

(2011) 05 GAU CK 0011

In the Gauhati High Court

Case No : Writ Petition (Cril) No. 118 of 2010

Loitongbam Manimohon Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 12-05-2011

Acts Referred:

Constitution of India, 1950 — Article 22(5)
National Security Act, 1980 — Section 3(2), 3(3)

Citation : (2011) 3 GLT 819

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

Bench : Division Bench

Advocate : Dolen Phurailatpam, for the Appellant; A. Modhuchandra, GA and Mr. Amarjit Naoram, CGSC, for the Respondent

Final Decision : Dismissed

Judgement

T. Nandakumar Singh, J.—Heard Mr. Dolen, learned counsel for the petitioner, Mr. Modhuchandra, learned GA for respondent Nos.1 and 2 as well as Mr. Amarjit Naorem, learned CGSC appearing on behalf of respondent No.3.

2. The petitioner is the husband of the detainee, Smt. Khumukcham (N) Loitongbam (O) Memcha Devi @ Ichechaobi, who is now detained under the National Security Act, 1980.

3. FACTUAL BACKGROUND

On 03.06.2010 at about 11.50 a.m. while the detainee was at her residential quarter at Langol Game Village Zone-III, some army personnel came and enquired about her. One of the army personnel who could speak Manipuri language confirmed her identity and enquired whether she was arrested previously for being a sympathizer of the banned organization KCP(MC) Lalheiba faction; she admitted that she was once arrested in connection with FIR No. 135(4)2010 IPS u/s 19/39 UA(P) A Act on 08.05.2010. For that case, she was remanded to police custody till 14.04.2010. On 14.04.2010 the detainee was

produced before the Court for judicial remand but released on bail by the Court on the same day. After release on bail by the Court, the detainee stayed at the rented quarter at Langol Game Village, Zone-III.

4. The said army personnel who came to the quarter of the detainee on 03.06.2010 told the detainee that she had to accompany them to their camp for certain verifications, but her vehement protests were brushed aside and compelled to accompany the said army personnel. Having no alternative she accompanied the army personnel to their camp. On reaching army camp she was taken into a room and an army personnel who could speak local Manipuri language along with some other army personnel entered the room and started questioning her as to whether she has any connection with the KCP (MC) Lalheiba faction or whether she has any nexus with them; she answered in the negative. The army personal also enquired, "is it true that she is the recruiting officer of the KCP (MC) Lalheiba faction", to which she vehemently denied.

After some time the army personnel brought in some youths and they were made to confirm and identify her; she realized that two youths from her native village were some of the individuals who contacted one Surdas @ Dash at her instance for providing them jobs at Bangkok. However, it transpired that they were taken to other locations for a totally different purpose by the said Surdas @ Dash.

5. The detainee also admitted that the said Surdas @ Dash of Kumbi Bazar frequently visited her rented residential quarter at Langol Game Village. Surdas @ Dash approached the detainee one day with the proposal that he is looking for eligible youths who are capable of doing jobs at Bangkok as he has connection with an NGO situated at Bangkok. She approached some of her near relatives as well as peoples of her native village who are interested in sending their children to Bangkok for doing jobs and informed the interested individuals and their families to contact the said Surdas@ Dash for detailed information regarding the same. Thereafter, the detainee, it is stated, had no knowledge of any development regarding the matter as their association with the matter as such ended after providing the requisite information to the interested families. Despite her vehement protests the detainee was taken by the army personnel to Lamphel P. S. and handed her to the O/C, Lamphel P.S.

6. On 04.06.2010 the detainee was produced before the Court for remanding her to police custody in connection with FIR No. 55 (6) 2010 Lamphel P.S. u/s 20 UA (P) A Act which was registered against her. The learned Judicial Magistrate remanded the detainee to police custody till 10.06.2010 and thereafter remanded to judicial custody. On 14.06.2010 while the detainee was in police custody she was served with the impugned detention order being Cril/NSA/No.56 of 2010 dated 14.06.2010. The impugned detention order read as follows:

