

Sl. No. 1(Suppl)

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

WP(Cril.)No.3 of 2026

Lunkho Thang Baite alias Lunkhothang Baite aged about 46 years S/O Zam Lhun Baite alias Jamlun resident of Tamu village, PS Tamu, Tamu District Myanmar.

Petitioner

Vs.

- 1 State of Manipur represented by Commissioner(Home), Government of Manipur, Manipur Secretariat Complex, Mantripukhri, PO & PS Heingang, Imphal East District, Manipur-795002.
- 2 Union of India through the Secretary, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi-110001.
3. The Director General of Police, Government of Manipur, Manipur Police Head Quarter, Mantripukhri, PO & PS Heingang, Imphal East District, Manipur-795002.
4. The Superintendent of Police, Manipur Central Jail Sajiwa, Foreigner Detention Centre, PS Lamlong, Imphal East District, Manipur-795001.
5. The Officer-in-Charge, Moreh Police Station at Moreh, PO & PS Moreh, Tengnoupal District, Manipur-795131.

Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

(ORDER)

(Order of the Court was made by M. Sundar, CJ)

10.02.2026.

[1] Captioned 'Writ Petition' ('WP' for the sake of brevity) has been filed inter alia with a Habeas Corpus prayer.

[2] Factual matrix in a nutshell is that writ petitioner was arrested on 27.01.2023; that an FIR being FIR 04(01)2023 on the file of Moreh Police Station in Moreh Sub-Division, Tengnoupal District, Manipur was registered; that vide this FIR, it was alleged that writ petitioner has violated Section 14 of 'the Foreigner Act 1946 (31 of 1946)' (hereinafter 'said Act' for the sake of brevity, convenience and clarity) i.e., illegal entry and staying in Indian territory; that it is admitted case of writ petitioner that he is a citizen of Myanmar; post FIR, writ petitioner was produced before the jurisdictional Magistrate Court i.e. 'Court of Judicial Magistrate First Class, Moreh' ('said Magistrate Court' for the sake of convenience and clarity); that said Magistrate court, on the same day i.e., 27.01.2023 made a warrant for interim custody; that thereafter, writ petitioner appears to have sought bail (to be noted neither the bail petition nor the bail order have been placed before us); that a release order has been made by said Magistrate Court and this release order is dated 02.05.2023; that this release order has also been assailed by writ petitioner (in addition to Habeas

Corpus plea) in the captioned WP; that the release order imposes conditions of two sureties to be furnished besides personal bond of Rs. 50,000/-; that post release order, admittedly writ petitioner has not been able to comply with the bail conditions of furnishing two sureties and therefore continues to remain incarcerated in the Foreign detention Centre situate in Manipur Central Jail Saijiwa; that thereafter the Special Secretary(Home), Government of Manipur made an order dated 12.01.2026 bearing reference No.H-1701/282/2023-HD-HD repatriating 3(three) individuals by exercising power under Section 11(1); that on the same day i.e.12.01.2026, the Special Secretary(Home) made another repatriation order bearing reference No.H-802/11/2025-HD-HD repatriating 24 other individuals; that thereafter writ petitioner and 8(eight) others (9 in all) have sent a representation dated 04.02.2026 to R1,R3 and R4 and also the Superintendent of Police Saijiwa Jail Imphal inter-alia seeking deportation/repatriation to Myanmar and some other requests such as return of personal mobile phone have also been made in this representation.

[3] Mr. Tungrei Ngakang, learned counsel for writ petitioner submitted that writ petitioner is languishing in the Detention Centre for more than 3(three) years now i.e., from 27.01.2023 and therefore, Habeas Corpus plea has been made. As regards the Habeas Corpus plea, it is made clear that writ petitioner continues to be in Detention Centre only owing to non-compliance with the condition in the bail

order/release order i.e., condition to furnish sureties. This means that this not a case of illegal detention. Therefore, a Habeas Corpus plea will not lie. Be that as it may, if writ petitioner is aggrieved by conditions imposed for release vide the release order, it is always open to the writ petitioner to seek appropriate remedy in the appropriate court inter alia seeking modification/deletion of the conditions for release. This right of the writ petitioner is preserved but the Habeas Corpus plea is rejected.

[4] This takes this Court to the representation i.e., representation dated 04.02.2026 made by writ petitioner and 8 others (9 in all) about which there is allusion supra. This representation shall be referred to as 'said representation' for the sake of convenience.

[5] At the outset, we notice that said representation is dated 04.02.2026, it has been received by the office of DGP (Director General of Police) P.H.Q, Manipur Imphal on same day i.e., 04.02.2026 and the captioned writ petition has been filed on 09.02.2026. However, considering the nature of the matter we are looking into said representation.

