
(2011) 3 GLR 605

Gauhati High Court (Imphal Bench)

Case No: Writ Petition (Criminal) No. 91 of 2010

Khwairakpam Ongbi
Jamuna Devi

APPELLANT

Vs

Union of India (UOI)
and Others

RESPONDENT

Date of Decision: Feb. 11, 2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€” Section 161#National Security Act, 1980 â€”
Section 12(1), 3, 3(2)#Unlawful Activities (Prevention) Act, 1967 â€” Section 17, 18, 20

Citation: (2011) 3 GLR 605

Hon'ble Judges: T. Nandakumar Singh, J; Mutum B.K. Singh, J

Bench: Division Bench

Advocate: A. Jagatchandra, for the Appellant; Th. Ibohal and C. Kamal, for the Respondent

Judgement

T. Nandakumar Singh, J.

The Petitioner, the wife of the detainee, namely, Kh. Joykumar Meitei @ Bay @
Jayantakumar @ Birjit @

Pacha, is assailing the detention order being No. CrI.9/NSA/DM-BPR/2010/416 Bishnupur
dated 22.3.2010 passed by the District Magistrate,

Bishnupur directing the detainee, who is now in Police custody be detained under the
NSA in exercise of power conferred upon him by Sub-

section (2) of Section 3 of the National Security Act, 1980 ("NSA") read with Government
of Manipur, Home Department order No.

17(1)49/80(Pt-I) dated 11.2.2010; approval order of the Government of Manipur being No.
17(1)68/2010-H dated 31.3.2010 and also

confirmation order of the Government of Manipur being No. 17(1)68/2010-H dated 8.5.2010 for fixing the period of detention for a period of

twelve months from the date of detention.

2. Heard Mr. A. Jagatchandra, learned Counsel appearing for the Petitioner and Mr. Th. Ibohal, learned senior GA appearing for Respondent

Nos. 2, 3 and 4 as well as Mr. C. Kamal, learned CGSC appearing for Respondent No. 1.

Factual background

3. On 8.3.2010 at about 6 p.m. when the detainee went out of his house along the Imphal-Churachandpur road he was picked up by security

personnel and taken to the Bishnupur Police Station and for the whole night the detainee was kept in Police custody and on the next following day,

i.e., 9.3.2010, detainee was taken to Moirang Police Station by the security personnel and Moirang Police Station had registered a case being FIR

No. 40(3) 10 M.R.P.S. u/s 17/18 UA(P) A Act on the written report made by those security personnel who arrested the detainee. The Officer-in-

charge of Moirang Police Station had shown the date of arrest of the detainee as 9.3.2010 instead of 8.3.2010 and detainee was produced before

the Chief Judicial Magistrate, Bishnupur in connection with the said FIR case No. 40(3) 10 M.R.P.S. The learned Judicial Magistrate remanded

the detainee to Police custody in connection with the said FIR till 17.3.2010. On 17.3.2010 the detainee was produced before the Chief Judicial

Magistrate, Bishnupur with the prayer for remanding the detainee to judicial custody. On that very day, i.e., 17.3.2010 the detainee was re-arrested

in connection with FIR No. 40 (3) 10 M.R.P.S u/s 17/18 UA(P) A Act.

While the detainee was in the Manipur Central Jail, Sajiwa, he was furnished with the detention order being No. CrI.9/NSA/DM-BPR/2010/416

dated 22.3.2010 by the learned District Magistrate, Bishnupur along with the grounds of detention dated 26.3.2010. From the grounds of

detention furnished by the Detaining Authority, the detainee came to know that he had been detained under the NSA on the ground that he has

been acting in a manner prejudicial to the security of the State and maintenance of public order. For easy reference, the impugned detention order

dated 22.3.2010 (Annexure A/3 to the writ petition) is quoted hereunder:

No. CrI. 9/NSA/DM-BPR/2010/416: Whereas a police report has been laid before me that Shri Khwairakpam Joykumar Meitei @ Boy @

Jayantakumar @ Birjit @ Pacha (52) s/o (L) Kh. Mani Meitei of Phubala Makha Mamang Leikai, P.S. Moirang, District Bishnupur, Manipur has

been acting in a manner prejudicial to the security of the State and maintenance of public tranquillity vide S.P. Bishnupur letter No. C-5/27/ SP

BPE/07 (NSA)/1416 dated 20th March, 2010;

