

REPORTABLE

Sl. No. 17

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

W.P. (Cri.) No. 1 of 2026

Smt. Laishram Nilajit Shija, aged about 39 years, W/o Shi Jiten Sana R.K. @ Nanao, a resident of Pangei Lairam Mapal, P.S. Pangei, District- Imphal East, Manipur, 795114.

.....Petitioner

Vs.

1. The State of Manipur, represented by the Chief Secretary, Government of Manipur, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur, 795001.
2. The District Magistrate, Imphal West District, P.O. & P.S. Imphal, Manipur, 795001.
3. The Union of India, through the Secretary to the Government of India, Ministry of Home Affairs Department of Internal Security, North Block, New Delhi.

.....Respondents

BEFORE

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

For Petitioner	::	Mr. Ph. Sanajaoba, Advocate
For Respondents	::	Mr. Phungyo Zingkhai, Deputy Government Advocate for respondent Nos, 1 & 2 Mr. S. Vijayanand Sharma, Senior Panel counsel for Central Government (Sr. PCCG) for respondent No. 3
Date of Hearing	::	12.03.2026
Date of Judgment & Order	::	12.03.2026

JUDGMENT AND ORDER
(ORAL)

(M. Sundar, CJ)

[1] Captioned 'Writ Petition' ('WP' for the sake of brevity) has been filed with a prayer for issue of a writ of habeas corpus.

[2] Writ petitioner's spouse, one Shri Jiten Sana RK @ Nanao was arrested on 19.08.2025, remanded to judicial custody and while he remained incarcerated, 'R-2' (to be noted, 'R-2' is an abbreviation denoting '2nd respondent' and similar abbreviations will be used in the instant order with regard to other respondents also) who shall be referred to as 'detaining authority' made 'an order dated 17.11.2025 bearing Reference No. CrI/NSA/No. 10 of 2025' (hereinafter 'impugned preventive detention order' for the sake of brevity) under 'the National Security Act, 1980 (65 of 1980)' (hereinafter 'NSA' for the sake of brevity).

[3] Writ petitioner's spouse was arrested on 19.08.2025 in connection with FIR No. 286(08)2025 IPS on the file of Imphal Police Station for alleged offences under the 'Unlawful Activities (Prevention) Act, 1967 (37 of 1967)' (hereinafter 'UAPA' for the sake of brevity and convenience). When writ petitioner's spouse (to be noted, 'writ petitioner's spouse' shall hereinafter and henceforth be referred to as 'detenu' for the sake of convenience and clarity) remained incarcerated, the impugned preventive detention order was made by R-2 under NSA.

[4] In the hearing today, Mr. Ph. Sanajaoba, learned counsel on record for writ petitioner, Mr. Phungyo Zingkhai, learned State counsel for R-1, R-2 and Mr. S. Vijayanand Sharma, learned Senior Panel Counsel for Central Government (Sr. PCCG) for R-3 are before this Court.

[5] Captioned main WP was taken up and heard out with the consent of all the afore-referred counsel.

[6] In the hearing today, notwithstanding myriad grounds in the captioned WP, learned counsel for writ petitioner predicated his campaign against impugned preventive detention order on one point. This one point is, detenu sent a representation dated 26.11.2025 to R-2 (detaining authority) and made a specific request to make photocopies of the same and forward the same to the State Government as well as the Central Government but the detaining authority has admittedly not done this. This according to learned counsel for writ petitioner has caused infraction of Article 22(5) of the Constitution of India as the detenu's right to make a 'representation' which has been repeatedly explained in terms of Constitutional philosophy by Hon'ble Supreme Court as 'effective representation' has been infringed.

[7] Elaborating on the aforementioned ground, learned counsel for writ petitioner submitted that this plea has been specifically raised in the captioned WP *vide* 'Paragraph 8' and 'Ground (f)' which read as follows:

Paragraph 8

'8. That, on 26-11-2025, the detenu submitted a representation addressed to the Respondent No. 2 thereby requesting him to revoke the impugned detention order (Annexure-N/2) issued against him on the grounds stated therein. In the said representation, the detenu specifically and categorically requested the Respondent No. 2 to obtain the photocopies of the said representation and to forward a copy each to the Respondent No. 1 and 3.'

GROUND (f)

'f) For that, the Respondent No. 2 failed to forward the representation (Annexure-N/4) to the Respondent No. 1 and 3 as requested by the detenu in the said representation.'

