



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

**WP(Crl.) No. 17 of 2026**

Md. Abdul Hakim, aged about 36 years, S/o Md. Abdul Khalique of Kyamgei Mayai Leikai, Irilbung P.S. Imphal East District, Manipur – 795003.

***..... Petitioner***

***-Versus-***

1. District Magistrate, Imphal East, Manipur, Porompat – 795005.
2. State of Manipur represented by Chief Secretary, Government of Manipur, South Block, Mantripukhri Imphal, Manipur – 795002.
3. The Superintendent of Manipur Central Jail, Sajiwa, Imphal East – 795010.
4. Union of India represented by (Secretary Home Affairs) Department of Internal Security North Block, New Delhi – 110001.

***..... Respondents***

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

|                                |                                                                                   |
|--------------------------------|-----------------------------------------------------------------------------------|
| For Petitioner                 | Mr. Ch. Ngongo, senior advocate instructed by Ms. S. Gangarani, counsel on record |
| For respondent Nos. 1, 2 and 3 | Mr. Phungyo Zingkhai, State Counsel.                                              |
| For respondent No. 3           | Mr. W. Darakeshwar, Sr. PCCG (Senior Panel Counsel for Central Government)        |
| Date of Judgment and Order     | <b>16.09.2026</b>                                                                 |

**JUDGMENT AND ORDER**  
**(ORAL)**

***[M. Sundar, CJ]***

[1] The following abbreviations/short forms are used in this order for the sake of brevity/convenience and clarity:

| <b>Sl. No.</b> | <b>Abbreviations/ Short Forms</b>   | <b>Full Form/Expansion</b>                                                                                                                        |
|----------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.             | WP                                  | Writ Petition                                                                                                                                     |
| 2.             | WPs                                 | Writ Petitions                                                                                                                                    |
| 3.             | NSA                                 | National Security Act, 1980 (65 of 1980)                                                                                                          |
| 4.             | UAPA                                | Unlawful Activities (Prevention) Act, 1967 (37 of 1967)                                                                                           |
| 5.             | FIR                                 | First Information Report                                                                                                                          |
| 6.             | Explosive Substances Act            | the Explosive Substances Act, 1908 (6 of 1908)                                                                                                    |
| 7.             | BNS                                 | the Bharatiya Nyaya Sanhita, 2023 (45 of 2023)                                                                                                    |
| 8.             | COFEPOSA                            | the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974)                                                |
| 9.             | R1                                  | first respondent                                                                                                                                  |
| 10.            | R2                                  | second respondent                                                                                                                                 |
| 11.            | R3                                  | third respondent                                                                                                                                  |
| 12.            | R4                                  | fourth respondent                                                                                                                                 |
| 13.            | Detenu                              | Md. Abdul Hakim @ Inaocha, aged 36 years, son of Md. Khalique of Kiyamgei Mayai Leikai, Irilbung PS, Imphal East District, Manipur                |
| 14.            | Detaining authority                 | R1 (District Magistrate, Imphal East, Manipur, Porompat – 795005)                                                                                 |
| 15.            | Sponsoring authority                | Superintendent of Police, Imphal East District                                                                                                    |
| 16.            | Impugned preventive detention order | order of State dated 21.04.2026 bearing reference No. Cril/NSA/No.3 of 2026 made by R1 (detaining authority) under Section 3(2) of NSA            |
| 17.            | Impugned approval order             | order of R2 dated 01.05.2026 bearing reference No. H-14/7/2026-HD-HD under Section 3(4) of NSA approving the impugned preventive detention order. |

| <b>Sl. No.</b> | <b>Abbreviations/ Short Forms</b> | <b>Full Form/Expansion</b>                                                                                                                                  |
|----------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18.            | Impugned confirmation order       | order dated 27.05.2026 bearing reference No. H-14/7/2026-HD-HD made by State under Section 12(1) of NSA confirming the impugned preventive detention order. |
| 19.            | Sr.PCCG                           | Senior Panel Counsel for Central Government                                                                                                                 |
| 20.            | MHA                               | Ministry of Home Affairs                                                                                                                                    |

[2] Captioned WP has been presented in this Court on 12.05.2026 assailing impugned preventive detention order made by R1, approval of the same vide impugned approval order made by R2 and confirmation order (impugned confirmation order) made by R2. To be noted, impugned approval order and impugned confirmation have been signed by Joint Secretary (Home), Government of Manipur and Commissioner (Home), Government of Manipur respectively however, for the State Government of Manipur and are therefore referred to as orders made by R2 solely for the sake of convenience.

[3] The writ petitioner was arrested on 26.03.2026 pursuant to an FIR dated 26.03.2026 on the file of Andro Police Station in Imphal East District for alleged offences under Sections 17, 20 of UAPA, Section 5 of Explosive Substances Act and Section 308 of BNS read with Sections 13(2) and 18 of UAPA. Thereafter, writ petitioner was remanded and when he remained incarcerated, impugned preventive detention order was made by R1 on 21.04.2026 and the same was served on the writ petitioner on the same day i.e., 21.04.2026. Therefore, formal arrest pursuant to impugned preventive

order was on 21.04.2026. Thereafter, R1/detaining authority made detailed grounds dated 22.04.2026 based on history sheets and other inputs from the sponsoring authority vide a letter of sponsoring authority dated 13.04.2026 bearing reference No. C-5/12/SP-IE/2026/11028. This grounds of detention was served on the detenu on 25.04.2026. Notwithstanding myriad grounds raised in the WP, Mr. Ch. Ngongo, learned senior counsel instructed by Ms. S. Gangarani, learned counsel on record for the writ petitioner predicated his campaign against the impugned preventive detention order/approval order and confirmation order on 2 (two) points and the 2 (two) points are as follows :

