

(2021) 09 GAU CK 0037

In the Gauhati High Court

Case No : Writ Petition (Criminal) No. 18 Of 2020

Paonam Diana Devi

APPELLANT

Vs

Union Of India And 7 Ors

RESPONDENT

Date of Decision : 14-09-2021

Acts Referred:

Constitution Of India, 1950 — Article 21, 22(5), 226
Prevention Of Illicit Traffic In Narcotic Drugs And Psychotropic Substances Act, 1988 — Section 3(1)
Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 21(b), 22, 27A, 29, 37
Conservation Of Foreign Exchange And Prevention Of Smuggling Activities Act, 1974 — Section 3

Citation : (2021) 09 GAU CK 0037

Hon'ble Judges : Kalyan Rai Surana, J

Bench : Single Bench

Advocate : A Chaudhury, B.K. Mahajan, S.S. Roy, T.C. Chutia

Final Decision : Allowed

Judgement

1. Heard Mr. B.K. Mahajan, learned counsel for the petitioner, Mr. S.S. Roy, learned CGC, appearing for respondent no. 1 and Mr. T.C. Chutia, learned Additional Senior Government Advocate appearing for the State respondent nos. 2 to 8.

2) By filing this habeas corpus petition under Article 226 of the Constitution of India, the petitioner has assailed the order of detention dated 22.10.2020 in respect of the detenu, issued by the Secretary to the Government of Assam, Home and Political Department (respondent no. 2), which was passed in exercise of power under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (herein after referred to as "PIT NDPS Act" for short).

3) The mother of the petitioner, who is the detenu, was arrested on 28.07.2020 in connection with Paltan Bazar P.S. Case No. 501/2020 under Section 27A/29 of

the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'). While the detenu was in judicial custody in connection with the said case, she was served with an order of detention dated 22.10.2020. The learned counsel for the petitioner has urged, amongst others, grounds on which the said order has been assailed, viz., non- furnishing of police report to the detenu; non-disclosure in the detention order that the detenu could make representation to the Detaining Authority; mention in the detention order that the detenu may submit her representation before the Central/State Government, which makes it appear that the submission of representation was optional; non-disclosure of provisions of Section 37 of the NDPS Act, which puts an embargo on power of the Court to grant bail as a matter of course. In support of his submissions, the learned counsel for the petitioner has placed reliance on the following cases, viz., (i) Sayed Abdul Ala v. Union of India, AIR 2007 SCW 6974, (ii) Kamlesh Kumar Ishwar Das Patel v. Union of India & Ors., (2005) 4 SCC 51, (iii) Amritlal & Ors. v. Union Government through Secretary, Ministry of Finance & Ors., (2001) 1 SCC 341, (iv) Aslam Ahmed Zahir Ahmed Shaik v. Union of India & Ors., (1989) 3 SCC 277, (v) Debarshi Kashyap v. The Union of India & Ors., W.P.(Crl.) 14/2020, decided on 25.06.2021, (vi) Sabam Narzari v. Union of India & Ors., 2017 SCC OnLine Gau 993, (vii) Yumnam Ongbi Mary Jones v. State of Manipur & Ors., 2011 (4) GLT 398, (viii) Robin Dhekial Phukan v. Union of India & Ors., 2008 (2) GLT 876, (ix) Shyamal Das v. State of Tripura, 2006 (3) GLT 512, (x) Konsam Brojen Singh v. State of Manipur & Ors., (2006) 2 GLR 452, (xi) Lala Paite v. State of Manipur & ors., (1999) 3 GLR 436, (xii) Lipika Roy v. State of Assam & Ors., 1999 (3) GLT 173, (xiii) Nurjahan Begum v. State of Manipur, (1999) 2 GLR 205, (xiii) Silvester Narzary v. State of Assam & Ors., 1998 (1) GLT 259, (xiv) Nongkhogin v. State of Manipur, (1991) 2 GLJ 60.