[8] It was pointed out that affidavit-in-opposition of R-2 meets this point in 'Paragraph 12' and 'Sub-paragraph (f) of Paragraph 21' which read as follows:

Paragraph 12

'12. That, with reference to para No. 8 of the Writ Petition, the answering deponent humbly submits that in paragraph No. 5 of the Grounds of Detention, it has been clearly and specifically mentioned as follows:

"And whereas, you are hereby informed that you have the right to make representation to the Government of Manipur as well as to the Central Government against the order of detention passed against you and you are hereby afforded the earliest opportunity for making such representation if you wish to do so. The representation is to be sent through the Superintendent of Manipur Central Jail, Sajiwa to "The Chief Secretary, Government of Manipur" in respect of representation to the Government of Manipur and to "The Secretary, Government of India, Ministry of Home Affairs

(Department of Internal Security)” in respect of representation to the Central Government.”

In view of the above clear intimation, the detenu was fully appraised of his constitutional right under Article 22(5) of the Constitution of India and the statutory safeguards under Section 8 of the National Security Act, 1980 to submit representations to both the State Government and the Central Government. It is respectfully submitted that the procedure for submission and transmission of representation was expressly communicated to the detenu. Therefore, if the detenu desired that copies of his representation be forwarded to the Chief Secretary, Government of Manipur and to the Secretary, Government of India, Ministry of Home Affairs (Department of Internal Security), it was incumbent upon him to address and submit the same in the manner already specified in the Grounds of Detention, i.e., through the Superintendent of Manipur Central Jail, Sajiwa. It is further submitted that the answering respondent has complied with all constitutional and statutory requirements by clearly informing the detenu of his rights and the prescribed mode of submitting representations. There is no statutory obligation cast upon the District Magistrate to obtain photocopies of the representation on behalf of the detenu for onward transmission when a specific procedure had already been laid down and communicated to him.

Sub-paragraph (f) of Paragraph

'21(f) The answering deponent humbly submits that there is no statutory obligation cast upon the District Magistrate for onward transmission when a specific procedure had already been laid down and communicated to him. Moreover, the concerned authority had forwarded the representation to the Commissioner (Home), Govt. of Manipur on 09-12-2025 and to the Secretary, Ministry of Home Affairs, Govt. of India on 15-12-2025 respectively.'

[9] In response to the afore-referred ground on which learned counsel for writ petitioner predicated his campaign against the impugned preventive detention order, Mr. Phungyo Zingkhai, learned State counsel advertent to the affidavit-in-opposition of R-2 drew our attention to the afore-referred Paragraph 12 as well as sub-paragraph (f) of Paragraph 21 and submitted that R-2 is under no statutory obligation to transmit detenu's representation to State and Central Governments. To be noted, post 26.11.2025 representation to the detaining authority, the detenu had made another representation dated 08.12.2025 addressed to Hon'ble Chairman of the Advisory Board and this '08.12.2025 representation' which shall be referred to as '2nd representation' for convenience was sent by the Inspector General of Prisons to the State Government as well as to the Central Government under cover of letter dated 09.12.2025 and 15.12.2025 respectively.

[10] This Court, for the sake of completion of facts, deems it appropriate to capture the obtaining factual position that afore-referred 26.11.2025 representation of detenu which shall henceforth be referred to as '1st representation' for the sake of clarity and specificity (which was admittedly not forwarded by the detaining authority to the State and Central Governments) was rejected by the detaining authority in and by an order dated 01.12.2025 bearing Reference No. Cril/NSA/No.10 of 2025. As regards the 2nd representation of the detenu, namely representation dated 08.12.2025 which was addressed to the Hon'ble Chairman of the

Advisory Board and forwarded to the State and Central Governments by the Inspector General of Prisons in the aforesaid manner came to be rejected by the State Government on 15.12.2025 *vide* order bearing Reference no. No. H-1401/23/2025-HD-HD and it came to be rejected by the Central Government *vide* order dated 24.12.2025 bearing Reference No. II/15023/36/2025-NSA.

[11] This Court, having captured necessary facts which are imperative for appreciating instant order, now embarks upon the legal drill of considering the point raised by learned counsel for writ petitioner and submission to the contrary made by learned State counsel for R-1 and R-2. To be noted, as regards R-3, Mr. S. Vijayanand Sharma, learned Sr. PCCG submitted that the role of R-3 is limited to considering and disposing of the representation which has been done and details of disposal (rejection) have been captured supra in the preceding paragraph.