Whereas, after careful perusal of the police report as well as the supporting documents, I am satisfied that the person noted above carried out

prejudicial activities in the proximate past and he is very likely to continue and act in a manner prejudicial to the security of the State and

maintenance of public order. Also, it is not possible to prevent his activities by applying ordinary laws unless provision u/s 3(2) of the National

Security Act, 1980 is applied;

Whereas, it is necessary to detain the said Shri Khwairakpam Joykumar Meitei @ Boy @ Jayantakumar @ Birjit @ Pacha (52) s/o (L) Kh. Mani

Meitei of Phubala Makha Mamang Leikai, PS, Moirang, District Bishnupur, Manipur with a view to prevent him from acting in any manner

prejudicial to the security of the State and maintenance of public order;

And whereas, I am satisfied with the police report that Shri Khwairakpam Joykumar Meitei @ Boy @ Jayantakumar @ Birjit @ Pacha (52) s/o

(L) Kh. Mani Meitei of Phubala Makha Mamang Leikai, P.S. Moirang, District Bishnupur, Manipur is likely to be released on bail in the near

future unless provision u/s 3(2) of the National Security Act, 1980 is applied.

Now, I, K. Panmei, District Magistrate, Bishnupur, Manipur, in exercise of powers conferred upon me by Sub-section (2) of Section 3 of the

National Security Act, 1980 read with Government of Manipur, Home Department's Order No. 17(1)/49/80(Pt-I) dated 11th February, 2010

make this order directing that the said person who is now in Police custody be detained under NSA in the Manipur Central Jail, Sajiwa until further orders.

Given under my hand and seal of this Court on 22nd March, 2010.

Sd/-

(K. PANMEI)

District Magistrate, Bishnupur,
Manipur.

4. On perusal of the detention order, it appears that the Detaining Authority had come to the subjective satisfaction that the detainee is likely to be

released on bail in the near future unless provisions u/s 3(2) of the NSA is applied. The detention order dated 22.3.2010 passed by the District

Magistrate, Bishnupur was also approved by the State Government vide order No. 17(1)68/2010-H dated 31.3.2010. Subsequently, the State

Government after consideration of the opinion expressed by the Advisory Board and in exercise of power conferred u/s 12(1) of the NSA,

confirmed detention of detainee by the District Magistrate under his order No. CrI.9/NSA/DM-BPE/2010/416 dated 22.3.2010 and fixed the

period of detention for twelve months from the date of detention vide order of the State Government dated 8.5.2010. The only ground for assailing

the detention order is that there is non-application of mind in coming to the subjective satisfaction that the detainee is likely to be released on bail in

near future unless provision u/s 3(2) of the NSA is applied inasmuch as there is no cogent materials for coming to the subjective satisfaction and

not even a whisper was made by the Detaining Authority in the grounds of detention that the detainee is likely to be released on bail and also that in

case of other accused who were arrested in connection with the criminal case similar with the criminal case for which the present detainee was

arrested, had already been released on bail.

5. For deciding the grounds put up by the Petitioner, a quick curiosity to the grounds of detention is required to be made. For easy reference, the

grounds of detention dated 26.3.2010 furnished by the Detaining Authority is quoted hereunder:

No. CrI.9/NSA/DM-BPR/2010: Bishnupur, the 26th March, 2010

To,

Shri Khwairakpam Joykumar Meitei @ Boy @ Jayantakumar @ Birjit @ Pacha (52) S/o (L) Kh. Mani Meitei of Phubala Makha Mamang Leikai

P.S. Moirang, District Bishnupur, Manipur.

Subject: Ground of detention orders dated 22/3/2010 under Sub-section (2) of Section 3 of the National Security Act, 1980.

In pursuance of Section 3 of the National Security Act, 1980 you are hereby informed that the grounds of your detention are as follows:

(1) That, you were born and brought up at Phubala Makha Mamang Leikai, P.S. Moirang, District Bishnupur. You had done your primary

education up to Class V at the Phubala Primary School, from Class VI to Class X at the Phubala High School. In the year 1978 you had appeared

in the HSLC examination and passed in 3rd Division. Thereafter you admitted in P.U. 1st year at the Moirang College and studied there upto B.A.

