McDONALD NGWIRA, GULAM ADAM ZUMLA, AND FARUK ADAM ESSA v THE ATTORNEY-GENERAL (1985) Z.R. 206 (H.C.)

HIGH COURT
(E.L. SAKALA, J.):
23RD OCTOBER, 1985.
CASE NO. 1985/HP/1111-1113

Flynote
Constitutional Law - Detention - Admission by detainee of Unlawful activities - Whether detention unreasonable.
Constitutional Law - Preservation of Public Security - Crime - Nature of for purpose of detention.

Headnote
The applicants were detained under the Preservation of Public Security Regulations, reg. 33 (1). Their grounds of detention alleged that they were dealing in mandrax tablets, and that because mandrax tablets were poisonous drugs, dealing in them constituted a crime which was prejudicial to public security.

It was contended on behalf of the detainees that dealing in mandrax, though it constituted crime, did not constitute a threat to public security or that if it did constitute a threat to public security the admission by the detainees of the alleged unlawful activities made they detention unreasonable.

Held:
(i) "Crime" in s.2. of the Preservation of Public Security Act, means all crimes which are a threat to public security and dealing in mandrax tablets was one of them.
(ii) The fact that a detainee admits the alleged unlawful activities in not a basis for challenging detention.

Cases referred to:
(1) Kapwepwe and Kaenga (1972) Z.R. 181.
(2) Shamwana v A.G. (1981) Z.R. 261.
(3) Chisata and Anor v A.G. (1981) Z.R. 35.
(4) Sinkamba v Doyle (1974) Z.R.1.
(5) Kaira v A.G. (1980) Z.R. 65.
(6) Joyce Banda v A.G. (1978) Z.R. 233.
(7) Ntombizane Mudenda v A.G. (1979) Z.R. 245.

Legislation referred to:
Preservation of Public Security Act, 106, s. 2.

For the appellants: S. Patel and A. Adam, of Solly Patel, Hamir, and Lawrence.
For the respondent: A. Kinariwala, Acting Principal State Advocate.

Judgment
E.L. SAKALA, J.:

The three applicants, McDonald Ngwira, Gulam Adam Zumla and Faruk Adam Essa (hereinafter referred to as 1st, 2nd and 3rd applicants respectively) applied separately and individually for leave to issue a writ of habeas corpus ad subjiciendum. For purposes of expediency and on account that the three applicants were represented by same counsel, I decided to consolidate their applications and heard them as one application. Leave to issue an originating notice of motion was granted on 24th July, 1985. The matter was set down for hearing for the 4th September, 1985. The matter did not proceed on that day because Mr Kinariwala informed the court that recommendations for the release of the applicants had been forwarded to the detaining authority and he was awaiting for the response. He thus sought for an adjournment. Despite strong objections from Mr Patel I granted the respondent the adjournment they asked for. The matter was adjourned to 27th September for hearing. On 18th September, 1985, he respondent filed an affidavit in opposition. At the hearing of the application on 27th September, Mr Adam made very sharp comments of what he termed the contradictory stand now taken by the respondent who had earlier through counsel intimated that they had recommended for the release of the applicants. In his reply Mr Kinariwala said since the applicants had opted to fight the matter in court rather than awaiting the response to the recommendations, he was ready also to fight his case. The foregoing matters are part of the record.

The application is supported by affidavits sworn by each of the three applicants. The affidavit in opposition is sworn by one, David Ng'ambi, a police officer. The three applicants were detained under separate Presidential Detention Orders issued under Regulations 33 (1) of the Preservation of Public Security Regulations. The first and third applicants were detained on 24th April, 1985, while the second applicant was detained on 25th April, 1985. On 7th May, 1985, they were each furnished with a statement in writing specifying the grounds upon which they were detained in accordance with Art. 27 (1)(a) of the Constitution of Zambia. The last paragraph of the statement containing the grounds is common to all the applicants. The grounds of detention in respect of the second and the third applicants are similar and identical in that in each case it is alleged that the activities in question were done whilst acting together.

The grounds of detention in respect of the first applicant read as follows:

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"1. That on a date unknown but between 1st September, 1984 and 30th November,1984, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, you being a Zambian and resident in Zambia conspired with a West German national commonly known as Professor Brueck and Ibrahim Sildky Yusuf also a Zambian and resident in Zambia to illegally import into Zambia from West Germany and or other foreign countries the identities of which are not properly known 2,000,000 (two million" tablets of a poisonous drug called Methaqualone hydrochloride which is also called M-Relax but is popularly known as Mandrax.