[12] Reverting to the legal drill at hand, learned counsel for writ petitioner pressed into service a judgment of Hon'ble Supreme Court being **Amir Shad Khan Vs. L. Hmingliana and others** *with* **Aziz Ahmed Khan alias Aziz Mohd. Khan Vs. L. Hmingliana and others** reported in **(1991) 4 SCC 39** for the proposition that when a person placed under detention makes a request that his representation be forwarded to the Central and State Governments, if the detaining authority refuses to do so it is an infraction of Article 22(5) which vitiates a preventive detention order. **Amir Shad Khan** is a case of preventive detention under the

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA) and a case of seizure of gold bars. In **Amir Shad Khan**, Hon'ble Supreme Court noticed that the detaining authority as well as the State Government had refused to send the detenu's representation to Central Government and this has robbed the detenu of constitutional right under Article 22(5) as detenu lost a valuable right of having his representation considered by the Central Government. Relevant paragraph in **Amir Shad Khan** is paragraph 10 and the same reads as follows:

'10. It must be realised that when a person is placed under detention he has certain handicaps and if he makes a request that a representation prepared by him may be forwarded to the Central Government as well as the State Government for consideration after taking out copies thereof it would be a denial of his right to represent to the Central Government if the Detaining Authority as well as the State Government refuse to accede to his request and omit to forward his representation to the Central Government for consideration. It is difficult to understand why such a technical and rigid view should be taken by the concerned authorities in matters of personal liberty where a person is kept in preventive detention without trial. Detenus may be literate or illiterate, they may have access to legal advice or otherwise, they may or may not be in a position to prepare more than one copy of the representation and if they make a request to the authorities which have the facilities to take out copies to do so and forward them for consideration to the Central Government, would it be just and fair to refuse to do so? In such circumstances refusal to accede to their request would be wholly unreasonable and in total disregard of the right conferred on the detenu by Article 22(5) of the Constitution read with Section 11 of the Act. We are, therefore, of the opinion that the Detaining

Authority as well as the State Government were not justified in taking a hypertechnical stand that they were under no obligation to take out copies of the representations and forward them to the Central Government. We think that this approach on the part of the Detaining Authority and the State Government has robbed the appellants of their constitutional right under Article 22(5) read with Section 11 of the Act to have their representation considered by the Central Government. The request of the detenus was not unreasonable. On the contrary the action of the Detaining Authority and the State Government was unreasonable and resulted in a denial of the appellants' constitutional right. The impugned detention orders are, therefore, liable to be quashed.'

[13] In the case at hand, the matter does not rest on **Amir Shad Khan** principle alone. The reason is, if the detaining authority had forwarded the detenu's 1st representation dated 26.11.2205 to the State and Central Governments as requested, i.e., as requested by the detenu in the representation itself, which is before us, the State Government would have, in discharge of its statutory obligation under Section 10 of NSA would have placed the 1st representation before the Hon'ble Advisory Board which sat on 08.12.2025. This Court had the benefit of perusing the file produced by the learned State counsel and this Court finds that the Hon'ble Advisory Board has proceed on the basis that the detenu has not made any representation. This means that the detenu has lost his valuable constitutional right of having his 1st representation dated 26.11.2025 considered by the Hon'ble Advisory Board. This is a clear infraction of sacrosanct constitutional right enshrined in Article 22(5) read with sanctified statutory right codified *vide* Section 10 of NSA.

[14] There is another very important aspect of the matter. In the grounds of detention dated 20.11.2025, in the penultimate paragraph, the detaining authority has made it clear that a representation from the detenu will be placed before the Hon'ble Advisory Board constituted under Section 9 of NSA. To be noted, this is *vide* Paragraph 6 of the grounds of detention dated 20.11.2025 which reads as follows.

'6. Further, you are informed that you have the right to make representation to the detaining authority within 12(twelve) days, from the date of detention or till the order is approved by the State Government, whichever is earlier. The representation is to be sent to the District Magistrate, Imphal West. Representation if any, would be placed before the Advisory Board (Constituted per Section 9, NSA) within a period of 3(three weeks from the date of your detention and such other documents/papers in connection with your detention, as the Government is bound under the law to produce before the Board for its consideration.'