- (i) in the grounds of detention dated 22.04.2026 which was served on the detenu on 25.04.2026, vide paragraph 12, it has been made clear that the detenu has a right to make a representation to the detaining authority (to be noted, R1 is the detaining authority) within 12 (twelve) days or till the order is approved by the State Government whichever is earlier. Pursuant to grounds being served on the detenu, detenu sent a representation on 29.04.2026 to the detaining authority (R1) but the detaining authority did not consider and dispose of the

same. However, this representation sent on 29.04.2026 to the detaining authority was simply forwarded (without even comments) to Commissioner (Home), Government of Manipur and Commissioner (Home) disposed of this representation (sent on 29.04.2026) vide an order dated 13.05.2026 bearing reference No. H-14/7/2026-HD-HD. This is impermissible, as according to learned senior counsel the detaining authority should have applied her mind and disposed of the representation sent to the detaining authority separately and should not have merely forwarded to her higher authority;

- (ii) the second point is, a Notification dated 13.11.2023 bearing reference No. S.O. 4899(E) issued by MHA *inter-alia* declaring Peoples' Liberation Army (PLA) as an 'unlawful association' under UAPA has been placed before the detaining authority, detaining authority has relied on the same and proceeded on the basis that writ petitioner is a member of PLA (to be noted,

this is denied by detenu) but the detaining authority has not confirmed whether this 13.11.2023 Notification of MHA has been confirmed by the tribunal under Section 4 of UAPA though the impugned preventive detention order was made on 21.04.2026 nearly two and half years after the Notification. This according to learned senior counsel is non-application of mind on the part of the detaining authority and non-application of mind which vitiates subjective satisfaction arrived at by the detaining authority.

[4] As regards response of the State Counsel (response to afore referred two points), it is to be noted that Mr. Phungyo Zingkhai, learned State Counsel for R1 to R3 and Mr. W. Darakeshwar, learned Sr. PCCG for R4 are before this Court, R1 has filed an affidavit-in-opposition dated 14.07.2026, R2 has filed an affidavit-in-opposition dated 13.07.2026, R3 has filed an affidavit-in-opposition dated 08.07.2026 and R4 has filed an affidavit-in-opposition dated 02.06.2026.

[5] The afore referred 2 (two) points on which learned senior counsel for the writ petitioner predicated his campaign against

impugned preventive order, impugned approval and confirmation orders the same have articulated in the writ petition and the same have been responded to in the affidavits-in-opposition. Therefore, with regard to the submissions to the contrary to the contrary made by learned State Counsel with regard to the aforesaid 2 (two) points it would be easier to set out the point as raised in the writ petition and the responses in the affidavits-in-opposition.

[6] As regards the first point pertaining to detaining authority not applying her mind and disposing of the representation sent on 29.04.2026 the same has been raised vide paragraph 12 of the writ affidavit and the same reads as follows :

12. That, the petitioner submits that the Respondent No. 1 did not consider the Representation dated 29-04-2026 till today. And as such the impugned order are liable to be set aside.

[7] Afore-referred paragraph 12 point has been answered by R1 in her affidavit-in-opposition dated 14.07.2026 in the following manner :

11. That, with reference to para No. 12 of the Writ Petition, the answering deponent humbly submits that the representation was forwarded to the Commissioner (Home) on 29-04-2026 and rejected on 13-05-2026 vide Order No. H-14/8/2026-HD-HD as the grounds of detention were found valid. Thereafter, the State authority approved the detention order on 01-05-2026, in other words the State authority has acted upon the detention order passed by the Respondent No. 1 and therefore the non-consideration of Representation dated 29-04-2026 does not arise.

To be noted, stated position of R1 (detaining authority) is that she did not consider the representation sent to her and she merely forwarded to her higher authority.

[8] R2 in his affidavit-in-opposition dated 13.07.2026 has answered the above point in the following manner :

5. That, with reference to para Nos. 11 and 12 of the Writ Petition, the answering deponent has no comment to offer.

To be noted, R2 has said that he has no comments.

[9] R3, in the affidavit-in-opposition dated 08.07.2026 has answered this point in the following manner :

9. That, with reference to para No. 9 of the Writ Petition, the answering deponent humbly submits that the detenu has submitted the representation through his Ld. Counsel on 29/4/2026 addressed to The District Magistrate, Imphal East and forwarded the same to the concerned authority on the same day for further necessary action.

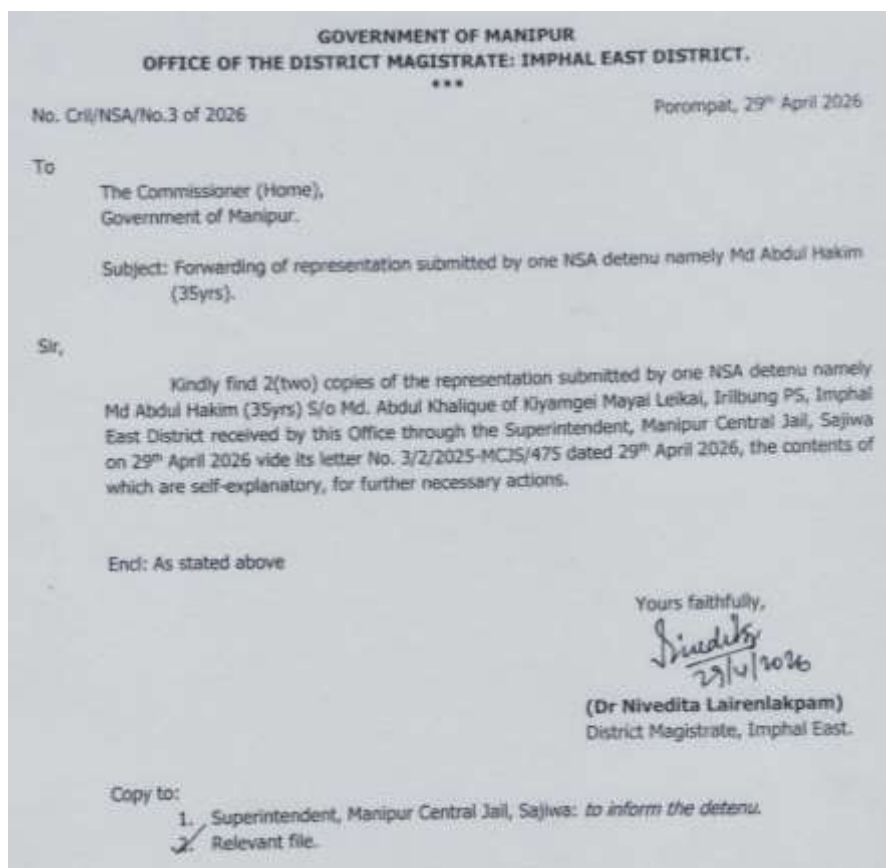
12. That, with reference to para No. 12 of the Writ Petition, the answering deponent humbly submits that this office has received the representation disposal letter of the detenu on 15/5/2026 from the commissioner (Home), Govt. of Manipur vide order Memo No. H-14/7/2026-HD-HD dated 13/5/2026 and served to the detenu on the same day.

