against the order of detention dated 20/02/2026 as in Annexure - A/1 to the petition nor the authority to whom it is to be addressed to.'

Grounds A & B (paragraph 12 of writ affidavit)

'A) For that, the order of detention dated 20/02/2026 as in Annexure - A/1 to the petition and its consequential order of

approval dated 02/03/2026 as in Annexure A/3 to the petition is liable to be set aside in as much as the Respondent No. 1 has failed to inform the petitioner about his right to make a representation to him against the order of detention dated 20/02/2026 as in Annexure A/1 to the petition within 12 days from the date of issue of the order of his detention or till its approval by the Respondent No. 2 whichever is earlier.

B) For that, the order of detention dated 20/02/2026 as in Annexure - A/1 to the petition and its consequential order of approval dated 02/03/2026 in Annexure A/3 to the petition is liable to be set aside in as much as the Respondent No. 1 has failed to inform the petitioner that he has right to make a representation to the Respondent No. 3 against the order of detention dated 20/02/2026 as in Annexure - A/1 to the petition'

[9] Ms. L. Shashibhushan, learned senior counsel submitted that though the afore-referred first point has been clearly articulated with specificity in the writ affidavit, in the affidavit-in-opposition, all that the detaining authority and R2 and R4 who have adopted the affidavit-in-opposition of detaining authority have said is that the right to make a representation to the detaining authority is implicit in the right to make a representation to the appropriate Government and detaining authority acts as a conduit for the same. To be noted, relevant paragraph in this regard is sub-paragraph (a) of paragraph 9 of affidavit-in-opposition of R-1 and the same reads as follows:

'9.

a) The Grounds of Detention was served on 24-02-2026 (Annexure-A/2) clearly and unambiguously informed the petitioner of his right to make a representation to the State Government (through the Commissioner/ Secretary, Home

Department) and to the Advisory Board. The right to make a representation to the detaining authority is implicit in the right to make a representation to the "appropriate government," and the detaining authority acts as the conduit for the same. The grounds stated: "If you wish to make such a representation, the same may be addressed to the undersigned (who will forward it to the appropriate authorities)..." This clearly indicates that a representation sent to the District Magistrate would be forwarded. Therefore, the petitioner was not precluded from making a representation. Despite the detenu failed to made any representation to the authority.'

(Underlining made by this Court for ease of reference)

Mr. Phungyo Zingkhai, learned State counsel, relying on the afore-referred sub-paragraph (a) of paragraph 9 of the affidavit-in-opposition, drew our attention to paragraph 12 of the affidavit-in-opposition where the grounds have been responded to, one after the other and as regards ground A which deals with first point, the response of R-1 is as follows:

'A. The deponent denied the allegations made therein. It is humbly submitted that the Grounds of Detention served on 24-02-2026 clearly informed the detenu of his right to make a representation to the Government of Manipur [through the Commissioner/ Secretary (Home Department)] and also the Advisory Board. If you wish to make such a representation the same may be addressed to the undersigned (who will forward it to the appropriate authorities) or directly to the aforementioned authorities.'

[10] Mr. Phungyo Zingkhai, learned State counsel submits that *vide* Section 8(1) of NSA, when the grounds of detention are served on

the detenu, it talks only about affording an earliest opportunity of making a representation against the order of the appropriate Government. Learned State counsel submitted that 'appropriate Government' is a term of art, i.e., defined term and the same has been defined *vide* Section 2(1)(a) of NSA. Learned State counsel, adverting to Section 2(1)(a) of NSA submitted that appropriate Government in the case at hand is R-2, i.e., State Government. It is the case of learned State counsel that there is a clear mention in the grounds of detention that the detenu has a right to make a representation to the State Government and therefore Section 8(1) of NSA stands satisfied.

[11] In the light of the rival submissions set out *supra*, we respectfully refer to **Kamleshkumar** case being **Kamleshkumar Ishwardas Patel vs. Union of India and others** reported in **(1995) 4 SCC 51** which was pressed into service by Mr. L. Shashibhushan, learned senior counsel. **Kamleshkumar**, on facts is one which arose under COFEPOSA and **Kamleshkumar** is an authority/case law for the principle that the right of a detenu to make a representation *vide* Article 22(5) of the Constitution carries with it a corresponding obligation on the authority making the order of detention to inform the detenu of his right to make a representation against the order of detention to the authorities who are required to consider such a representation. Learned senior counsel submitted that the authorities who are required to consider the representation include the detaining authority and the Central