Therefore, it is clear as daylight that the detenu was lulled into the belief that his representation being 1st representation dated 26.11.2025 (sent by him to the detaining authority) would be placed before the Hon'ble Advisory Board but that did not happen. This is de hors the request of detenu to detaining authority to forward copies of his 1st representation to the State and Central Governments. In the case at hand, this Court finds that literacy level of the detenu is Class -12 (Higher Secondary School)

[15] Learned counsel for writ petitioner submitted that, given the average and mediocre literacy level of the detenu, he was also lulled into

the belief that he cannot send any representation to the State Government or the Central Government beyond 3 (three) weeks from the date of his detention. This is owing to Paragraph 5 of the grounds of detention which reads as follows:

'5. And whereas, you are hereby informed that you have the right to make representation to the Government of Manipur as well as to the Central Government against the order of detention passed against you and you are hereby afforded the earliest opportunity for making such representation if you wish to do so. The representation is to be sent through Superintendent of Manipur Central Jail, Sajiwa to "The Chief Secretary, Government of Manipur" in respect of representation to the Government of Manipur and to "The Secretary to the Government of India, Ministry of Home Affairs (Department of Internal Security) North Block, New Delhi-110001" In respect of representation to the Central Government and should be submitted within 3(three) weeks from the date of detention.'

[16] As would be evident from paragraphs 5 and 6 of grounds of detention (extracted and reproduced *supra*), the detaining authority has fixed time frames for sending representations to the detaining authority, State Government as well as the Central Government. This is the reason why the detenu has sent the 2nd representation i.e., representation dated 08.12.2025 to the Hon'ble Advisory Board. Hon'ble Supreme Court in **Premlata Sharma (Smt.) vs. District Magistrate, Mathura & Ors.'** reported in **(1998) 4 SCC 260** held that there can be no period of limitation regarding exercise of the right of a detenu to make a representation and corresponding obligation of the Central Government to consider the same for deciding upon the question of order of detention as

such a right of a detenu and corresponding/axiomatic obligation of State subsists so long as the preventive detention order continues to operate. This Court, respectfully following **Premlata** principle laid down by Hon'ble Supreme Court in order dated 11.02.2026 in **W.P. (Crl.) No. 34 of 2025 (Mutum Ranjan Meitei @ Lamjingba vs District Magistrate, Thoubal District & Ors.)** reported in **2026 (2) MNLJO : 2026 Legal Eagle 6** which is a case of preventive detention order couched in a language akin to the impugned preventive detention order as regards paragraph 5 & 6, held that fixing of timeframes for sending representations is a clear infraction of sacrosanct Constitutional right enshrined in Article 22(5). This Court is informed that this 11.02.2026 order in W.P. (Crl.) No. 34 of 2025 has since been given effect to and the detenu has since been enlarged. Most relevant portions of **Mutum Ranjan Meitei** case are contained in paragraph 10 & 11 and relevant portions reads as follows:

[10] ... It has also been made clear that a detenu qua a impugned preventive detention order is entitled to have his representation considered as expeditiously/at the earliest. The significant clincher is, neither the Constitution nor the long line of authorities have either provided for or justified fixing of time frames for making such representations. It comes to light that in '**Premlata Sharma (Smt.) vs. District Magistrate, Mathura & Ors.**' reported in **(1998) 4 SCC 260**, Hon'ble Supreme Court has made it clear that there can be no period of limitation regarding exercise of right of the detenu to make a representation and corresponding obligation of the Central Government to consider the same for deciding upon the question of order of detention as such a right of a detenu and obligation of State subsist so long as the preventive detention order