To be noted, R3 is Superintendent of Jail in which detenu is incarcerated and therefore, the above is merely trajectory the representation took *qua* detenu.

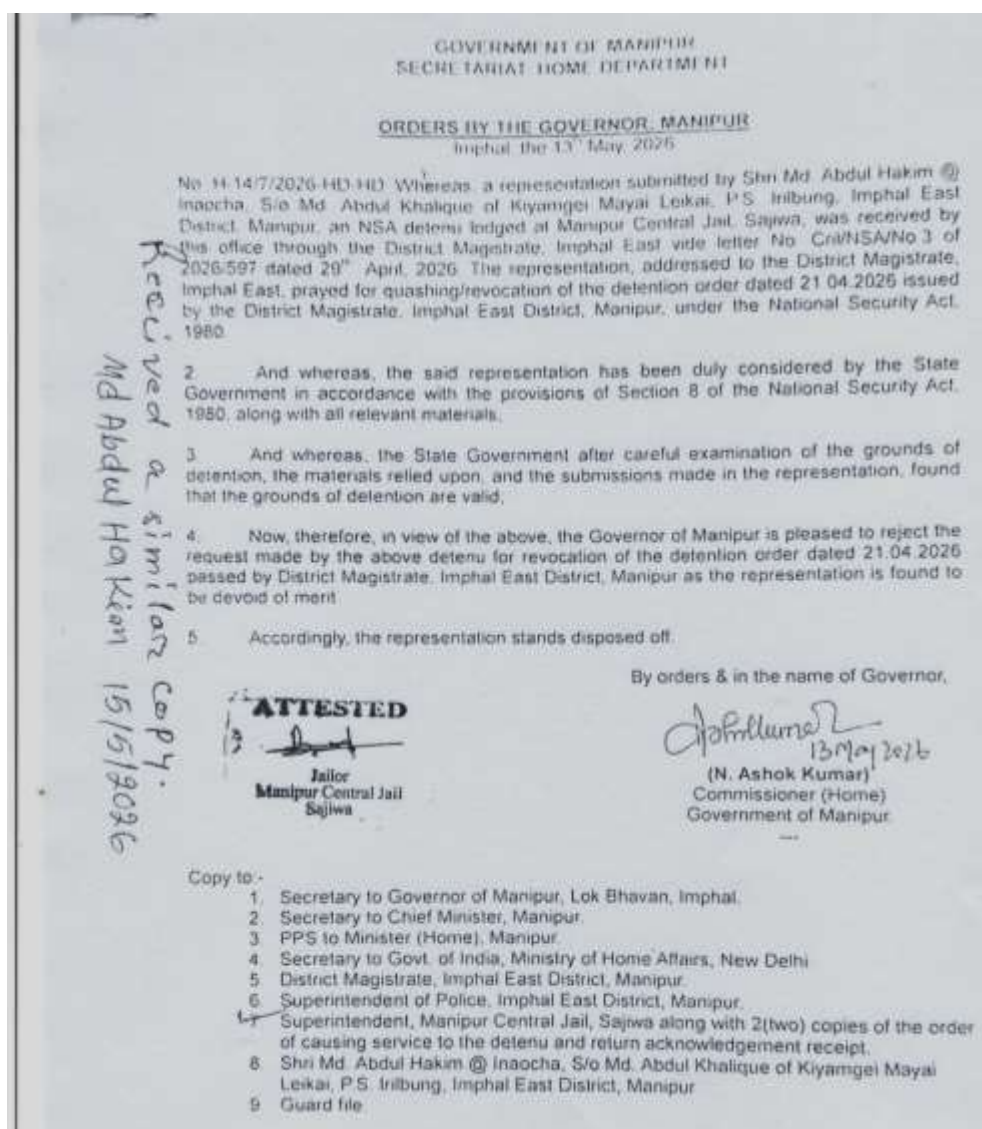
[10] As regards R4, in the affidavit-in-opposition dated 05.06.2026, R4 has skipped paragraph 12 i.e., has not met paragraph 12 at all though the paragraphs and grounds before paragraph 12 and after paragraph 12 have been met.