[6] Adverting to said representation, learned counsel for writ petitioner submitted that similarly placed persons i.e., 27(twenty seven) in all have been repatriated by two repatriation orders, both dated 12.01.2026 (details of which have been set out supra) but writ petitioner has not been given such benefit of repatriation and this according to learned counsel for writ petitioner is lack of parity.

[7] Issue notice to respondents.

[8] Mr. Vashum, learned State counsel accepts notice for R 1,3, 4 & 5. Mr. N. Nongdamba, learned counsel accepts notice for R2 and Mr. Kh. Samarjit, learned Deputy Solicitor General of India(DSGI) and senior counsel appears on behalf of Mr. N. Nongdamba,.

[9] Though in the admission Board, with the consent of all the aforesaid learned counsel and senior counsel, main WP was taken up on the short point pertaining to said representation.

[10] As regards said representation, Mr. Vashum, learned State counsel pointed out that said representation is dated 04.02.2026 and it has been received on the same day, there have been only two working days thereafter and at the highest barely 4(four) days thereafter as the captioned WP has been filed yesterday (09.02.2026). Learned State counsel submitted that the representation can be examined on merits by R1 {State of Manipur represented by Commissioner(Home), Government of Manipur, Manipur Secretariat Complex, Mantripukhri, PO & PS Heingang, Imphal East District, Manipur-794002}

[11] As regards R2, learned DSGI and learned senior counsel very fairly submitted that in the light of the trajectory the matter has taken, there is no role for Respondent No.2 at this juncture.

[12] To be noted, one of the prayers i.e., the second limb of the prayer vide (b) of the prayer paragraph writ petitioner has made a

prayer to quash the 02.05.2022 release order. If the release order is quashed writ petitioner will remain incarcerated. We accept the fervent plea of learned counsel for writ petitioner that this may be treated as quashing the conditions in the release order i.e., the condition to produce sureties. We take this liberal view considering the nature of the matter but with a caveat that other matters will be dealt with on a case to case basis.

[13] Before concluding, it is necessary to write that 'R1' is an abbreviation denoting 'first respondent' and similar abbreviations have been used with regard to other respondents also.

[14] In the light of the narrative, discussion and dispositive reasoning set out thus far, the following order is made:

(i) the Habeas Corpus plea is rejected as it is not a case of illegal detention;

(ii) plea to quash the release order dated 02.05.2023 is not acceded to but the rights of writ petitioner to seek modification/deletion of the conditions for release in the appropriate court under appropriate provision of law is preserved. If such a course is adopted by writ petitioner, the court concerned shall consider the matter on its own merits and in accordance with law untrammelled by instant order;

(iii) other prayers pertaining to declaration that the detention is illegal, release on personal bond and direction to respondent to issue temporary stay permission are rejected.

[15] As regards said representation i.e., representation dated 04.02.2026, a scanned reproduction of the same is as follows:

1. The Commissioner (Home),
Government of Manipur,
Manipur Secretariat Complex,
Mantripukhri,
P.O. & P.S. Heingang,
Imphal East District, Manipur -
795002.

2. The Director General of Police,
Government of Manipur,
Manipur Police Headquarters,
Mantripukhri,
P.O. & P.S. Heingang,
Imphal East District, Manipur -
795002.

3. The Superintendent of Police,
Tengnoupal District,
P.O. & P.S. Tengnoupal,
Manipur - 795131.

4. The Superintendent of Police,
Sajiwa Jail, Imphal.

Ref: FIR No. 04(01) 2023 U/S:14
of the Foreigners Act, 1946.

Subject: Humble representation for early deportation
by the undersigned Myanmar nationals detained at the
Foreigners' Detention Centre, Sajiwa, Imphal.

Sir(s),

We, the undersigned Myanmar nationals, presently detained at the
Foreigners' Detention Centre, Sajiwa, Imphal, most respectfully
submit this representation seeking our early deportation to our
native country, Myanmar, in connection with the above-mentioned
FIR.

That we were arrested on 27-01-2023 at about 4:00 A.M. by the
Moreh Police Station while entering India from Myanmar as daily
wage labourers. The alleged place of arrest was at New Salbung
Village and H. Lhangcham Village, situated about 7 kilometres
south-west of Moreh Police Station, under FIR No. 04(01) 2023
registered under Section 14 of the Foreigners Act, 1946.

Received No. 728 Date 4/2/26
Commissioner (Home)
Government of Manipur

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Chan Keshung
Advocate

That at the time of arrest, we were 81 (Eighty-One) persons, including women and minors. Subsequently, several similarly situated co-accused persons have already been deported to Myanmar. However, we continue to remain confined at the Foreigners' Detention Centre, Sajiwa, Imphal for the last three years, despite the fact that the Learned Judicial Magistrate First Class, Moreh, was pleased to pass an order of release on 22-11-2023.