No. Cril/NSA/No. 56 of 2010: Whereas, a police report has been laid before me that Smt. Khumukcham (N) Loitongbam (O) Memcha Devi @ Ichechaobi (47 yrs)

w/o L. Manimohon Singh of Wangoo Laipham A/P Langol Game Village Zone-III D-43, P.S. Lamphel, District Imphal West, Manipur is acting in a manner prejudicial to the maintenance of public order;

Whereas, I, K. Radhakumar Singh, District Magistrate, Imphal West, Manipur am satisfied that her activities are prejudicial to the maintenance of public order u/s 3(2) of National Security Act, 1980;

Whereas, it is considered necessary to detain Smt. Khumukcham (N) Loitongbam (O) Memcha Devi @ Ichechaobi (47 yrs) w/o L. Manimohon Singh of Wangoo Laipham A/P Langol Game Village Zone-III D-43, P. S. Lamphel, District-Imphal West, Manipur with a view to prevent her from acting in any manner prejudicial to the maintenance of public order;

And whereas. I am satisfied from the police report that Smt. Khumukcham (N) Loitongbam (O) Memcha Devi @ Ichechaobi (47 yrs) w/o L. Manimohon Singh of Wangoo Laipham A/P Langol Game Village Zone-III D-43, P. S. Lamphel, District-Imphal West, Manipur who " is now in judicial custody, is likely to be released on bail in the near future by the normal criminal Courts as bails are granted in similar cases by the criminal Courts.

Now, therefore, I, K. Radhakumar Singh, District Magistrate, Imphal West, Manipur in exercise of the powers conferred under subsection 3 of the National Security Act, 1980 read with Home Department's Order No. 17 (1)/49/ 80-H (Pt-I) dated 11.05.2010 make this order directing that the above said person who is now in Judicial custody be detained u/s 3(2) of National Security Act, 1980 until further orders.

Given under my Hand and Seal of the Court on this fourteenth day of June, 2010.

Sd/- (K. Radhakumar Singh) District Magistrate Imphal West.

7. The impugned detention order speaks that the Detaining Authority was satisfied from the Police report that the detainee who is now in judicial custody is likely to be released on bail in near future by the Criminal Courts as bails are granted in similar cases by the Criminal Courts.

8. The Detaining Authority (District Magistrate, Imphal West) under his letter being No.Cril/NSA/No.56 of 2010 dated 17.06.2010 furnished the grounds of detention to the detainee. Para Nos. 2, 3 and 4 of the grounds of detention read as follows:

...

2. That, after joining the organization, you came to know one KCP Lalheiba faction Shri Surdas Singh @ Dash of Kumbi Bazar through Shri Khwairakpam Brojen Singh @ Lalheiba s/o Kh. Korangou Singh @ Kesho of Keirenphabi Village. During those days the above noted KCP Lalheiba faction frequently took shelter in your house. While taking shelter Shri Kh. Brojen Singh directed you to recruit new cadres for their organization and also to watch the movement of the security

force while you were taking shelter in your house. Accordingly, you recruited new volunteers of KCP (MC) Lalheiba and sent them to Bangladesh for basic military. Accordingly, in the month of March, 2010 you had recruited the following youths and handed over to Shri Kh. Surdas Singh with direction to escort them upto Shillong: -

(i) Mutum Luckyson Singh (14 yrs) s/o (L) M. Kumar Singh of Sagolband Thangjam Leirak.

(ii) Shri Mutum Boy (19 yrs) s/o (L) M. Kumar Singh of Sagolband Thangjam Leirak.

(iii) Mr. Wungriya Shimray (16 yrs) s/o Shangrei Shimray of Kamjong Ningthi Village.

(iv) Sanasam Bankimchandra @ Bikim Singh (25yrs) s/o S. Bishembhor Singh of Wangoo Laipham Chithei Leikai.

(v) Sanasam Ibopishak Singh (20 yrs) s/o S. Bishambhor Singh of Wangoo Laipham Chithei Leikai.