[11] A careful perusal of the responses of the respondents to the first point brings to light that R1 (detaining authority) is now saying that R2 (State) more {through Commissioner (Home)} has disposed of the representation sent to detaining authority on 29.04.2026. As regards R2, R2 says that he has no comments on this point. R3 merely sets out the trajectory of the representation *qua* detenu. As regards R4, the affidavit-in-opposition is silent. It is clear that the representations sent by the detenu to the detaining authority on 29.04.2026 has not been considered by the detaining authority and she has merely forwarded it to her higher authority without even her comments. In this regard, we have the benefit of perusing the State

files which were before us. It is clear from the State files that R1 (detaining authority) has merely forwarded the representation sent on 29.04.2026 to Commissioner (Home) under cover letter dated 29.04.2026 bearing reference No. Cril/NSA/No.3 of 2026 and scanned reproduction of the same is as follows :



[12] Thereafter, Commissioner (Home) has disposed of on 13.05.2026 the afore referred representation sent to detaining authority on 29.04.2026 and scanned reproduction of the disposal proceedings is as follows :



[13] On this first point, learned senior counsel pressed into service 2 (two) cases laws. The first case law is **Smt. Santosh Anand -Vs.- Union of India and others** reported in **(1981) 2 SCC 420**. **Santosh Anand**, on facts, is a case which arose under COFEPOSA. In **Santosh Anand** the detenu who was detained pursuant to a preventive detention order made under Section 3 (1) of COFEPOSA had sent a representation to the detaining authority but the representation was not rejected by the detaining authority, instead it

was sent to another authority for consideration. This was held to be an infraction of Article 22(5) by Hon'ble Supreme Court in **Santosh Anand** and most significant paragraph (to the extent relevant) in **Santosh Anand** is as follows :

‘3. ....  
.....

The aforesaid averments make the position quite clear that the representation was considered by the Chief Secretary as the detaining authority only for the Administrator, the purpose of submitting the same for orders to who in his turn after considering it rejected the same on May 22, 1979. It is quite clear that the Chief Secretary as the detaining authority himself did not reject it. The original files which were produced before us by counsel for the respondents also confirm the aforesaid position. From the notings in the file it appears clear that the Chief Secretary had on May 9, 1979 called for advice and comments of the Secretary of Law and Justice in the matter and on receipt of those comments the Chief Secretary on May 21, 1979 made an endorsement under signature to the effect "the representation may be rejected". Below this endorsement of the Chief Secretary appeared the endorsement of the Administrator to the effect that he had considered the representation as well as the comments of the Customs Department and after examination thereof he agreed that the representation had no merit and was rejected. It was on the basis of these endorsements in the file that the averments quoted above were made by Mr. Khambra in his counter-affidavit. It is thus very clear to us that the representation could be said to have been considered by the Chief Secretary at the highest but he did not take the decision to reject the same himself and for that purpose the papers were submitted to the Administrator who ultimately rejected the same. There is no affidavit filed by the Chief Secretary before us stating that he had rejected the representation. The representation was, therefore, not rejected

by the detaining authority and as such the constitutional safeguard under Article 22(5), as interpreted by this Court, cannot be said to have been strictly observed or complied with. The continued detention of the detenu was clearly illegal and deserves to be quashed and we accordingly quash the same and direct that the detenu be released forthwith.'

*(underlying made by this Court for ease of reference)*

[14] The next case law relied on by learned senior counsel in ***Sneha Khemka*** reported in ***(2004) 2 SCC 570 {Union of India and another -Vs.- Sneha Khemka and another}***. ***Sneha Khemka***, on facts, is also one that arose under COFEPOSA. In ***Sneha Khemka*** case, Hon'ble Supreme Court laid down the ratio that when 3 (three) different authorities before whom representations are made are required to look into the same separately. The authority concerned will have to make an enquiry and dispose of the same. In this regard, the further ratio that constitutional right to make a representation includes the right to obtain proper consideration was laid down. The most relevant paragraphs in ***Sneha Khemka*** are paragraphs 13 to 18 and the same read as follows :

‘13. A right to make a representation is, therefore, a facet of fundamental right. Article 22(5) of the Constitution does not state as to before whom such representation is to be made, and provisions therefor are laid down in the statute under which the detenu has been detained. It is now well-settled that the object and purpose of the representation is to enable the detenu to obtain relief at the earliest opportunity wherefor, he may make representation before such authority which can revoke the same by setting him at

liberty. The cleavage in opinion of this Court as to whether the detaining authority can pass an order revoking the order of detention came up for consideration before a Constitution Bench of this Court in *Kamleshkumar Ishwardas Patel* wherein this Court in no uncertain terms held that the revoking authority has the requisite jurisdiction to revoke an order of detention. Upon service of the order of detention on the detenu, the detaining authority or the State Government is obligated to forward to the Central Government a report thereabout; whereafter the latter is entitled to consider at its earliest opportunity, the validity or otherwise thereof so as to enable it to intervene in appropriate cases by exercising its power of revocation. Furthermore, the representation of the detenu, if any, at a later stage is required to be considered by the Central Government in terms of Section 11 of the Act which reads thus :

“11. *Revocation of detention orders.*- (1)

Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified-

(a) notwithstanding that the order has been made by an officer of a State Government, by that State Government or by the Central Government;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.”

**14.** A bare perusal of Section 11 of the Act would clearly shows that the authority vested in the Central Government or the State Government to revoke an order of detention is without prejudice to the provisions contained in Section 21 of the General Clauses Act, 1897. In terms of Section 21 of the General Clauses Act, an authority who passes an order has the jurisdiction can revoke the same.

**15.** The power of the State Government or the Central Government, therefore, is in addition to the power of the detaining authority to revoke an order of detention. A detenu in law, therefore, is entitled to make different representations before different authorities at different times in terms of statutory as also constitutional schemes.

**16.** Each authority, concededly, is required to apply its mind on the materials placed on records and pass an order either rejecting or allowing the said representation. A representation of the detenu having regard to clause (5) of Article 22 of the Constitution of India must also be disposed of within a reasonable time.