Before completion in the academic session of B.A final year, you gave up your further studies due to poverty. Late Kh. Mani Meitei was your

father and Smt. Tongbram (N) Tombi Leima (80) yrs. of Phubala is your mother. You have three elder sisters, one younger brother and one

younger sister. In the year 1985 you married Smt. Tongbram (N) Jamuna Leima (39) years D/o (L) T. Biramani Singh of Ngankha Lawai and now

you have 4 daughters and 2 sons. Your eldest son, namely, Kh. Kapil Meitei @ Manao @ Thembung (18) years is an active member of

KCP(MC) Lamyamba Khuman and now he is in the Manipur Central Jail, Sajiwa under the detention of NSA.

You are capable of reading and writing English very well as you read up to B.A.

(2) That, you had joined the banned organization namely, Kangleipak Communist Party (KCP in short) M/C Lamyamba Khuman faction in the last

week of September 2009 through Shri Nongdrenkhomba @ R.K. Momon (35) years of Thanga, S/S District Finance Commander of KCP(M/C)

Lamyamba Khuman, Bishnupur District. The red army is its armed wing.

The avowed aim and object of the banned organization, namely, Kangleipak Communist Party ("KCP") is to secede the State of Manipur from the

Union of India and create an independent, sovereign State of Manipur. For this purpose, the said organization started procuring of arms and

ammunitions through foreign countries and recruited youngsters from various communities in Manipur. In pursuance of your objectives, the

members of this organization have committed a series of heinous crimes such as, murder, dacoity, robbery, extortion, kidnapping for ransom from

different parts of Manipur. The ring leaders have sought foreign assistance and established links with countries like Bangladesh, Myanmar (Burma),

Pakistan and other countries inimical to India's sovereignty and committed series of prejudicial activities affecting the sovereignty and territorial

integrity of India.

In consideration of the large scale prejudicial activities of the Kangleipak Communist Party (KCP) the Government of India, Ministry of Home

Affairs declared the Kangleipak Communist Party (KCP) as Unlawful Association vide Gazette of India, Notification under No. SO 2883(E)

dated 13.11.2009 (copy of the Notification is enclosed herewith for reference).

(3) That, after joining the Organization you started to work in KCP(M/ C) Lamyamba Khuman, Bishnupur District under the command of

Nongdrenkhomba Singh aged about 35 years of Thanga, S/S District Finance Commander of KCP(M/C) Lamyamba Khuman along with S/Shri

L. Biren Singh @Amarjit (40) of Khurai Thangjam Leikai, Kunjabihari Singh (40) of-do-, Smt. Thoudam Bilashini Devi w/o (L) Th. Deben Singh

of Khurai Thoudam Leikai and Km. Gita Devi (35) yrs. of Moirang Mr. Nongdrenkhomba entrusted you and your associates mentioned above to

extort money from general public, Government Employees, Schools, Colleges, Private firms, Businessmen, Shop Keepers, etc., located in

Bishnupur District after delivery of demand letters of KCP (M/C) Lamyamba Khuman. Further Mr. Nongdrenkhomba handed over one 32 Pistol

with 7 rds of ammn and two Magazine and some demand letters of KCP(MC) Lamyamba Khuman to you and your party for using the same at the

time of extortion of money. Accordingly, you and your associates holding one 32 pistol with ammn. In your possessions started to extort money

from general public, Government Employees, Schools, Colleges, Private Firms, Businessmen, Shop Keepers, etc., located in Bishnupur District

since the last part of 2009 after delivery of demand letters of KC (MC) Lamyamba Khuman. You extorted about Rs. 3 lakhs (three lakhs) since

the last part of 2009 till last week of Feb., 2010, The extorted money has been deposited to Nongdrenkhomba Singh from time-to-time. Over and

above, you and your associates transported arms and ammn. Of KCP(MC) Lamyamba Khuman from one place to another in Imphal West and

Bishnupur District. You have full knowledge that the money so far you extorted would be used in procuring arms and ammns. From foreign

countries in order to wagging war against the lawfully established Government of India and Manipur Government for the restoration of Liberty in

the State of Manipur as done before holding arms. You continued the similar task till your arrest.

Such act of extortion of money holding arms carried out by you and your associated gave a terror wave and peril to the lives of innocent public

which is prejudicial to the security of the State and maintenance of public order.