Accordingly, Shri Kh. Surdas Singh along with the above noted 5 new recruits left North ACO Imphal in a Line Bus and went upto Shillong. On arrival at Shillong, Shri Kh. Surdas handed over the new recruits to one Mr. Jack (who seems to be a Muslim at Shillong) then you came back to his house. Over the above, you have recruited some unknown boys from Langol area and sent them to Bangladesh through Shri Surdas Singh. You also watched the movement of security forces while the KCP (MC) Lalheiba members were taking shelter at your quarter at Langol Game Village Zone-III. On 08.05.2010 at about 8.30 a.m. you were arrested by a team of Imphal PS led by Kh. Sunilkumar Singh from Uripok Langol Jeep Parking near Cheirap Court in connection with FIR No. 135(4)2010 IPS u/s 19/30 UA (P) A Act and remanded into Police custody till 14.04.2010. On 14.04.2010 you were produced before the Court for judicial remand but released on bail by the Court on the same day. After released on bail by the Court you stayed at your rented quarter at Langol Game Village Zone-III. But you could not stay in normal life even though you were arrested by the security forces as you were willing to recruit new volunteers of KCP (MC) Lalheiba as per directed of Kh. Brojen Singh @ Lalheiba of Keirenphabi Mamang Leikai, s/s Chairman of KCP (MC) Lalheiba group. Accordingly, you started to contact the youths and convinced them about the approaching struggle of KCP (MC) Lalheiba for the restoration of Liberation in Manipur State in order to recruit them in the KCP (MC) Lalheiba group till your arrest.

Such act of recruiting of new volunteers of KCP(MC) Lalheiba faction carried out by you gave excitement to the youngster in waging war against the Government which is prejudicial to the security of the state and maintenance of public order.

3. That, on 03.06.2010 at about 11.50 am. you were arrested by a team of 33 AR led by Hav/GD No. 3300145 N. K. Joshi from your house at Langol Game

Village Zone-III and handed over to the OC/Lamphel P. S. with a written report. On the strength of the report OC/LPS registered a regular case under FIR No. 55(6) 2010 LPS u/s 20 UA (P) A Act and investigated into. During the course of the investigation of the case, you were arrested on 03.06.2010 and remanded into judicial custody on 08.06.2010.

4. That, in view of your tendencies and inclinations reflected in the offences committed by you in the proximate past by being a hardcore member of the banned organization Kangleipak Communist Party (KCP in short) Lalheiba faction, which aims at establishing a sovereign independent State of Manipur by waging war against the lawfully established Government of India and Manipur holding fire arms, and carrying out prejudicial activities such as extortion of money and transportation of arms and ammunition, which disturbs public order affecting public tranquility, I am satisfied that after having availed of bail facilities and becoming a free person, you being a sympathizer of the said organization would continue to indulge in the same activities which are prejudicial to the security of the state and maintenance of the public order. Hence, the application of normal criminal law against you will not at all be effective to prevent you from the commission of further prejudicial activities. An alternative preventive measure is, therefore, immediately called for.

From the above grounds, I am satisfied that with a view to prevent you from acting in any manner prejudicial to the security of the state and maintenance of public order, I have made this order directing you be detained under NSA, 1980.

9. It is stated in the grounds of detention that the detainee came to know one Surdas Singh @ Dash of Kumbi Bazar through Shri Khwairakpam Brojen Singh @ Lalheiba and Kh. Brojen Singh frequently took shelter in the house of the detainee. While taking shelter Kh. Brojen Singh directed the detainee to recruit new cadres for their organization and also to watch the movement of the security force while they were taking shelter in the house of the detainee. Accordingly, the detainee recruited new volunteers of KCP(MC) Lalheiba and sent them to Bangladesh for basic training. It is also stated in the grounds of detention that in the month of March, 2010 the detainee had recruited youths namely, i) Mutum Luckyson Singh, ii) Shri Mutum Boy, iii) Mr. Wungriya Shimray, iv) Sanasam Bankimchandra @ Bikim Singh and v) Sanasam Ibopishak Singh and handed over to Kh. Surdas with the direction to escort them up to Shillong. The detainee had admitted that Surdas @ Dash frequently visited her rented residential quarter at Langol Game Village. On being requested by Surdas, she contacted her near relatives as well as peoples of her native village who are interested in sending their children to Bangkok for doing jobs. In other words, it is the admission of the detainee that on the request of Surdas, she contacted peoples of her native village for sending their children to Bangkok for doing job and she also admitted that she was once arrested for the offence under the UA(P) A Act and released on bail and she was again arrested for an offence under the same Act i.e. UA (P) A Act in connection with the second FIR for which the detainee had

been remanded to judicial custody.