Government. In this regard, Mr. L. Shashibhushan, learned senior counsel relied on Section 14 of NSA which provides for the powers of the detaining authority to revoke or modify the preventive detention order at least for a period of 12 (twelve) days until it is approved by the State Government. To be noted, in the case on hand, impugned preventive detention order was made on 20.02.2026, 12 (twelve) days elapsed only on 02.03.2026 and the grounds of detention was served on the detenu on 24.02.2026. We respectfully follow **Kamleshkumar** declaration of law. Before proceeding further, we deem it appropriate to make it clear that we are referring to **Kamleshkumar** principle as declaration of law rather than ratio as **Kamleshkumar** was rendered by a Constitution Bench of the Hon'ble Supreme Court. Relevant paragraph in **Kamleshkumar** is paragraph 14 and the same reads as follows:

'14. Article 22(5) must, therefore, be construed to mean that the person detained has a right to make a representation against the order of detention which can be made not only to the Advisory Board but also to the detaining authority, i.e., the authority that has made the order of detention or the order for continuance of such detention, which is competent to give immediate relief by revoking the said order as well as to any other authority which is competent under law to revoke the order for detention and thereby give relief to the person detained. The right to make a representation carries within it a corresponding obligation on the authority making the order of detention to inform the person detained of his right to make a representation against the order of detention to the authorities who are required to consider such a representation.'

We respectfully advert to paragraph 38 also *qua* **Kamleshkumar** wherein Hon'ble Supreme Court made it clear that the right to make a representation necessarily implies that the person detained must be informed of his right to make a representation to the authority that has made the order of detention at the time when he is served with the grounds of detention so as to enable him to make such a representation and the failure to do so results in denial of the right to make representation *qua* a detenu. To be noted, paragraph 38 in **Kamleshkumar** reads as follows:

'38. Having regard to the provisions of Article 22(5) of the Constitution and the provisions of the COFEPOSA Act and the PIT NDPS Act the question posed is thus answered: Where the detention order has been made under Section 3 of the COFEPOSA Act and the PIT NDPS Act by an officer specially empowered for that purpose either by the Central Government or the State Government the person detained has a right to make a representation to the said officer and the said officer is obliged to consider the said representation and the failure on his part to do so results in denial of the right conferred on the person detained to make a representation against the order of detention. This right of the detenu is in addition to his right to make the representation to the State Government and the Central Government where the detention order has been made by an officer specially authorised by a State Government and to the Central Government where the detention order has been made by an officer specially empowered by the Central Government, and to have the same duly considered. This right to make a representation necessarily implies that the person detained must be informed of his right to make a

representation to the authority that has made the order of detention at the time when he is served with the grounds of detention so as to enable him to make such a representation and the failure to do so results in denial of the right of the person detained to make a representation.'

(Underlining made by this Court for ease of reference)

[12] In the case at hand, as already alluded to supra, the grounds of detention dated 23.02.2026 was served on the detenu on 24.02.2026 and therefore, if **Kamleshkumar** declaration of law is applied to the factual matrix of instant case, the detenu ought to have been informed on 24.02.2026 about his right to make a representation to the detaining authority. The fact remains that the detenu was not so informed. To be noted, there is no dispute on facts on this aspect of the matter. As already alluded to supra, without disputing that the detenu was not informed about his right to make a representation to the detaining authority, State has only contended that the right to make a representation to the appropriate Government, i.e., the State Government is one where the right to make a representation to the detaining authority is implicit. There has been elaboration about this supra elsewhere in this order.

[13] Be that as it may, Mr. L. Shashibhushan, learned senior counsel instructed by Mr. Md. Fakharuddin, learned counsel for writ petitioner, pressed into service another judgment viz., **Santosh Shankar Acharya** case being **State of Maharashtra and others** vs. **Santosh Shankar Acharya** reported in **(2000) 7 SCC 463**. This **Santosh**

Shankar Acharya case arose under 'Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders and Dangerous Persons Act, 1981 (55 of 1981)' {'Maharashtra Preventive Detention Act', for the sake of convenience}. In this case, the scope of Article 22(5) as regards non-communication of the right to make representation to detenu was examined and Hon'ble Supreme Court held in unequivocal terms that the detenu will have a right to make a representation to the detaining authority so long as the order of detention has not been approved by the State Government and consequently, non-communication of the fact to detenu that he has a right to make a representation to the detaining authority would constitute an infraction of valuable constitutional right guaranteed to the detenu under Article 22(5) of the Constitution and Hon'ble Supreme Court has made it clear that such failure on the part of the State would render the order of detention invalid. To be noted, this principle has been set out by Hon'ble Supreme Court in paragraph 6 of **Santosh Shankar Acharya** case and this Court refrains from reproducing paragraph 6 as what is of significance is the question as to whether principles pertaining to Article 22(5) laid down pertaining to COFEPOSA and other Preventive Detention Acts would apply to NSA was considered by a Hon'ble Five Member larger Bench of the Gauhati High Court in **Konsam Brojen Singh** case being **Konsam Brojen Singh @ Basan @ Sekhar @ Suraj @ Sainthel @ Basanta @ Inaotomba Vs. State of Manipur & Ors** reported in **2006 (1) GLT 375 (FB)**. The Five

Member Bench addressed itself to two neat questions the same have been captured in paragraph 18 thereat and it reads as follows :

'18.