(4) That, on 9.3.2010 at 10 a.m. you along with L. Biren Singh and Smt. Th. Bilashini Devi were arrested from a place at Phubala by a team of

CDO/BPR led by Jem 1C No. 599 Mr. Jamkhongam Taothang. Thereafter, on the same day at 1.30 p.m. you were handed over to the

OC/MRG PS with a written report. On the strength of the report, OC/MRG PS registered a regular case at Morang Police Station under FIR No.

40(3)2010 MRG PS u/s 17/18/20 UA(P) A Act and 25 (I-C) A. Act and investigated into. During the course of the investigation of the case, you

were arrested in c/w the case noted above and remand to Police custody till 17.3.2010. On 17.3.2010 you were produced before the court for

judicial remand but you were formally arrested in c/w the following crime:

1. FIR No. 24(3)2010 BPR-PS - Arrested on 17.3.2010 and
under Section 20/17 UA(P) A. remanded into Police custody till

Act"" 04 22.3.2010. You are now in police
custody.

Your statement given before the I/O on 9.3.2010, statement of Jem J.C. No. 599
Jamkhongam Touthang of CDO/BPR recorded u/s 161, Code

of Criminal Procedure in c/w 40(3)2010 MRG-PS u/s 17/18 UA(P) A. Act and copies of:

(i) Arrest Memo dated 9.3.2010.

(ii) Notification No. SO 2883(E) dated 13th November, 2009.

(iii) FIR No. 40 (3)2010 MRG-PS u/s 17/18 UA(P) A. Act.

(iv) Copy of Home Deptt. Order No. 17 (D49/80-H (Pt-I) dated 11.2.2010.

(5) That, from the points enumerated above, it is clearly seen that you are a dangerous
hard core member of the banned organization namely,

Kangleipak Communist Party ("KCP") Lamyangba Khuman faction who carried out
prejudicial activities which disturbs public order affecting

public tranquillity. In view of your prejudicial activities in the immediate past, it is very
likely that you would continue to act in the manner prejudicial

to the security of the State and maintenance of public order, which will endanger the
security of Manipur State. As it is evident from the facts

mentioned above, normal criminal laws are not sufficient to prevent you from the
commission of prejudicial activities. An alternative measures is,

therefore, immediately called for.

The above grounds are based on the report of the SP/BPR vide his letter No. C-5/27/SP-BPR/07 (NSA) 1416 dated 20.3.2010.

(6) That, you are hereby informed that you have the right to make representation before the detaining authority within 12(twelve) days from the

issue of the ground of detention. You also have the right to make representation to the Government of Manipur against the order of detention

passed against you and you are hereby afforded to do so. The representation is to be addressed to the Chief Secretary to the Government of

Manipur through the Addl. Superintendent Manipur Central Jail, Sajiwa and should be submitted within 3(three) weeks from the date of detention.

The representation, if any, shall be placed before the Advisory Board within 3(three) weeks from the date of detention and such order

documents/papers connected with your detention as the Government is bound under the law to be produced before the Board for its

consideration. It is also emphasized that if you wish to make any representation to the Central Government you may send the same at the following

address through the Addl. Superintendent, Manipur Central Jail, Sajiwa.

The Secretary to the Government of India,

Ministry of Home Affairs

(Department of Internal Security)

North Block, New Delhi -110001.

That, you are hereby informed that the Advisory Board may call for such information as may be deemed necessary from you and if you desire to

be heard/hear in person, you may intimate about it and arrangement may be made to produce you before the Board on the date fixed by it for the

purpose.

Sd/

(K. PANMEI)

DISTRICT MAGISTRATE: BISHNUPUR,

MANIPUR.

6. It is well settled that there is no hard and fast rule for coming to the subjective satisfaction of the Detaining Authority for detaining the detainee

under the detention order. It is also equally well settled that subjective satisfaction of the Detaining Authority arrived at for detaining the detainee as

a preventive measure under the preventive law cannot be sustained if such satisfaction is based on non-existent or irrelevant grounds. The

subjective satisfaction of the Detaining Authority arrived at while considering the materials on record was cumulative result of all the grounds of

detention, there is no set standard laid down by the NSA for arriving at the subjective satisfaction of the Detaining Authority on the basis of all the

materials placed before him by the Police.