10. The sole ground for assailing the impugned detention order dated 14.06.2010, approval order of the State Government dated 21.06.2010 and confirmation order of the State Government dated 20.07.2010 is that the subjective satisfaction of the Detaining Authority that the detainee who is now in judicial custody is likely to be released on bail in near future by the normal criminal Courts as bails are granted in similar cases by the criminal Courts is based on no evidence and also that as the particulars of similar case for which bails were granted by the criminal Courts are not mentioned in the impugned detention order and grounds of detention, much prejudice is caused to the detainee in filing her representation against the detention order; as a result, the fundamental rights of the detainee under Article 22(5) of the Constitution of India had been infringed.

11. Mr. Dolen, learned counsel for the petitioner, in order to substantiate the said ground for assailing the detention order had relied heavily on the decisions of the Apex Court in *Rekha Vs. State of T. Nadu tr. Sec. to Govt. and Another*, The Apex Court in *Rekha's case (supra)* held as follows:

In para 4 of the grounds of detention, it is stated:-

4. I am aware that Thiru. Ramakrishnan, is in remand in P. 6, Kodungaiyur Police Station Crime No. 132/2010 and he has not moved any bail application so far. The sponsoring authority has stated that the relatives of Thiru. Ramakrishnan are taking action to take him on bail in the above case by filing bail applications before the Higher Courts since in similar cases bails were granted by the Courts after a lapse of time. Hence, there is real possibility of his coming out on bail in the above case by filing a bail application before the higher Courts. If he comes out on bail he will indulge in further activities, which will be prejudicial to the maintenance of public health and order. Further the recourse to normal criminal law would not have the desired effect of effectively preventing him from indulging in such activities, which are prejudicial to the maintenance of public health and order. On the materials placed before me, I am fully satisfied that the said Thiru. Ramakrishnan is also a Drug Offender and that there is a compelling necessity to detain him in order to prevent him from indulging in such further activities in future which are prejudicial to the maintenance of public order under the provisions of Tamil Nadu Act 14 of 1982.

A perusal of the above statement in para 4 of the grounds of detention shows that no details have been given about the alleged similar cases in which bail was allegedly granted by the concerned Court. Neither the date of the alleged bail orders has been mentioned therein, nor the bail application number, nor whether the bail orders were passed in respect of the co-accused on the same case, nor whether the bail orders were passed in respect of other co-accused in cases on the same footing as the case of the accused. All that has been stated in the grounds of detention is that "in similar cases bails were granted by the Courts."

In our opinion, in the absence of details this statement is mere ipse dixit, and cannot be relied upon.

In our opinion, this it is sufficient to vitiate the detention order.

12. In *Ambica Quarry Works v. State of Gujarat and Ors.*, (1987) 1 SCC 213 Apex Court observed:

18...The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it.

In *Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others*, Apex Court observed:

59...It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

13. As held in *Bharat Petroleum Corporation Ltd. and Another Vs. N.R. Vairamani and Another*, , a decision cannot be relied on without disclosing the factual situation. In the same judgment, the Apex Court also observed : (SCC pp 584-85, paras 9-12).

9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes, their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd. Vs. Horton* (AC at p 761) 1951 AC 737 Lord Mac Dermott observed (All ER p. 14-C-D).

The matter cannot, of course be settled merely by treating the *Ipsissima verba* of Willes, J as though they were part of an Act of parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge,....

10. In *Home Office V Dorset Yacht Co. Ltd.* (1970) 2 ALL ER 294 (HL) All ER p. 297 g-h) Lord Reid said, "Lord Atkin's speech.... is not to be treated as if it were a statutory definition. It will require qualification in new circumstances," Megarry, J in *Shepherd Homes Ltd. Vs. Sandham (No.2)*, (1971) 2 All ER 1267 observed: (All ER p. 127 d).