- (i) *Whether right of the detenu under National Security Act guaranteed under Article 22(5) of the Constitution of India has conferred on him the right to file representation to the detaining authority in addition to his right to file representation under Section 8(1) of the National Security Act to the appropriate Government?*
- (ii) *If so, whether failure of the detaining authority and the appropriate Government to inform the detainee of such right shall vitiate the detention order under National Security Act?*

The Five Member Hon'ble Bench answered the question in unequivocal terms *vide* paragraph 57 of the same which reads as follows:

'57. *For all the aforesaid reasons, we hold:*

(1) *That a detenu has two rights under Article 22(5) of the Constitution:*

- (i) *To be informed, as soon as may be, the grounds on which the order of detention is passed, i.e., the grounds which led to the subjective satisfaction of the detaining authority, and*
 - (ii) *to be afforded the earliest opportunity of making a representation against the order of detention. The twin rights are available to a detenu whether they are provided for or not in the preventive detention laws.*
- (2) *The right to make representation to the detaining authority by a detainee in addition to his right to file representation to the Central Government or appropriate Government is also guaranteed under*

Article 22(5) of the Constitution which forms part of package of guaranteed fundamental right. No distinction as such could be made in this regard in respect of the detention orders made either under COFEPOSA, PIT NDPS or National Security Act, 1980, as the case may be.

(3). The detaining authority is under the constitutional obligation to inform the detenu of his right to make such a representation to the detaining authority;

(4) The failure to inform the detenu of such right to make representation to the detaining authority vitiates the detention order made even under the provisions of the National Security, 1980

(Underlining made by this Court for ease of reference)

[14] In the light of **Konsam Brojen Singh** case, we respectfully apply the **Kamleshkumar** declaration of law which was rendered under COFEPOSA to instant case and find that the impugned preventive detention order is clearly vitiated and is liable to be dislodged owing to non-communication of the detenu of his right to make a representation to the detaining authority when the grounds of detention dated 23.02.2026 was served on the detenu on 24.02.2026. Therefore, we adopt **Konsam Brojen Singh** principle, respectfully follow and apply **Kamleshkumar** declaration of law and come to the conclusion that argument of learned State counsel predicated on Section 8(1) of NSA is floored.

[15] This takes this Court to the second point which turns on the detaining authority not having informed the detenu about his right to make a representation to the Central Government. The reason as to why Central

Government is one of the entities which should consider a representation is owing to Section 14 of NSA about which there is allusion and elaboration elsewhere supra in this order. As regards non-communication to detenu about his right to make a representation to Central Government also, there is no dispute that the grounds of detention does not mention about detenu's right to make a representation to Central Government. All that the State contends is the Central Government *vide* letter dated 11.03.2026 informed the State Government that the detaining authority has to inform the detenu about his right to make a representation to the Central Government and pursuant to this letter, on 12.03.2026, the detenu was informed about his right to make a representation to the Central Government. In this regard, we revert to the declaration of law made in **Kamleshkumar**. In **Kamleshkumar**, Hon'ble Supreme Court made it clear that Article 22(5) imposes a dual obligation on the detaining authority. While one obligation is to communicate to the detenu the grounds as soon as the same is made, the second obligation is to afford the person detained 'earliest opportunity' of making a representation against the order of detention. In this case, the detention order was made on 20.02.2026, grounds were drawn up on 23.02.2026 and served on the detenu on 24.02.2026 but the detenu was admittedly informed about his right to make a representation to the Central Government only on 12.03.2026 that too after the Central Government alerted the State Government/R-1 that R-1 has a duty to inform the detenu that he has a right to make a representation to the Central Government. Therefore, the

detenu has been deprived of 'earliest opportunity' which Hon'ble Constitution Bench in **Kamleshkumar** has held to be a principle enshrined in Article 22(5). We respectfully follow **Kamleshkumar** and hold that the second obligation of the State has not been discharged in the case at hand, this vitiates the impugned preventive detention order and the impugned preventive detention order is liable to be dislodged on this ground also.