That our continued incarceration is solely on the ground of non-furnishing of local surety, which is practically impossible for us as foreign nationals having no social or residential roots in India. As such, our detention has become indefinite, prolonged, and punitive in nature, though the offence alleged is regulatory and not heinous.

It is respectfully submitted that even foreigners are entitled to the protection of Articles 14 and 21 of the Constitution of India, which guarantee equality before law and protection of life and personal liberty. Continued detention beyond a reasonable period, especially after the passing of a release order and without filing of a charge-sheet till date, amounts to arbitrary, unlawful, and unconstitutional deprivation of personal liberty.

That the object of the Foreigners Act is regulation and deportation, and not indefinite detention. Once further incarceration serves no penal or procedural purpose, the only lawful and just course available to the authorities is deportation, particularly when similarly placed co-accused persons have already been deported.

Further, it is most respectfully submitted that we may kindly be permitted to possess and use our personal mobile phones inside the Foreigners' Detention Centre, subject to such reasonable restrictions and regulations as the authorities may deem fit, solely for the purpose of communicating with our family members, friends, and legal counsel.

It is submitted that access to communication forms an integral part of the right to life and personal liberty under Article 21 of the Constitution of India, particularly for detainees who are foreign nationals and are completely cut off from their families and legal assistance. Denial of all means of communication causes severe mental distress, isolation, and hardship, and hampers our right to effective legal representation.

That permitting limited and regulated use of mobile phones would neither prejudice security nor the ongoing legal process, but would instead uphold human dignity, procedural fairness, and

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humanitarian standards applicable to detention. We, therefore, humbly pray that this compassionate relief may be granted in the interest of justice and human rights.

In view of the facts and circumstances stated hereinabove, we most humbly pray that the concerned authorities may be pleased to:

1. Take immediate steps for our deportation to Myanmar,
2. Permit us to have personal mobile phone, and
3. Pass such other order(s) as may be deemed fit and proper in the interest of justice, equity, and humanitarian considerations.

We shall remain ever grateful for your kind consideration.

Dated: 04-02-2026
Place: Imphal

Your faithfully,

(Signatures of the detainees)

Sl No.	Name	Address	Signature
1.	Thang Gou Len Baite (26) S/o Lun Kho Mang Baite	Sawbua (5) Tamu, Sagaing Region	Thang Gou Len
2.	Lal Nun Mawia Gangte (29) Rachunga Gangte	Sawbua (5) Tamu, Sagaing Region	Lal Nun Mawia
3.	Thangkho Gin Haokip (41) Paokho Let Haokip	Sawbua (5) Tamu, Sagaing Region	Thang Kho Gin
4.	Ginkho Sat Touthang (41) S/o Zam Kho Sei Touthang	Sawbua (5) Tamu, Sagaing Region	Ginkho Set
5.	Jamkho Lal Mate (49) S/o Thang sei Mate	Sawbua (5) Tamu, Sagaing Region	Jam Kho Lal
6.	On Thang Baite (72) S/o Hol Kho Zam Baite	Sawbua (5) Tamu, Sagaing Region	On Thang

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Chan Koshung
Advocate

7.	Thang Ja Thang Haokip (46) S/o Thang Kho Mang Haokip	Sawbua (5) Tamu, Sagaing Region	Thang Ja Thang
8.	Lunkho Thang Baite (46) S/o Zam Lhun Baite.	Sawbua (5) Tamu, Sagaing Region	Lunkho Thang
9.	Jang Len Pao Baite (24) S/o NgemTong Baite	Sawbua (5) Tamu, Sagaing Region	Jang

[16] To be noted, writ petitioner is serial No.8 in the tabulation part of said representation. R1 is directed to consider the aforesaid representation on its own merits and in accordance with law,

particularly with reference to the point that similarly placed persons have been repatriated/deported and make a speaking order. We make it clear that this exercise shall be done by R1 by considering the said representation on its own merits and in accordance with law. A speaking order shall be made as expeditiously as possible but in any event within 6(six) weeks from today i.e., on or before 24.03.2026.

[17] The speaking order thus made in the aforesaid manner shall be duly served on writ petitioner under due acknowledgement within one week from the date of making of the order and in any event, the outer limit will be 31.03.2026. It is made clear that if the writ petitioner is aggrieved by the aforesaid speaking order, all the rights and contentions of writ petitioner are preserved to assail the same in a manner known to law.

[18] Captioned WP is disposed of in the aforesaid manner. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

John Kom

PS I : Upload forthwith

PS II : All concerned will remain bound by this order when uploaded in the official website of High Court which is QR coded.

FR/NFR