continues. To be noted, on facts, **Premjata** also arose under NSA, a preventive detention order made under NSA was assailed and the issue that fell for consideration is refusal to send detenu's representation to Central Government on the ground that the power of the revocation of a detention order is vested only in the State Government under Section 14 of NSA. It is in this context that in **Premjata**, Hon'ble Supreme Court laid down the ratio that the right of detenu to make a representation and corresponding obligation of the Government to consider the same expeditiously (at the earliest) subsist so long as the preventive detention order operates/detention continues. In the case on hand, therefore, fixing of twelve days time frame qua representation to the detaining authority and fixing of three weeks time frame for representations to the State and Central Governments is clearly flawed and unacceptable. On an extreme demurer, even if the argument of learned State counsel that the time frames were fixed as impugned preventive detention order will be valid only for twelve days unless approved by the State Government and the State Government has a responsibility to place the representation before the Advisory Board within three weeks is accepted, the same does not come to the aid of learned State counsel in his effort to defend the impugned preventive detention order. The reasons are, as regards twelve days, though there may be some semblance of justification, there is absolutely no justification as regards fixing three weeks time frame for representation to the State Government. The reason is, Section 10 of NSA captioned 'Reference to Advisory Board' makes it clear that the appropriate Government shall within 3 weeks from the date of detention of a person place before the Advisory Board, the grounds on which order has been made and representation, **if any**. Section 10 of NSA reads as follows :

'10. Reference to Advisory Board.—

Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this

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

(underlining and bold font made /used by this Court for ease of reference).

[11] The above makes it clear that the statute i.e. Section 10 of NSA is clear as daylight that a State Government is under obligation to place the representation of the detenu before the Advisory Board only if the detenu chooses to send a representation. To put it differently, it is axiomatic that if the detenu does not send a representation within three weeks from the date of detention, State Government will be under no obligation much less a statutory obligation to place it before the Advisory Board and the State Government cannot be found fault with in this regard. Therefore, the argument that three weeks time frame for representation to State Government was fixed in grounds of detention to ensure that the representation is placed before the Advisory Board does not hold water. The buttressing factor is, if State Government receives a representation after three weeks from the date of detention, it has a sacrosanct duty to consider the same for revocation under Section 14 of NSA. To be noted, this is an indefeasible analogy that flaws from **Premialata** principle i.e., principle that detenu's right to make a representation and obligation/duty of State to consider the same at the earliest subsist as long as the preventive detention order operates/detention continues. As regards the representation to the Central Government this three weeks phenomenon does not exist at all and therefore the argument is a non starter.'

[17] In instant case, the detenu did not send representations to State and Central Governments. This Court is acutely conscious of the obtaining factual position that the detenu's 2nd representation dated 08.12.2025 sent to Hon'ble Advisory Board was sent to the State and Central Governments by Inspector General of Prisons and the State and Central Governments rejected the same, the details of which have been alluded to elsewhere supra in instant order. Therefore, for the sake of specificity and clarity, this Court deems it appropriate to write that infraction *qua* Article 22(5) and Section 10 of NSA is owing to the 1st representation dated 26.11.2025 not being placed before the Hon'ble Advisory Board on 08.12.2025 and Hon'ble Advisory Board proceeding on the basis that detenu has not made any representation. To be noted, the 2nd representation though of the same date was after the Hon'ble Advisory Board proceeded on the basis that detenu has not given any representation and as alluded to supra, this Court have the benefit of perusing the State file which contains proceedings of the Hon'ble Advisory Board.

[18] Apropos, this Court has no hesitation in writing that the impugned preventive detention order dated 17.11.2025 bearing Reference No. Cr/NSA/No.10 of 2025, approval Order of State dated 25.11.2025 bearing Reference No. H-1401/23/2025-HD-HD under Section 3(4) of NSA as well as Confirmation order dated 15.12.2025 bearing Reference No. H-1401/23/2025-HD-HD made by the State Government under Section 12(1)

of NSA are vitiated owing to infraction of sacrosanct constitutional right enshrined in Article 22(5) and sanctified statutory principle codified in Section 10 of NSA.

[19] This Court is informed by learned counsel for writ petitioner that detenu has since been granted default bail and he now remains incarcerated solely because of the impugned preventive detention order.

[20] Ergo, the sequitur is, captioned WP is allowed. The impugned preventive detention order dated 17.11.2025 bearing reference No. CrI/NSA/No.10 of 2025, made by R-2 (District Magistrate, Imphal West), approval of the State Government dated 25.11.2025 bearing Reference No. H-1401/23/2025-HD-HD and confirmation order of the State Government dated 15.12.2025 bearing Reference No. H-1401/23/2025-HD-HD are all set aside and Shri Jiten Sana RK @ Nanao, resident of Pangei Lairam Mapal, Imphal East District Manipur, aged about 41 years now lodged in Central Jail Sajiwa, Imphal East, is directed to be set at liberty forthwith, if not required in any other case. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

FR/NFR

Sushil/Sandeep

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