[16] This Court also respectfully follows the principle in **Jaseela Shaji** case being **Jaseela Shaji vs. Union of India and others** reported in **(2024) 9 SCC 53**. In **Jaseela Shaji** case also, Hon'ble Supreme Court reiterated the twofold obligation on the detaining authority vide Article 22(5), i.e., the obligation to communicate the grounds as early as possible and also afford earliest opportunity to the detenu for making a representation. **Jaseela Shaji** case also arises under the COFEPOSA. Relevant paragraph in **Jaseela Shaji** is paragraph 24 and the same reads as follows:

' 24. It can thus be seen that this Court in M. Ahamedkutty, in unequivocal terms, has held that the constitutional requirements under Article 22(5) of the Constitution of India are twofold viz.: (1) the detaining authority must, as soon as practicable, after the detention communicate to the detenu the grounds on which the order of detention has been made, and (2) the detaining authority must afford the detenu the earliest opportunity of making the representation against the order of detention. It has further been held that the right is to make an effective representation and when some documents are

referred to or relied on in the grounds of detention, without copies of such documents, the grounds of detention would not be complete. In unequivocal terms, it has been held that the detenu has the right to be furnished with the grounds of detention along with the documents so referred to or relied on. It has been held that failure or even delay in furnishing those documents would amount to denial of the right to make an effective representation.'

[17] Before concluding, we deem it appropriate, for the sake of completion of facts to record that it would be evident from earlier proceedings made in the earlier listings in the captioned case that the question of non-application of mind *qua* the detaining authority arose as regards the notification of Central Government dated 13.11.2023 notifying certain associations as 'unlawful associations'. This notification was placed before the detaining authority and one of the grounds is that the detenu is a member of one of the associations declared as 'unlawful association'. This notification makes it clear that it has been made in exercise of powers *vide* proviso to Section 3(3) of UAPA and it is subject to Section 4 which talks about confirmation by a Tribunal within 6 (six) months. This notification dated 13.11.2023 under Section 3(3) of UAPA was placed before the detaining authority on 20.02.2026 under cover of a letter from the sponsoring authority. The enclosures to this letter do not disclose that order of Tribunal or confirmation has been placed before the detaining authority. Absent confirmation of Tribunal *vide* Section 4 of UAPA, the notification will have no force. The question as to whether the detaining authority applied his mind in ascertaining whether the notification has

been confirmed by the Tribunal arose as there is no material in this regard. As Mr. L. Shashibhushan, learned senior counsel very fairly submitted that he is predicating his campaign against the impugned preventive detention order only on the afore-referred 2(two) points, we refrain from embarking upon a legal drill on this point but we make it clear that this point is left open for being decided in a legal tussle in any other case if it comes up in the days to come.

[18] In the light of the narrative, discussion and the dispositive reasoning set out thus far, this Court has no hesitation in coming to the conclusion that the impugned preventive detention order made by R-1 as well as approval and confirmation of the same by R-2 deserve to be dislodged as both grounds urged by Mr. L. Shashibhushan learned senior counsel instructed by Mr. Md. Fakharuddin, learned counsel on record for writ petitioner find favour with us.

[19] Before writing the operative portion of this order, this Court deems it appropriate to highlight that (as set out in factual matrix supra) though the detenu was arrested on 08.01.2026 and 90 days therefrom elapsed on 09.04.2026, admittedly, the investigation/prosecution has neither filed final report/charge sheet nor filed an application under Section 43D(2) of UAPA seeking extension of remand/extension of time for filing charge sheet. This means that the detenu is clearly entitled to seek default bail. To be noted, though obvious, this Court makes it clear that this is not

a point on which the captioned WP is being allowed but it is a significant obtaining fact which cannot be lost sight of.

[20] Ergo, the sequitur is, captioned WP is allowed, the impugned preventive detention order dated 20.02.2026 bearing Reference No. Crl. NSA/No.1 of 2026 made by R-1, approval Order dated 02.03.2026 bearing Reference No. H-14/1/2026-HD-HD made by R-2 and confirmation order dated 16.03.2026 bearing Reference No. H-14/1/2026-HD-HD made by R-2 are set aside and the detenu, Wahengbam Bimal Meitei @ Luwang @ Mani, son of W. Anilkumar Singh, aged about 26 years now detained in Manipur Central Jail Sajiwa, PO Lamlong, PS Porompat, District Imphal East, Manipur is directed to be set at liberty forthwith, if not required in connection with any other case. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

FR/NFR

Sushil/Sandeep

P.S. I : Upload forthwith

P.S. II : All concerned will stand bound by web copy uploaded in High Court website inter alia as the same is QR coded.