
(2000) 10 BOM CK 0015

In the Bombay High Court

Case No : Criminal Writ Petition No. 102 of 2000

Smt. Subhangi Tukaram Sawant

APPELLANT

Vs

R.H. Mendonca and Others

RESPONDENT

Date of Decision : 20-10-2000

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Citation : (2001) ALLMR(Cri) 68 : (2001) CriLJ 4873

Hon'ble Judges : R.M. Lodha, J;G.D. Patil, J

Bench : Division Bench

Advocate : S.R. Chitnis and S.V. Kotwal, for the Appellant; V.K. Tahilramani, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

R.M. Lodha J.

1. The detention order issued by respondent No. 1 bearing No. 551/PCB/Zone-IX/1999 dated 16th November. 1999 being annexure "A" is under challenge in this habeas corpus petition at the instance of wife of the detenu. The detenu Tukaram Bhaskar Sawant has been ordered to be detained under Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug offenders and Dangerous Persons Act. 1981 (for short the said Act) to prevent him from indulging in the activities in any manner prejudicial to the maintenance of public order.

2. Though Mr. Chitnis the learned Senior Counsel appearing for the petitioner raised several legal contentions, in our view on the facts of the present case the writ petition deserves to be allowed on the sole ground that the petitioner was not supplied the complete in camera statements particularly the verification made by the Assistant Commissioner of police and therefore the various legal contentions raised by the learned senior Counsel are not required to be examined by us.

3. From the grounds supplied to the detenu it is apparent that the detaining authority has taken into consideration in camera statement of witness (A) recorded on 16-9-1999 and in camera statement of witness (B) recorded on that very date. There is no dispute that the said in camera statements were recorded by Senior Police Inspector. Saki Naka Police Station and the said in camera statements were verified by the Assistant Commissioner of Police. However, the copies of in camera statements supplied to the detenu do not contain verification made by the concerned Assistant Commissioner of Police. This has resulted in violation of Article 22(5) of the Constitution of India and vitiates the order of detention,

4. Accordingly this criminal with petition is allowed. The order of detention dated 16th November, 1999 passed by the respondent No. 1 is quashed and set aside, The detenu Tukaram Bhaskar Sawant be released forthwith, if not required in any other case. Rule is made absolute in the aforesaid terms.