4) Per contra, the learned Additional Senior Government Advocate has submitted that the detention order clearly reflected that the detenu was a habitual offender of offences under NDPS Act and that she had been arrested in connection with (i) Dispur P.S. Case No. 233/2018 under Section 21(b)/29 of the NDPS Act, (ii) Basistha P.S. Case No. 449/2019 under Section 22 of the NDPS Act, (iii) Paltan Bazar P.S. Case No. 501/2020 under Section 21(a)/29 of the NDPS Act, and (iv) Bharalumukh P.S. Case No. 366/2020 under Section 21(b)/27A/29 of the NDPS Act. It is also submitted that during the raid conducted on connection with Paltan Bazar P.S. Case No. 501/2020, a sum of Rs.74,05,600/- was recovered, which was the sale proceeds of narcotic drugs and psychotropic substances and that the report by the Forensic Science Laboratory had shown positive result that the seized articles were narcotics substances. It is also submitted that the copy of FIRs, seizure lists and other relevant documents were enclosed along with the 'grounds of arrest' dated 22.10.2020 accompanying the order of detention. It is further submitted that the detenu was luring youths and ladies in trafficking of narcotic drugs and psychotropic substances in the garb of doing garment business and had created a large network with other associates in crime and that her activities was detrimental to the well being of youths by turning them into

drug addicts. It is submitted that as per the affidavit-in-opposition filed by the respondent nos. 2 and 3, the detention order was served on the detenu along with other relevant documents and that the representation of the detenu was rejected by the designated authority of the State on 05.01.2021 and that by another order of 05.01.2021, the order of detention was confirmed for a period of 1 (one) year. Accordingly, it is submitted that the impugned order of detention was not liable to be interfered with. In support of his submissions, the learned Additional Senior Government Advocate has placed reliance on the following cases, viz., (i) *The Secretary to Government v. Nabila*, (2015) 12 SCC 127, (ii) *Azra Fatima v. Union of India & Ors.*, (1991) 1 SCC 76.

5) The learned CGC had submitted that the Deputy Secretary to the Government of Assam, Home and Political Department had sent the representation dated 16.11.2020 of the petitioner to the Deputy Secretary to the Government of India, Ministry of Finance, Department of Revenue, PITNDPS vide forwarding letter dated 09.12.2020, which was received on 10.12.2020 and the said authority had disposed of the representation on 30.12.2020.

6) The first point urged by the learned counsel for the petitioner is regarding alleged non- furnishing of police report to the detenu. In this regard, it is seen that the detention order dated 22.10.2020 contains reference to 'police report' and/or 'report' in five places. Thus, there is no iota of doubt that the authority that had passed the impugned order of detention dated 22.10.2020, had relied upon the police report and/or report to record its satisfaction to the effect that preventive detention of the petitioner is necessary. In this regard, the Division Bench of this Court in the case of *Silvester Narzary* (supra), had quashed the detention order because the materials/ documents examined by the police in order to prepare the police report were not placed before the detaining authority nor were the documents referred to in the grounds of detention furnished to the detenu. The relevant paragraph nos. 10 to 12 thereof is quoted below:-

"(10) As against the submissions made on behalf of the State Government, Mr. N. Dutta submits that the documents referred to in the grounds of detention have influenced the mind of the detaining authority in arriving at the requisite subjective satisfaction while issuing the order of detention and as such it is incumbent on the part of the detaining authority to supply all the documents referred to and relied upon by the detaining authority. In (1982) 3 SCC 440, para 10, it was held:

"two propositions having a bearing on the points at issue in the case before us, clearly emerge from the aforesaid resume of decided cases: (a) all documents, statements and other materials incorporated in the grounds by reference and which have influenced the mind of the detaining authority in arriving at the requisite subjective satisfaction must be furnished to the detenu along with the grounds or in any event not later than five days ordinarily and in the exceptional circumstances and for reasons to be recorded in writing not later than 15 days from the date of his detention, and (b) all such material must be furnished to

him in a script or language which he understands and failure to do either of the two things would amount to a breach of the two duties cast on the detaining authority under article 22 (5) of the Constitution. (1980) 4 SCC 499 para 14 reads: "the Court has repeatedly held that the detainee has a constitutional right under Article 22 (5) to be furnished with copies of all the materials relied upon or referred to in the grounds of detention, with reasonable expedition. Delay tends to stultify the detainee's right to make an effective representation and, to have it considered speedily by the authority concerned. The delay in supplying the copies to the detainee, in the facts of the instant case, being inordinate and unreasonable, had vitiated the continuance of his detention. It was on this short ground, we had by our Order dated May 7, 1980 allowed this writ petition and ordered the release of the detainee."