7. This Court, incidentally one of us (Justice T.N.K Singh) is a party, in Lourembam Sana Singh Vs. State of Manipur and Others, held that:

13. It is well settled law that subjective satisfaction of the detaining authority arrived at for detaining the detainee as a preventive measure under the

preventive law is invalid if such satisfaction is based on nonexistent or irrelevant ground only. Reference in Dwarika Prasad Sahu Vs. The State of

Bihar and Others, The subjective satisfaction of the detaining authority arrived at while considering the materials and records was the cumulative

result of all the grounds of detention and the involvement of the detainee in different activities. Reference may be made in P. Saravanan Vs. State of

T.N. and Others, There is no set standards laid down by the NSA for arriving at subjective satisfaction of the detaining authority on the basis of all

the materials placed before it by the police. In the present case as stated above, the detaining authority had arrived at, on subjective satisfaction,

for detaining the detainee under the NSA on the basis of the materials and the information placed by the Superintendent of Police, Imphal West.

Therefore, the detention order cannot be said to be illegal on the ground of non-application of mind. Reference in Gurdev Singh Vs. Union of India

and ors, The Apex Court in Union of India (UOI) Vs. Paul Manickam and Another, held that:

Preventive detention is an anticipatory measure and does not relate to an offence while the criminal proceedings are to punish a person for an

offence committed by him. They are not parallel proceedings. The object of the law of preventive detention is not punitive but only preventive. It is

resorted to when the executive is convinced on the materials available and placed before it had such detention is necessary in order to prevent the

person detained from acting in a manner prejudicial to certain objects which are specified by the law. The action of the executive in detaining a

person being only precautionary, the matter has necessarily to be left to the discretion of the executive authorities. It is not practicable to lay down

objective rules of conduct, the failure to conform to which alone should lead to detention.

8. This Court in Thongam (Ongbi) Thongam (ONGBI) Sanatombi Devi Vs. District Magistrate and Others, also held that:

13. It is settled position of law that the nature of satisfaction of the detaining authority in issuing the detention order under National Security Act for

preventing a detainee from indulging in such activities which are prejudicial to the maintenance of the public order and the security of the State is

only a subjective satisfaction but subjective satisfaction should not be on no material.

14. The subjective satisfaction of the detaining authority arrived at while considering the materials and records was the cumulative result of all the

grounds of detention in view of the decision of the Supreme Court in P. Saravanan Vs. State of T.N. and Others, According to the learned

Counsel for the Respondents no set standards have been laid down by the Act for arriving at subjective satisfaction of the detaining authority. The

subjective satisfaction in the present case had been arrived at by the detaining authority on the basis of all the materials placed before him.

Therefore, the detention order cannot be said to be illegal on the grounds of non-application of mind in view of the principles laid down in Gurdev

Singh Vs. Union of India and ors,

19. As we have discussed above, satisfaction of the (sic.) authority for issuing the detention order is only a subjective satisfaction. We, within the

four corners of law laid down by the Apex Court in the cases discussed above, perused the materials available on record to see as to whether the

relevant materials were placed before the detaining authority at the time of passing the detention order or not be effective to prevent him from the

commission of further prejudicial activities.

9. The Apex Court in a case coming from this Bench; Smt. Pebam Ningol Mikoi Devi Vs. State of Manipur and Others, held that the grounds

stated in the order of detention are sufficient or not is not within the ambit of the discretion of the court. It is the subjective satisfaction of the

Detaining Authority which is implied. The Apex Court in Mikoi Devi's case (supra) further held that there must be a reasonable basis for the

detention order, and there must be material to support the same. The court is entitled to scrutinise the material relied upon by the authority in

coming to its conclusion, and accordingly determine if there is an objective basis for the subjective satisfaction. Para 26 of the SCC in Mikoi

Devi's case (supra) read as follows:

26. What emerges from these rulings is that, there must be a reasonable basis for the detention order, and there must be materials to support the

same. The court is entitled to scrutinise the material relied upon by the authority in coming to its conclusion, and accordingly determine if there is an

objective basis for the subjective satisfaction. The subjective satisfaction must be two-fold. The detaining authority must be satisfied that the person

to be detained is likely to act in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of

the public order and the authority must be further satisfied that it is necessary to detain the said person in order to prevent from so acting.