**17.** It is equally well-settled that the constitutional right to make a representation includes the right to obtain proper consideration thereof by the authority to whom it is made.

**18.** Would that mean, as has been held by the High Court, that a representation made before one authority must also be considered by other authorities? The answer to the said question must be rendered in the negative. If it is to be assumed that the three different authorities before whom the representations are made are required to obtain copies of the representations made to the others; before a representation is considered, the concerned authority will have to make an enquiry from the authorities as to whether

a representation had been made to it and if the answer thereof is in the affirmative, to obtain a copy thereof.’

In paragraph 25 of ***Sneha Khemka***, wherein Hon’ble Supreme Court has reiterated earlier ratios in ***Sat Pal*** case and ***Santosh Anand*** (we have already alluded to supra) and paragraph 25 reads as follows :

‘25. Referring to *Sat Pal vs. State of Punjab and Others* [(1982) 1 SCC 12], *Raj Kishore Prasad vs. State of Bihar* [(1982) 3 SCC 10] as also the decision in *Santosh Anand vs. Union of India* [(1981) 2 SCC 420], it was held :

“...Having found that the representation of the person detained was not considered by the officer making the order of detention the High Court was in error in holding that the said failure on the part of the detaining authority to consider and decide the representation is not fatal to the order of detention. We are, therefore, unable to uphold the answer given by the Full Bench to Question No.3 and, in our view, the said question should be answered in the affirmative. On that basis it has to be held that since there was a denial of the constitutional safeguard provided to the detenu under Article 22(5) of the Constitution on account of the failure on the part of the officer who had made the order of detention to independently consider the representation submitted by the detenu against his detention and to take a decision on the said representation the further detention of the detenu Ishwardas Bechardas Patel is rendered illegal.”

[15] Ultimately, in ***Santosh Anand*** and ***Sneha Khemka*** Hon'ble Supreme Court dislodged the impugned preventive order on the point that the authority concerned had not considered the representation by holding that it is an infraction of the Article 22(5) i.e., right enshrined in Article 22(5) and vested in a detenu vide Article 22(5). We find that factual matrix in these two case laws are akin to facts of case at hand and therefore we unhesitatingly apply and respectfully follow the same.

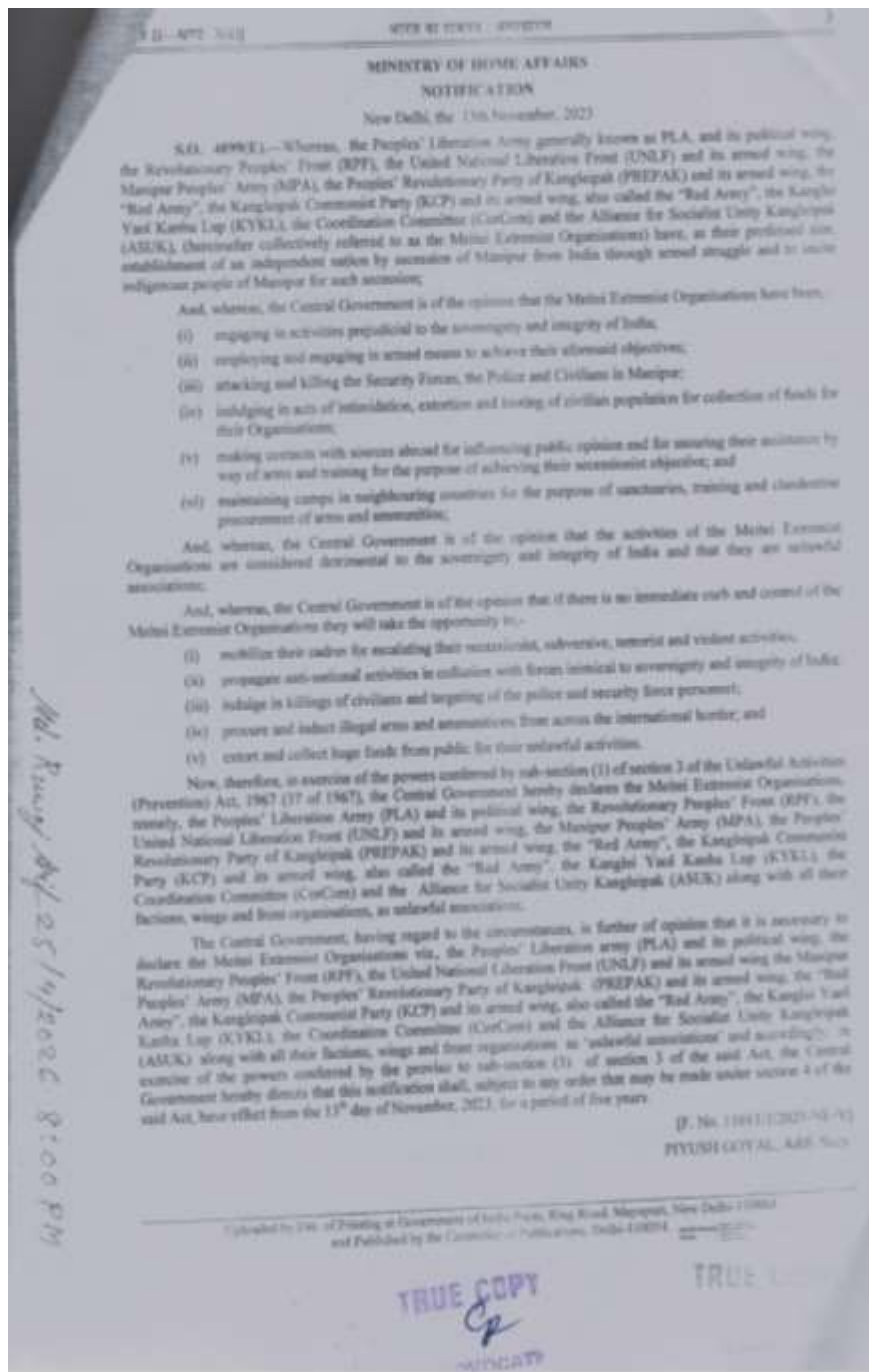
[16] In the case at hand, from the factual matrix and rival contentions, it is clear that the authority concerned i.e., the detaining authority has not considered the representation sent on 29.04.2026 to the detaining authority separately. The detaining authority has simply forwarded to the Commissioner (Home) without applying her mind and ultimately the Commissioner (Home) has considered the representation. In this regard, it is also necessary to record that a preventive detention order made by a detaining authority in exercise of powers under Section 3 (2) of NSA is valid for a period of 12 (twelve) days unless it is approved by the State under Section 3 (4) and therefore, as regards 12 days the representation sent on 29.04.2026 to detaining authority was one which casts a more sanctus duty on the detaining authority consider the same separately but the detaining authority merely forwarded it to the Commissioner (Home) and this is unacceptable. Therefore, we respectfully follow ***Santosh Anand***, ***Sneha Khemka*** principles laid down by Hon'ble Supreme Court and