In (1981) 2 SCC 436 among other things it was held in para 12:

"once the documents are referred to in the grounds of detention it becomes the bounden duty of the detaining authority to supply the same to the detainee as part of the grounds or *pari passu* the grounds of detention. There is no particular charm in the expressions "relied on", "referred to" or "based on" because ultimately all these expressions signify one thing, namely, that the subjective satisfaction of the detaining authority has been arrived at on the documents mentioned in the grounds of detention. The question whether the grounds have been referred to, relied on or based on is merely a matter of describing the nature of the grounds."

(11) On perusal of the case laws cited before us and upon hearing counsel of the parties, we are of the view that failure to supply the relevant documents relied upon and also referred to would be fatal in the matter of detention under the provisions of National Security Act. In other words it is incumbent on the part of the detaining authority to furnish all the documents referred to and/or relied upon while issuing the order of detention to the detainee. As stated above, the detaining authority has made it clear that the detention was based on the source report submitted by the Police but the materials/ documents examined by the Police in order to prepare the Police report were not placed before the detaining authority nor were the documents referred to in the grounds of detention furnished to the detainee.

(12) In the premises aforesaid, this petition succeeds. The order of detention is quashed. The detainee shall be set at liberty forthwith, if not wanted in connection with any other case. This petition is accordingly disposed of."

7) The other point urged by the learned counsel for the petitioner is that in the detention order it was not mentioned that the detenu had a right to submit representation to (i) the Advisory Board, and (ii) the Detaining Authority. In this regard, it is seen that the Supreme Court of India, in the case of Kamlesh Kumar Ishwar Das Patel (*supra*) and Konsam Brojen Singh (*supra*), had set aside and quashed the detention orders because of the right of the detenu to make a

representation before the authority that has made the order of detention. The relevant para-38 of the case of Kamlesh Kumar Ishwar Das Patel (supra) is quoted below:-

"38. Having regard to the provisions of Article 22(5) of the Constitution and the provisions of the COFEPOSA Act and the PIT NDPS Act the question posed is thus answered: Where the detention order has been made under Section 3 of the COFEPOSA Act and the PIT NDPS Act by an officer specially empowered for that purpose either by the Central Government or the State Government the person detained has a right to make a representation to the said officer and the said officer is obliged to consider the said representation and the failure on his part to do so results in denial of the right conferred on the person detained to make a representation against the order of detention. This right of the detenu is in addition to his right to make the representation to the State Government and the central Government where the detention order has been made by an officer specially authorised by a State Government and to the central Government where the detention order has been made by an officer specially empowered by the central Government, and to have the same duly considered. This right to make a representation necessarily implies that the person detained must be informed of his right to make a representation to the authority that has made the order of detention at the time when he is served with the grounds of detention so as to enable him to make such a representation and the failure to do so results in denial of the right of the person detained to make a representation."

8) Para-57 of the case of Konsam Brojen Singh (supra) is quoted below:-

"(57) For all the aforesaid reasons, we hold:

(1) That a detenu has two rights under article 22 (5) of the Constitution: (1) to be informed, as soon as may be, the grounds on which the order of detention is passed, i.e., the grounds which led to the subjective satisfaction of the detaining authority, and (ii) to be afforded the earliest opportunity of making a representation against the order of detention. The twin rights are available to a detenu whether they are provided for or not in the preventive detention laws.

(2) The right to make representation to the detaining authority by a detainee in addition to his right to file representation to the Central Government or appropriate Government is also guaranteed under Article 22(5) of the constitution which forms part of package of guaranteed fundamental right. No distinction as such could be made in this regard in respect of the detention orders made either under COFEPOSA, PIT NDPS or national Security Act, 1980, as the case may be.

(3) The detaining authority is under the constitutional obligation to inform the detainee of his right to make such a representation to the detaining authority;

(4) The failure to inform the detainee of such right to make representation to the detaining authority vitiates the detention order made even under the provisions

of the National Security act, 1980."