One must not, of course, construe even a reserved judgment of even Russell, L. J. as if it were an Act of Parliament

And, in *Herrington Vs. British Railways Board* Lord Morris (1972) 1 All ER 749 (HL (E)) said: (All ER p. 761c)

There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.

11. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classics:

Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the color of one case against the color of another. To decide therefore, on which side the line a case falls, the broad resemblance to another case is not at all decisive.

Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path of justice clear of obstructions which could impede it.

(emphasis supplied)

14. In the instant case, the detainee herself admitted that she was once arrested in connection with the case, i.e. FIR No. 135 (4) 2010, Imphal Police Station for an offence under the UA (P) A Act and she was released on bail; and for the second time she was arrested in connection with another FIR, i.e. FIR No. 55 (6) 2010 LPS for the offence under UA (P) A Act.

In such situation, the subjective satisfaction of the Detaining Authority that the detainee, who is now in judicial custody is likely to be released on bail in near future by the normal Criminal Courts, as bails are granted in similar cases by the Criminal Courts, cannot be only an ipse dixit of the Detaining Authority inasmuch as it is the clear admission of the detainee that she was released on bail earlier in connection with the FIR for an offence under UA(P) A Act and for the second time she had been arrested for an offence under UA(P) A Act. Hence, the submission of Mr. Dolen, learned counsel for the petitioner that the present case is squarely covered by the decision of Rekha's case (supra) is not acceptable. As discussed above, the ratio of any decision must be understood in the background of the fact of that case and a little difference in fact or additional fact may make a lot of difference in precedential value of a decision. The learned counsel for the petitioner has misunderstood the precedential value of the Apex Court in Rekha's case (supra).

15. The Apex Court in *Senthamilselvi Vs. State of Tamil Nadu and Another*, held that normally subjective satisfaction of the Detaining Authority that there is likelihood of detainee being released on bail is not to be interfered with in case the Detaining Authority had indicated reasons for his conclusion. It is fairly well settled that there is no straight jacket formula for deciding the material sufficiency for coming to the subjective satisfaction of the Detaining Authority that the detainee is likely to be released on bail. Therefore, it is clear that as to whether there are sufficient materials for coming to be subjective satisfaction that the detainee is likely to be released on bail is to be decided on the basis of the given case. The relevant portion of para 10 of the SCC in *Senthamilselvi*'s case (*supra*) is quoted hereunder:

10. It was also submitted that since the detainee had not filed any bail application, the detaining authority could not have inferred that there was possibility of his being released on bail. Strong reliance is placed on several decisions of this Court. 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.....

16. This Court (incidentally one of us "T. NK. Singh, J" is a party) in *Thongam (ONGBI) Sanatombi Devi Vs. District Magistrate and Others*, (in para Nos. 13, 14, 15 and 16) held as follows:

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*,

15. The Supreme Court in *Chowdarapu Raghunandan Vs. State of Tamil Nadu*

and Others, had observed that the subjective satisfaction of the detaining authority should be reasonable and it is always open to the Court exercising powers of judicial review to see whether there has been due and proper application of mind to relevant and vital materials.

16. We are conscious with the observations made by the Hon^{ble} Supreme Court in paragraph 7 of the Union of India (UOI) Vs. Paul Manickam and Another, as follows:

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 that 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.

17. This Court (incidentally one of us "T. NK. Singh, J" is a party) in Lourembam Sana Singh Vs. State of Manipur and Others, reiterated in para 13 as under:

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 non existent 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 that 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 confirm to which alone should lead to detention.

(emphasis supplied)

18. The Apex Court in *Kamarunnissa and Others Vs. Union of India* and another, held that even in the case of a person in custody detention order can validly be passed if the facts and circumstances of the case demands. Para 13 of him AIR in *Kamarunnissa's* case (supra) read as follows:

13. From the catena of decisions referred to above it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition to question it before a higher Court. What this Court stated in the case of *Ramesh Yadav Vs. District Magistrate, Etah and Others*, was that ordinary a detention order should not be passed merely to pre-empt or circumvent enlargement on bail in cases which are essentially criminal in nature and can be dealt with under the ordinary law....

For the foregoing reasons, we are of considered view that the present writ petition is devoid of merit and dismissed.