unhesitatingly come to the conclusion that in the instant case also there is an infraction of Article 22(5) more particularly, sanctus right enshrined in Article 22(5) vested in the detenu warranting setting aside of the impugned preventive detention order and as a consequence approval and confirmation of the same stand vitiated.

[17] In normal circumstances, in a habeas corpus legal drill, when a protagonist of habeas corpus writ petition succeeds on one point it may not be necessary to examine the second point. However, as the second point is of significance and as we find that second point is popping up/recurring repeatedly in habeas corpus WPs in this Court, we deem it appropriate to deal with the second point also.

[18] As would be evident from the narration thus far, the second point pertains to a Notification by MHA *inter-alia* declaring PLA as an '*unlawful association*' by exercise of powers *inter-alia* under Section 3 of UAPA. A careful perusal of the 13.11.2023 Notification placed before the detaining authority by the sponsoring authority brings to light that in this 13.11.2023 Notification MHA has resorted to the proviso to sub-section (3) of Section 3 of UAPA and given immediate effect to the Notification. More importantly, in this Notification itself, MHA has made it abundantly clear that the 13.11.2023 Notification is subject to any order that may be made under Section 4 of UAPA. Section 4 of UAPA deals with powers of the Tribunal to adjudicate and either confirm or cancel a declaration in and

vide Section 3 and sub-Section (3) of Section 4 prescribes a clear timeline of 6 (six) months from the date of issue of Notification for Tribunal to decide. In this regard, this Court deems it appropriate to scan and reproduce 13.11.2023 MHA Notification. We do so and the same are as follows :



[19] This Court also deems it appropriate to scan and reproduce Sections 3 and 4 of UAPA. We do so and the same read as follows :

**‘3. Declaration of an association as unlawful.—**(1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary:

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.

(4) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall also be served on such association in such manner as the Central Government may think fit and

all or any of the following modes may be followed in effecting such service, namely:—

(a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or

(b) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association; or

(c) by proclaiming by beat of drum or by means of loudspeakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on; or

(d) in such other manner as may be prescribed.

**4. Reference to Tribunal.**—(1) Where any association has been declared unlawful by a notification issued under sub-section (1) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.

(2) On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.

(3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as

possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

(4) The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.’

[20] In the instant case, MHA Notification is dated 13.11.2023. ‘within a period of six months’ elapsed on 12.05.2024. Interestingly and intriguingly, this Notification was first placed before the detaining authority by the sponsoring authority under cover of letter dated 07.03.2026 (nearly two years after 12.05.2024). Therefore, the detaining authority while making the impugned preventive order on 21.04.2026 had certain and sanctus responsibility to ascertain whether a reference to Tribunal under Section 4 has been made and whether Tribunal under Section 4 has either confirmed or cancelled the Notification dated 13.11.2023. In this regard, at the risk of repetition, this court deems it appropriate to reiterate that 13.11.2023 Notification itself makes it clear that the Notification is subject to any order to be made under Section 4. We had the benefit of perusing the entire file of the detaining authority. The detaining authority has neither examined the details as to whether the matter has been referred to a Tribunal and whether the Tribunal has either confirmed or cancelled the Notification nor has any order of the Tribunal been placed before the detaining authority. Therefore, the

subjective satisfaction arrived at by the detaining authority is clearly flawed.

[21] As regards subjective satisfaction arrived at by a detaining authority *qua* a preventive detention order, Hon'ble Supreme Court has made it clear that subjective satisfaction, though subjective, is justiciable on certain grounds and the grounds culled out i.e., the grounds on which subjective satisfaction are justiciable has been laid down by Hon'ble Supreme Court in the oft quoted ***Ameena Begum*** reported in ***(2023) 9 SCC 587 {Ameena Begum -Vs.- State of Telangana and others}***. In ***Ameena Begum***, after a survey of various case laws on preventive detention including case laws pertaining to preventive detention orders under NSA, Hon'ble Supreme Court made it clear that areas within which the validity of subjective satisfaction can be tested are 6 (six) in number and the same are as follows :

- ‘(a) When the detaining authority has not applied its mind at all;
- (b) When there is 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 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 materials which are rationally probative value.'