9) The next point urged by the learned counsel for the petitioner was that in the order of detention it was mentioned that the detenu may submit her representation before the Central/State Government and accordingly, such statement makes it appear as if the submission of representation was optional. In this regard, it is seen that the Division Bench of this Court had interfered with the detention order owing to the reason that the detention order had contained similar language. Paras- 3, 9 and 10 of the case of Robin Dhekial Phukan (supra) are quoted below:-

(3) Mr. Mahajan, learned counsel appearing for the petitioner submits that apart from other grounds, the impugned detention order is challenged on the ground that the detaining authority did not, specifically inform the detenu of his right to make a representation to the detaining authority. It is pointed out that in the detention order, the right of the detenu to make a representation against the order of detention is indicated only in the following terms: "however, he may submit representation against the detention order addressed to the Govt. and Advisory Board through concerned Jail 'Supdt. and District Magistrate, Tinsukia." It is contended that the detention order is vitiated for not informing the detenu of his right to make a representation particularly to the detaining authority and accordingly, the detention order is vitiated in law.

(9) As regards the submission made by the learned State Counsel that the quoted portion of the detention order is capable of being interpreted to mean that the detenu has been informed of his right to make a representation before the detaining authority also, we are of the view that the said words of the detention order are clear and suffers from no ambiguity. The detention order is not capable of being interpreted to mean that the detenu has been informed of his right to make a representation also before the detaining authority. If such was the intention of the detaining authority, the words "District Magistrate, Tinsukia" could have been inserted right after the words "Advisory Board" in the concerned sentence of the detention order. Therefore, we hold that the detention order did not, specifically indicate to the detenu that he had a right to make a representation against the detention order even before the detaining authority. Accordingly the Constitutional guarantee envisaged by Article 22 (5) of the Constitution has been violated.

(10) Therefore, the detention order cannot be sustained in view of the law laid down by the Supreme Court in Kamlesh Kumar (supra) and accordingly, the impugned detention order dated 11.9.07 is hereby quashed."

10) The next point urged by the learned counsel for the petitioner is to the effect that from the detention order, it does not appear that the detaining authority had been informed regarding the provisions of Section 37 of the NDPS Act, 1985, which puts an embargo on power of the Court to grant bail as a matter of course. In this regard, the learned counsel for the petitioner had placed reliance on the

case of Debarshi Kashyap (supra). Para-11.2 to 11.8 thereof is quoted below:-

"11.2 Section 37 of the NDPS Act contains certain stringent provisions imposing restrictions on the power of the court to grant bail to an accused charged with an offence committed under the NDPS Act and therefore, while considering the likelihood of the accused being released on bail, the detaining authority was required to take into consideration the restrictions imposed by section 37 of the Act of 1985, which has evidently not been done in this case.

11.3 After the order dated 28-05-2020 was passed by this court rejecting the anticipatory bail application filed by the detenu, he was arrested by the police on the very next day i.e. on 29/05/2020 and taken into police custody and thereafter, remanded to judicial custody. It appears that none of the other arrested co-accused persons were granted bail by the court.

11.4 After the decision in the case of Binod Singh Vs. District Magistrate, Dhanbad, Bihar and others reported in (1986)4 SCC 416, law is well settled that while issuing the order of detention the detaining authority must record satisfaction as regards the likelihood of the detenu being released on bail. It has been held that the mere fact that a bail application submitted by the detenu was pending consideration before the court, by itself, would not be a ground to pass an order of detention.

11.5 In Amritlal & Ors (supra) the Hon'ble Supreme Court, while laying emphasis on the law laid down in the case of Binod Singh (supra), has further observed that there must be cogent materials before the officer passing the detention order that the detenu is likely to be released on bail. The inference must be drawn from the materials on record and must not be the ipse dixit of the officer passing the order of detention.

11.6 In the case of Sayed Abdul Ala (supra), the Supreme Court was called upon to examine the validity of a detention order issued under section 3(1) of the PITNDPS, Act. While drawing a distinction between "likelihood of moving an application for bail" and "likelihood of being released on bail" it was observed that while arriving at a subjective satisfaction that there is likelihood of the detenu being released on bail, recording of satisfaction on the part of the detaining authority that merely because an application for grant of bail had been filed, would not be enough. It was further observed that the detaining authority should have also informed himself about the implication of section 37 of the Act of 1985. If the detenu was involved in a large number of cases and the prosecution was aware of the same, it would invariably be brought to the notice of the court while dealing with the application for bail filed by the detenu. Furthermore, the order of the court granting bail would be passed only when the court forms an opinion that there are reasonable grounds for believing that he is not guilty of such offence and that there was no likelihood to commit any offence while on bail.

