

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.126 OF 2022

JOAO ANTONIO LOPES

son of Jeronimo Lopes
aged 48 years, Indian National,
presently under preventive detention and
permanent r/o H.No.23, Maddo Waddo
Calangute Bardez-Goa

...Petitioner

Versus

1. State of Goa,
through the Secretary (Home),
Secretariat, Porvorim-Goa
2. Superintendent of Police,
Anti Narcotice Cell,
PHQ, Panaji-Goa
3. Police Inspector.
Anti Narcotice Cell,
Panaji-Goa
4. Advisory Board
Constituted under the PIT
NDPS Act, 1958
Panaji Goa

...Respondents

Mr Vibhav Amokar, Advocate for the Petitioner.

Mr S. G. Bhobe, Public Prosecutor *for the Respondents.*

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATE: 20 December 2022

ORAL JUDGMENT: *(Per. Bharat P. Deshpande, J.)*

Heard Mr Vibhav Amonkar, learned counsel for the petitioner and Mr S. G. Bhobe, learned Public Prosecutor for the State.

2. Rule. The Rule is made returnable immediately with the consent and at the request of learned counsel for the parties.

3. The issues raised in this petition are substantially covered by our judgment and order just dictated today in Criminal Writ Petition No.125 of 2022.

4. The detention orders in both the petitions are virtually identical. Till date even the petitioner has not been communicated the grounds of detention though, based upon the impugned order,

the petitioner did make representation. In the absence of communication of grounds, we agree with Mr Amonkar that such representation can hardly be regarded as an effective representation. To that extent, there is a breach of the constitutional mandate under Article 22(5) read with Section 3(3) of the Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 ('said Act').

5. The non-communication of the grounds of detention for almost over 3 months from the date of detention is itself a breach of the constitutional mandate under Article 22(5) read with Section 3(3) of the said Act.

6. Therefore, by adopting the reasonings in the judgment and order we made in Criminal Writ Petition No.125 of 2022, we set aside the impugned detention order and issue a writ of habeas corpus to set the petitioner at liberty forthwith unless his detention is ordered in any other matter.

7. The Rule is made absolute in above terms with no other order for costs.

8. Registry to process the issuance of the writ with utmost despatch.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J

MARIA SUZANA
REBELLO

Digitally signed by MARIA
SUZANA REBELLO
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