[22] In the case at hand, we find that the subjective satisfaction recorded by detaining authority is based on misconception of a statute which is (e) supra vide ***Ameena Begum***. It is a misconception of the legal architecture of UAPA as the statutory scheme has been given a go by. It is also a case of arriving at and recording subjective satisfaction without the same being grounded on materials which are [(f) *qua Ameena Begum*] of '**rationally probative value**' as the order of the Tribunal which is clearly an order which is of '**rationally probative value**' was not before the detaining authority. The reason is, the Notification dated 13.11.2023 made by MHA itself makes it clear that Notification is subject to order to be made by Tribunal and the Tribunal has to make an order either confirming or cancelling the Notification within 6 (six) months i.e., on or before 12.05.2024. Therefore, it is clearly a case of misconception of statute and not relying on material which are of '**rationally probative value**'. We also find that it is a case of the detaining authority not applying its mind at all as the detaining authority, on seeing MHA Notification dated 13.11.2023 and more particularly the last paragraph thereat should have asked for the order of the Tribunal from the sponsoring authority or looked up official gazette publications to see if any order of the Tribunal has been made. In this regard it is relevant to notice that vide sub-Section (4) of Section 4 of UAPA the

order made by the Tribunal should be published in the official gazette. At the least the official gazette should have been looked up and the grounds should mention whether there is confirmation of the MHA Notification dated 13.11.2023 as it was placed before the detaining authority nearly two and half years after the date of the Notification.

[23] Most relevant paragraph of ***Ameena Begum*** wherein Hon'ble Supreme Court deals with justiciability is paragraph 16 and paragraph 16 in turn extracts an earlier judgment. Paragraph 16 to the extent relevant is as follows :

‘16.....  
.....

9. *But that does not mean that the subjective satisfaction of the detaining authority is wholly immune from judicial reviewability. The courts have by judicial decisions carved out an area, limited though it be, within which the validity of the subjective satisfaction can yet be subjected to judicial scrutiny.* The basic postulate on which the courts have proceeded is that the subjective satisfaction being a condition precedent for the exercise of the power conferred on the Executive, the Court can always examine whether the requisite satisfaction is arrived at by the authority : if it is not, the condition precedent to the exercise of the power would not be fulfilled and the exercise of the power would be bad. There are several grounds evolved by judicial decisions for saying that no subjective satisfaction is arrived at by the authority as required under the statute. The simplest case is whether the authority has not applied its mind at all; in such a case the authority could not possibly be satisfied as regards the fact in respect of which it is required to be satisfied. *Emperor v. Shibnath Bannerji* is a case in point. Then there may be a case where the power is exercised dishonestly or for an improper purpose : such a case would also negative the existence of satisfaction on the part of the authority. The existence of ‘improper purpose’, that is, a purpose not contemplated by the statute, has been recognised as an independent ground of control

in several decided cases. The satisfaction, moreover, must be a satisfaction of the authority itself, and therefore, if, in exercising the power, the authority has acted under the dictation of another body as the Commissioner of Police did in *State of Bombay v. Gordhandas Bhanji* and the officer of the Ministry of Labour and National Service did in *Simms Motor Units Ltd. v. Minister of Labour and National Service* the exercise of the power would be bad and so also would the exercise of the power be vitiated where the authority has disabled itself from applying its mind to the facts of each individual case by self-created rules of policy or in any other manner. The satisfaction said to have been arrived at by the authority would also be bad where it is based on the application of a wrong test or the misconstruction of a statute. Where this happens, the satisfaction of the authority would not be in respect of the thing in regard to which it is required to be satisfied. Then again the satisfaction must be grounded 'on materials which are of rationally probative value'. *Machindar Shivaji Mahar v. R.* The grounds on which the satisfaction is based must be such as a rational human being can consider connected with the fact in respect of which the satisfaction is to be reached. They must be relevant to the subject-matter of the inquiry and must not be extraneous to the scope and purpose of the statute. If the authority has taken into account, it may even be with the best of intention, as a relevant factor something which it could not properly take into account in deciding whether or not to exercise the power or the manner or extent to which it should be exercised, the exercise of the power would be bad. *Pratap Singh v. State of Punjab* [AIR 1964 SC 72 : (1964) 4 SCR 733]. If there are to be found in the statute expressly or by implication matters which the authority ought to have regard to, then, in exercising the power, the authority must have regard to those matters. The authority must call its attention to the matters which it is bound to consider.”

(emphasis supplied)

[24] This Court respectfully followed ***Ameena Begum*** principle in an earlier case being ***Mutum Ranjan Meitei*** vide order dated 11.02.2026 made in WP(Crl.) No. 34 of 2025 with regard to

justiciability of subjective satisfaction, and we are informed that ***Mutum Ranjan Meitei*** has been accepted by the State and the detenu has since been released. ***Mutum Ranjan Meitei @ Lamjingba vs. District Magistrate, Thoubal District & Ors*** reported in ***2026 (1) MNLJ 126: 2026 Legal Eagle 6*** (Neutral Citation No.: 2026:MNHC:17-DB), was reiterated in ***Laishram Nilajit Shija vs. State of Manipur & Ors*** (Neutral Citation No.: 2026:MNHC:43-DB), ***Yambem Manichandra Singh vs. State of Manipur & Ors*** (Neutral Citation No.: 2026:MNHC:100-DB), ***Teresa Lhingjakim Khongsai vs. District Magistrate, Tengnoupal District & Ors*** (Neutral Citation No.: 2026:MNHC:151-DB), by this Court and we are informed that in all these cases, State has accepted the orders and has since released the detenu(s).