11.7 In the case of Union of India Vs. Paul Manickam & another reported in

(2003) 8 SCC 342 the Supreme Court has held that when detention order is passed in respect of a person already in jail the detaining authority should apply their mind and show their awareness in these regards in the grounds of detention and the chance of release of such person on bail. The necessity of keeping such person in detention under the preventive detention law is to be clearly indicated.

11.8 From a careful reading of the impugned order of detention dated 20.07.2020 as well as the grounds of detention dated 22.07.2020 it is evident that the detaining authority was not aware that the anticipatory bail application earlier moved by the detenu had been rejected by the High Court after perusing the case diary as well as the Report of the I.O. and that none of the co-accused persons had been granted bail in the connected cases, which formed part of the same illegal transactions alleged against the detenu. Moreover, the provision of section 37 of the Act of 1985 was also not taken note of. It is, therefore, apparent that save an except noting that the detenu had filed a bail application before the High Court, no other ground has been recorded by the detaining authority forming the basis of subjective satisfaction as regards the likelihood of the detenu being released on bail. As such, by applying the ratio of the law laid down by the Hon'ble Supreme Court in the aforesaid decisions to the facts of the present case, the impugned order of detention dated 20/07/2020 would be liable to be interfered with holding the same as illegal."

11) The other point urged by the learned counsel for the petitioner is inordinate delay in disposing of the representation. In the present case, the detenu had submitted her representation on 16.11.2020, which was served on the Jail authorities on the same date. The Superintendent of Central Jail, Guwahati had forwarded the said representation to the Deputy Secretary to the Government of Assam, Home and Political Department vide forwarding letter dated 22.12.2020. The Deputy Secretary to the Government of Assam, Home and Political Department had sent the representation dated 16.11.2020 of the detenu to the Deputy Secretary to the Government of India, Ministry of Finance, Department of Revenue, PITNDPS vide forwarding letter dated 09.12.2020. In this regard, the learned CGC had submitted that the representation dated 16.11.2020 was received by the competent authority of the Central Government on 10.12.2020 and the said authority had disposed of the representation on 30.12.2020. In the case of Lala Paite (supra), the Division Bench of this Court had held that every day's delay is to be explained. In the case of Lipika Roy (supra), the Division Bench of this Court had held that the detention order to be illegal as it took 7 (seven) days for the representation to traverse 295 kms. from Dhubri to arrive at the Secretariat at Dispur. In the case of Aslam Ahmed Zaire Ahmed Shaik (supra), the detention order was interfered because it was left unattended for 7 (seven) days for which it had reached the Government 11 days after it was handed over to the Jail Superintendent, by holding that the delay had invalidated the order of detention as having infringed the mandate of Article 22(5) of the Constitution of India. The Division Bench of this Court, while dealing with

detention order passed under Section 3(1) of the PIT NDPS Act, 1988 had interfered with the detention order owing to delay of 31 (thirty one) days and in this regard, reliance was placed on the case of Piara Singh vs. State of Punjab, AIR 1987 SC 2377, where the Supreme Court of India had held that delay in dealing with the representation of the petitioner vitiates the detention order.

12) In the case of Azra Fatima (supra), the Supreme Court of India had agreed that the High Court had given adequate and detailed reasons in holding that delay had been sufficiently explained in the counter-affidavit filed by the respondents. However, in the present case in hand, no attempt has been made to explain the delay by the Jail Superintendent to send the representation dated 16.11.2020 of the detenu only on 22.12.2020. Similarly, no reason has been assigned why it took the respondent no. 2 time till 05.01.2021 to dispose of the representation of the detenu. Moreover, the Government of India has not filed any affidavit-in-opposition and there is no explanation why the competent authority of the Government of India took time till 30.12.2020 to dispose of the representation dated 16.11.2020, allegedly received on 10.12.2020. Thus, the Court is constrained to hold that there was inordinate delay in disposing of the representation dated 16.11.2020 had vitiated the order of detention dated 22.10.2020. Accordingly, the case of Azra Fatima (supra) does not help the respondents.