(emphasis supplied)

10. From the ratio laid down in Mikoi Devi's case (supra) it is clear that the court is entitled to scrutinise the material relied upon by the authority in

coming to its conclusion, and accordingly determine if there is an objective basis for the subjective satisfaction. On perusal of the grounds of

detention dated 26.3.2010 it is clear that there is no whisper in the grounds of detention that the detainee is likely to be released on bail. No doubt,

for coming to the subjective satisfaction of the Detaining Authority that the detainee is likely to be released on bail, there is no hard and fast rule that

in the ground of detention, the Detaining Authority should mention that for the reasons mentioned in the ground of detention the detainee is likely to

be released on bail. But it is also equally well settled that there must be some material for coming to the inference that the detainee is likely to be

released on bail; e.g., for the cases of the type for which the detainee had been arrested the other accused had already been released on bail in the

earlier instances or that other accused or co-accused of the detainee had already been released on bail and so on and so for.

11. The Apex Court in *Amritlal and Ors. v. Union Government through Secy., Ministry of Finance and Ors.* (2001) 1 SCC 341 held that for the

detainee already in jail, the Detaining Authority must be satisfied on the basis of the available cogent materials about the likelihood of the detainee

being released on bail and in the absence of materials, subjective satisfaction of the Detaining Authority about the likelihood of the detainee being

released on bail cannot be sustained. The Apex Court further held that inference must be drawn from the available materials on record; must not be

the ipse dixit of the officer passing the order of detention. Para 4 of the SCC in *Amritlal's* case (*supra*) read as follows:

4. In *Augustin decision Rivadeneyta Ricardo Agustin v. Government of the National Capital Territory of Delhi* this Court also placed strong

reliance on an earlier but oft-cited decision of this Court in *Binod Singh v. District Magistrate, Dhanbad* (1986) 4 SCC 616 : 1986 SCC 490

wherein it was held that if a person is in custody and there is no imminent possibility of his being released therefrom, the power of detention should

not ordinarily be exercised. This Court held that there must be cogent materials before the officer passing the detention order that the detainee is

likely to be released on bail. The inference must be drawn from the available material on record and must not be the ipse dixit of the officer passing

the order of detention. It is in this perspective as above, that the recording of the officer concerned in the matter under reference ought to be

noticed and the same reads as below:

Even though prosecution proceedings under the Narcotic Drugs and Psychotropic Substances Act, 1985 have been initiated against Shri Amritlal.

I am satisfied that there is compelling necessity in view of the likelihood of his moving an application for bail and in the event of his being granted

bail, the likelihood of his indulging in illicit traffic in narcotic drugs as is evident from the trend of his activities, to detain him under the Prevention of

Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

(emphasis supplied)

12. It is the duty of the court to see that efficacy of safeguards provided in the law of preventive detention is not lost in mechanical, routine, dull

casualness and chill indifference, on the part of the authorities. The conclusion that there was likelihood of detainee being released on bail arrived at

by the Detaining Authority, though no bail application filed by the detainee, being subjective satisfaction of the Detaining Authority, based on

materials before the Detaining Authority is not normally interfered by the court in exercise of its judicial power. The Apex Court in *Senthamilselvi*

Vs. State of Tamil Nadu and Another, held that subjective satisfaction arrived at by the Detaining Authority that there was likelihood of detainee

being released on bail even if no bail application filed by the detainee cannot be interfered with as there was material in the given fact of the case.

The fact of that case is that in the cases similar with the cases for which the detainee had been arrested, bails were granted by various courts and

this fact was not disputed by the detainee and as such there had not been disputed correctness of the statement that the Detaining Authority had

clearly stated in the ground of detention that in the similar cases order granting bails were passed by various court; in such fact, the Apex Court

held that the subjective satisfaction of the Detaining Authority arrived at that the detainee is likely to be released on bail is not called for interference.

13. In the present case, as stated above, even no whisper had been made in the ground of detention that in the similar cases bail order had been

granted by various courts. Relevant portion of para 10 of the SCC in *Senthamilselvi's* case (supra) read as follows:

10... That is his subjective satisfaction based on materials. Normally, such satisfaction is not to be interfered with. On the facts of the case, the

detaining authority has indicated as to why he was of the opinion that there is likelihood of detainee being released on bail. It has been clearly stated

that in similar cases orders granting bail are passed by various courts. The Appellant has not disputed correctness of this statement. Strong reliance

was placed by learned Counsel for the Appellant on *Rajesh Gulati Vs. Govt. of N.C.T. of Delhi and Another*, The factual scenario in that case was

entirely different. In fact, five bail applications filed had been already rejected. In that background this Court observed that it was not a "normal

case. The High Court was justified in rejecting the stand of the Appellant.

