

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

(Video Conference)

W.P. (Cril.) No. 6 of 2020

Md. Rashid Ali

...Petitioner(s)

Vs.

State of Manipur

...Respondent(s)

B E F O R E

**HON'BLE MR. JUSTICE KH. NOBIN SINGH
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

O R D E R

20-10-2020

Kh.Nobin Singh, J

Heard Shri Ph. Sanajaoba, learned Advocate appearing for the petitioner; Shri Th. Vashum, learned Government Advocate for the State respondents and Shri S. Suresh, learned ASG appearing for the Union of India.

[1] The brother of the petitioner, Md. Abbas Ahamad, is under detention vide order of detention dated 04-02-2020 issued by the Special Secretary (Home), Government of Manipur. The allegation as stated in the grounds of detention is that the detenu is involved in drug trafficking, possession and selling drugs.

[2] The validity and correctness of the said order of detention dated 04-02-2020 issued by the Special Secretary (Home), Government of Manipur is under challenge in this writ petition on various grounds, of which the learned counsel appearing for the petitioner has emphasized only the ground that the respondent No.1 has failed to comply with the

[2]

provisions of Section 3(2) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substance Act, 1988 (hereinafter referred to as **“the Act, 1988”**).

[3] On 11-06-2020 when the matter was taken up for consideration, this court issued notice to the respondents. Since Shri Th. Vashum, learned Government Advocate had accepted the notice on behalf of the respondent Nos.1 and 2 while Shri S. Suresh, learned ASG had accepted notice on behalf of the Union of India, no formal notice was issued to them.

[4] Counter affidavit on behalf of the respondent No. 2 was filed on 16-09-2020 justifying the order of detention. No counter has been filed on behalf of the Union of India but a copy of the letter dated 14-07-2020 addressed to the Deputy Secretary (Home), Government of Manipur by the Under Secretary to the Government of India was produced wherein it has been stated that the State Government did not send a report as required under the provisions of Section 3(2) of the Act. On 16-10-2020 when the matter was taken up for consideration, it was submitted by Shri S. Suresh, learned ASG on the strength of the said letter that no report as required under the provisions of the Act, 1988 was forwarded to the Union of India. Some time was granted to the Government Advocate for seeking instruction thereof.

[5] In order to decide the issue involved herein, this Court deems it appropriate to examine the provisions of Section 3(2) of the Act, 1988 which reads as under:

“(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.”

On perusal of Section 3 (2) of the said Act, 1988, it is quite evident that it is incumbent upon the State Government to forward a copy of the report within 10 (ten) days from the date of order of detention being made by the detaining authority. During the course of hearing, Shri Th. Vashum, learned Government Advocate, on instruction, has admitted the fact that no such report had ever been forwarded to the Central Government. In other words, the provision of Section 3(2) of the Act, 1988 has been violated and therefore, this court is of the view that the order of detention is bad in law and is liable to be quashed and set aside.

[6] In view of the above, the writ petition stands allowed with the direction that the order of detention dated 04-02-2020 issued by the Special Secretary (Home), Government of Manipur is quashed and set aside with the further direction that **Md. Abbas Ahamad (36) @ Moichingmayum Abas Mastana S/o Md. Kheiruddin of Moijing Awang Leikai, Thoubal District, Manipur** shall be released forthwith, if he is not required in any other case.

Copies of this order shall be sent to the counsels appearing for the parties through their WhatsApp/e-mail.

JUDGE

JUDGE