13) The case of Nabila (supra) was cited by the learned Additional Senior Government Advocate to project that the detenu was arrested in connection with 4 (four) separate NDPS cases, as such, she was a habitual offender, who was destroying the youths of the society by making them drug addicts and by engaging them in drug peddling. However, the said case does not help the respondents. In the said case, the High Court held that the satisfaction arrived at by the detaining authority that there was real and imminent possibility of the detenu being enlarged on bail was vitiated in law. Reliance was placed on para-13 thereof, which is quoted below:-

"13. Indisputably, the object of law of preventive detention is not punitive, but only preventive. In case of preventive detention no offence is to be proved nor is any charge formulated. The justification of such detention is suspicion and reasonability and there is no criminal conviction which can only be warranted by legal evidence. However, the detaining authority must keep in mind while passing the order of detention the civil and constitutional right granted to every citizen by Article 21 of the Constitution of India inasmuch as no person shall be deprived of life and liberty except in accordance with the procedure established by law. The laws of Preventive Detention are to be strictly construed and the procedure provided must be meticulously complied with."

14) Thus, from the above, notwithstanding that it was open to the State to pass an order of preventive detention, but a duty was cast on the State to safeguard the rights of the detenu, as guaranteed under Article 21 of the Constitution of India. Therefore, the said two cited cases do not help the State respondents.

15) In the present case in hand, the constitutional rights of the detenu as flowing from Article 21 and 22(5) of the Constitution of India were not adequately safeguarded.

16) In view of the discussions above, in this case, the detention order is found to be vitiated for the following reasons:-

a. The Jail Superintendent had sent the representation dated 16.11.2020 of the detenu to the Deputy Secretary of the Govt. of Assam, Home and Political Department on 22.12.2020, after an unexplained delay of about 36 days.

b. The Jail Superintendent had failed to send the representation dated 16.11.2020 of the detenu to the Central Government, although the representation was addressed to the said authority as well.

c. The competent authority of the State, upon receipt of the representation, ought to have sent the copies of the said representation to (i) the designated authority of the Government of India, (ii) the State Advisory Board, and (iii) to the Detaining Authority for independently disposing of the same. However, the copies of the said representation were not sent to (i) the State Advisory Board, and (ii) to the Detaining Authority.

d. The detaining authority had failed to mention in the detention order that the detenu had right to make representation before four authorities, i.e. (i) the designated authority of the Government of Assam, (ii) designated authority of the Government of India, (iii) State Advisory Board, and (iv) to the Detaining Authority. However, it was mentioned in the detention order that the detenu 'may' send her representation against the order of detention through the Jail Superintendent and it was provided that to the State Government, the representation should be addressed to The Commissioner & Secretary to the Government of Assam, Home and Political Department, Dispur. That she 'may' also address her representation to - Advisory Board, PITNDPS Act, C/o. the Commissioner and Secretary to the Government of Assam, Home and Political Department. It was provided that if the detenu wishes to make a representation to Govt. of India, her representation should be addressed to - The Joint Secretary (Revenue and NC), Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi-110001. Thus, it would appear that the representation should be sent to the Government of Assam and that sending of representations to the other two authorities was optional.

e. The Court is constrained to hold that the Detaining Authority had failed to make available to the detenu all the documents mentioned in the order of detention and in the grounds of detention, like the Police Report including other documents based on which police report was made.

f. The respondent no. 2, who had disposed of the representation of the petitioner, had failed to explain any reasons for inordinate delay in disposing of the representation.

g. There is no mention in the detention order that the Detaining Authority, while passing the said order of detention that it was aware of the rigours of provisions of Section 37 of the NDPS Act, 1985, which prevented the Courts from granting bail as a matter of course.

17) For the reasons mentioned herein before, and in light of the ratio laid down in the cases referred herein before, the impugned order of detention dated 22.10.2020, in the opinion of the Court, is unsustainable as it stands vitiated on failure of the State respondents including the Union of India to protect the constitutional rights of the detenu. The order of detention against the detenu, namely, L. Sangita Rani, vide memo no. HMA-19/83/2020-VIG-H&P/ecf 148001/57 dated 22.10.2020 is accordingly, set aside and quashed.

18) It is seen that the competent authority of the State, by an order dated 05.01.2021, had confirmed the detention order for a period of 1 (one) year from the date of detention, i.e. 22.10.2020. Thus, the order of detention of the detenu would otherwise lapse on 21.10.2021.

19) The writ petition stands allowed.

20) The detenu, namely, L. Sangita Rani shall be released forthwith, if her custodial detention is not required in connection with any other pending proceeding.

21) Before parting with the records, it is clarified that nothing contained in this order shall prejudice the parties including the State in course of trial the offence, if any, committed by the mother of the petitioner.