(emphasis supplied)

14. The Apex Court in *Ibrahim Nazeer Vs. State of Tamil Nadu and Another*, held that subjective satisfaction of the Detaining Authority based on

materials is not normally interfered by the court, it depends upon case-to-case. In that case, there is clear indication of the Detaining Authority that

in similar cases, orders granting bail are passed by various courts and that fact was not disputed by the detainee. In that circumstance, the Apex

Court held that subjective satisfaction of the Detaining Authority about the likelihood of detainee being released on bail cannot be questioned. Para

7 of the SCC in *Ibrahim Nazeer's* case (supra) read as follows:

7. It has to be noted that whether prayer for bail would be accepted depends on the circumstances of each case and no hard and fast rule can be

applied. The only requirement is that the detaining authority should be aware that the detainee is already in custody and is likely to be released on

bail. The conclusion that the detainee may be released on bail cannot be an ipse dixit of the detaining authority. On the basis of materials before it,

the detaining authority came to the conclusion that there is likelihood of the detainee being released on bail. That is his subjective satisfaction based

on materials. Normally, such satisfaction is not to be interfered with. On the facts of the case, the detaining authority has indicated as to why he

was of the opinion that there is likelihood of the detainee being released on bail. It has been clearly stated that in similar cases, orders granting bail

are passed by various courts. The Appellant has not disputed the correctness of this statement. Strong reliance was placed by learned Counsel for

the Appellant on *Rajesh Gulati Vs. Govt. of N.C.T. of Delhi and Another*, . The factual scenario in that case was entirely different. In fact, five bail

applications filed had been already rejected. In that background this Court observed that it was not a "normal" case. The High Court was justified

in rejecting the stand of the Appellant.

(emphasis supplied)

15. The Apex Court is of the view similar to that of Ibrahim Nazeer's case (supra) in *A. Geetha Vs. State of Tamil Nadu and Another*, Para 10 of

the SCC in *A. Geetha's* case (supra) read as follows:

10. It has to be noted that whether prayer for bail would be accepted depends on circumstances of each case and no hard and fast rule can be

applied. The only requirement is that the detaining authority should be aware that the detainee is already in custody and is likely to be released on

bail. The conclusion that the detainee may be released on bail cannot be ipse dixit of the detaining authority. On the basis of materials before him,

the detaining authority came to the conclusion that there is likelihood of the detainee being released on bail. That is his subjective satisfaction based

on materials. Normally, such satisfaction is not to be interfered with. On the facts of the case, the detaining authority has indicated as to why he

was of the opinion that there is likelihood of the detenue being released on bail. It has been clearly stated that in similar cases orders granting bail

are passed by various courts. The Appellant has not disputed the correctness of this statement. Strong reliance was placed by learned Counsel for

the Appellant on *Rajesh Gulati Vs. Govt. of N.C.T. of Delhi and Another*, The factual scenario in that case was entirely different. In fact, five bail

applications filed had been already rejected. In that background this Court observed that it was not a "normal" case. The High Court was justified

in rejecting the stand of the Appellant - see *Ibrahim Nazeer Vs. State of Tamil Nadu and Another*, and *Senthamilselvi Vs. State of Tamil Nadu and*

Another,

(emphasis supplied)

16. From the above ratio laid down by the Apex Court it is clear that there is no hard and fast rule for coming to the subjective satisfaction by the

Detaining Authority that the detenue is likely to be released on bail but the subjective satisfaction must be on the material fact. Inference must be

drawn from the materials available on the record and must not be ipse dixit of the officer passing the order of detention. The court is entitled to

scrutinise the material relied upon by the authority in coming to its conclusion; accordingly, determine if there is an objective basis for the subjective

satisfaction.

17. In the present case, there is absolutely no objective basis for the subjective satisfaction. This Court is interfering the subjective satisfaction of

the Detaining Authority in the given case of the present writ petition only on the basis that there is absolutely no objective basis for the subjective

satisfaction and it is only the ipse dixit of the Detaining Authority that the detenue is likely to be released on bail.

18. For the foregoing reasons the impugned detention order dated 22.3.2010, approval order dated 31.3.2010 and confirmation order dated

8.5.2010 are hereby quashed. The detenue, namely, Kh Joykumar Meitei @ Bay @ Jayantakumar @ Birjit @ Pacha, be released forthwith

unless he is required to be detained in connection with other cases.

The writ petition is disposed of.