[25] Before concluding, this Court deems it appropriate to advert to one more aspect of the matter. This is a case where preventive detention order under NSA has been clamped on the basis of a lone FIR. This Court is acutely conscious and unambiguously aware that a preventive detention order can be clamped even on the basis of a lone FIR. There is no difficulty on this point. However, as already alluded to *supra*, pursuant to this lone FIR dated 26.03.2026 on the file of Andro Police Station in Imphal East, the detenu was arrested on 26.03.2026, remanded and he remains incarcerated until today. 90 days, even if completed from the date of arrest, without going into the date of remand be it the same day or the next day

elapsed on 24.06.2026. The investigating agency has not filed charge sheet on or before 24.06.2026. This Court is informed that charge sheet has not been filed until this date. Be that as it may, though the FIR has been registered for alleged offences *inter alia* vide Sections 17 & 20 of UAPA, the investigating agency/prosecution has not resorted to Section 43D(2) of UAPA and sought extension of time for filing charge sheet and for extension of remand though Section 43D(2) of UAPA provides for such an application. As investigating agency has not resorted to this provision it has led to a situation wherein and whereby the detenu i.e., the writ petitioner has got default bail from the Trial Court vide order dated 21.07.2026 and a scanned reproduction of the default bail order is as follows:

MNIE010006972026



Presented on : 20-07-2026

Registered on : 21-07-2026

Decided on : 21-07-2026

**IN THE COURT OF  
Special Judge (NIA), Imphal East  
(Presided Over by Rother Yumkham)**

**Cril. Misc. (B) Case No. 245 of 2026**

Ref: 18 (03) 2026 APS

u/s 308 BNS, 5 Expl. Subs. Act and 17/20 UA (P) Act

Md. Abdul Hakim, aged about 36 years, S/o Md. Khalique of  
Kyamgei Mayai Leikai, Iribung PS, Imphal East District,  
Manipur.

.....Petitioner/accused

VS

State of Manipur



For the accused/petitioner : Shri N. Gojen, Advocate

For the State : Shri Tongbram Bipinchandra, Ld. Spl. PP

**ORDER**

21<sup>st</sup> July, 2026

1. This is an application filed u/s 187 (3) of BNSS praying to release the above named accused/petitioner on bail.

Register it as Cril. Misc. (B) Case.

2. Heard Ld counsel of the accused/petitioner. Ld counsel submits that the above named accused person was arrested on 26.03.2026 and subsequently remanded into Judicial Custody. Ld counsel further submits that the accused/petitioner has been languishing in Judicial Custody since his arrest and the charge sheet of the FIR case has not been submitted till date. Ld counsel also submits that

Examined by me and attested to be photostat copy of the original  
29/8/26  
S. of Checker

the accused person is in the custody beyond the statutory period and thus prays for granting bail in default of charge sheet.



3. I have perused the record and it is seen that the accused/petitioner was produced before the Id. Judicial Magistrate First Class, Imphal East on 26/03/2026 and remanded into Judicial Custody on 06/04/2026. Thus, the accused/petitioner has been in custody for more than 90 days. Further, charge sheet has not been submitted till date and there is no application for extending the investigation period.
4. It is the settled principle of law that default bail is an indefeasible right of an accused when the prosecution has failed to complete the investigation within stipulated time and submit charge-sheet to the court within this time.
5. Situated thus, the accused is allowed to be released on default bail on his furnishing of PR bond of Rs 1,00,000/- (Rupees one lakh) only with one surety of the like amount, on the following conditions that:
  - a. He shall co-operate with the investigation;
  - b. He shall attend before the investigating authority or the Court, as and when directed;
  - c. He shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;
  - d. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;
  - e. He shall not leave India without the permission of the Court.

Send a copy of this order to the OC, Andro PS for information.

The application is thus allowed and disposed of.

Announce in open court.

Examined by me and attested to be photostatic copy of the original  
S. H. Chatterjee

**CERTIFIED TO BE A TRUE COPY**

Sr. Sheristah  
District & Sessions Court  
Imphal East

Sd/-  
(i/c) Special Judge (NIA)  
Imphal East

[26] The above means that the writ petitioner/detenu who has been arrested on the basis of a sole FIR has thereafter been clamped with the impugned preventive detention order and he remains incarcerated solely because of the impugned preventive detention order though he has got default bail i.e., enlarged on bail in the lone FIR against him. We make it clear that this point is being recorded only for the limited purpose of comprehensively capturing facts/for completion of facts and making it clear that in the regular law and order drill, the investigating agency has allowed the detenu to get default bail but is detaining the detenu by way of preventive detention order which is not in the realm of law and order but in the realm of public order domain. In this regard, we respectfully remind ourselves of the three concentric circles illustration laid down by Hon'ble Supreme Court in the oft quoted and celebrated ***Ram Manohar Lohia vs. State of Bihar & Anr*** reported in ***(1965) SCC OnLine SC 9***. At the risk of repetition, we make it clear that we are interfering and dislodging the impugned preventive detention order, consequently approval and confirmation orders not on this point but on the afore-referred two points, namely the detaining authority not considering the representation made to her separately and subjective satisfaction being flawed *inter alia* owing to non-application of mind/ not verifying whether the Tribunal has confirmed or cancelled the Notification declaring PLA as unlawful organization.

[27] Ergo, the sequitur is, captioned writ petition is allowed. The impugned preventive detention order dated 21.04.2026 bearing reference No. Cril/NSA/No. 3 of 2026 made by R1 (District Magistrate, Imphal East), impugned approval order dated 01.05.2026 bearing reference No. H-14/7/2026-HD-HD and impugned confirmation order dated 27.05.2026 bearing reference No. H-14/7/2026-HD-HD are all set aside and Md. Abdul Hakim @ Inaocha, aged 36 years, son of Md. Khaliq of Kiyamgei Mayai Leikai, Irilbung Police Station, Imphal East, Manipur now lodged in Manipur Central Jail, Sajiwa, Imphal East is directed to be set at liberty forthwith if not required in connection with any other case/s. There shall be no order as to costs.

**JUDGE**

**CHIEF JUSTICE**

**FR/NFR**

*Sushil/Victoria*

**P.S. I : Upload forthwith**

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