2. That in pursuance of the said conspiracy on a date unknown but between 1st February, 1985 and 28th February, 1985, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, you received a consignment of the said poisonous drug namely Methaqualone tablets alias Mandrax tablets the exact quantity of which is not known.

3. That you knew that for the purposes of customs declaration the contents of the consignment referred to Ground 2 were falsely described as Glucose tablets.

4. That on a date unknown but between 1st February, 1985 and 28th February, 1985 at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia you illegally sold the consignment referred to in Ground No.2 for unknown valuable consideration to persons unknown.

5. That on a date unknown but between 1st February, 1985 and 31st March, 1985, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, you illegally imported into Zambia from West Germany and/or other foreign countries the identities of which are not properly known 2,000,000 (two million) chloroquine phosphate tablets.

6. That you knew or ought to have known that consumption of Mandrax tablets is highly injurious to the health of human beings and if Zambians and/or other people living in Zambia consume it, their health is bound to be adversely affected and the fabric of the Zambian society shattered."

The grounds of detention in respect of the second and third applicants read as follows:

"1. That on date unknown but between 1st November, 1983 and 28th December, 1983, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, you being a Zambian businessman of Lusaka and resident in

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Zambia, smuggled into Zambia from India 34,000 (thirty four thousand) tablets of poisonous drug called Methaqualone hydrochloride popularly known as Mandrax.

2. That on a date unknown but between 1st December, 1983 and 28th December, 1983, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia you whilst acting together with the said Faruk Adam Essa in consideration of 68,000 South African Rands sold the said 34,000 (thirty-four thousand) Mandrax tablets to one Withelm Roman Buchman, an Austrian national and businessman of Lusaka.

3. That on a date unknown but between 1st June, 1984 and 30th July, 1984, you and the said Faruk Adam Essa while boarding a Zambia Airways plane which was due to leave for Zambia were arrested at New Delhi International Airport in India by the Indian Police for the offence of attempting to smuggle out of India unknown quantity of Mandrax tablets to Zambia.

4. That later on a date unknown but between 1st June, 1984 and 30th July, 1984 the Zambian passport of yourself and that of the said Faruk Adam Essa were taken custody of by the Indian Police.

5. That later on a date unknown but between 1st June, 1984 and 30th July, 1984 you and the said Faruk Adam Essa were produced by the Indian Police before a court of law in New Delhi to face charges in respect of the said offence and pending trial you and the said Faruk Adam Essa were both granted bail.

6. That later on a date unknown but between 1st June, 1984 and 30th July, 1984 you and the said Faruk Adam Essa procured by dubious means forged Indian passports for yourselves, jumped bail, uttered the said forged passports to the Indian immigration authorities and travelled back to Zambia using the said forged passports and on arrival in Zambia uttered the said forged passports to the immigration authorities and gained entry into Zambia.

7. That later on a date unknown but between 31st July, 1984 and 31st September, 1984 at Lusaka you obtained a new Zambian passport from the Zambian Passport authorities on the pretext that your old Zambian Passport had been stolen by thieves in Lusaka.

8. That on a date unknown but between 1st February, 1985 and 28th February, 1985 at Lusaka whilst acting together with Emmanuel Mike Turbo, a Zambian illegally sold in consideration of 25,000 South African Rands 20,000 mandra:x: tablets to a South African national called Mr Russia and paid to the said Turbo K2,500.00 as commission.

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9. That you knew or ought to have known that consumption of mandrax tablets is highly injurious to the health of human beings and if Zambians and/or other people living in Zambia consume it, their health is bound to be adversely affected and the fabric of the Zambian society shattered."

The common paragraph in the grounds of the three applicants reads as follows:

"Your aforesaid activities are prejudicial to the Public Security and there is genuine apprehension that if left at large you will continue to persist in these unlawful activities and in order to prevent and suppress the crime and prevention of the concerted defiance of and disobedience of the law as well as for the preservation of Public Security it has been found necessary to detain you."

At this stage I must express my profound indebtedness to all the counsel for their powerful submissions and useful authorises cited.

A consideration of the detailed written submissions by Mr Patel and the oral submissions by Mr Adam disclose two main grounds in support of the application. These grounds as contained in the applicants' affidavits are that:

(1) The activities detailed in the statement of grounds of detention do not constitute a threat to public security within the meaning of Section 2 of the Preservation of Public Security and thus Detention Orders against the applicants under Regulation 33(1) are ultra vires the said Act.

(2) If the said activities are a threat to public security within the meaning of the Act their nature and the fact that they are admitted by the second and third applicants although denied by the first applicant are such that indefinite detention without trial is a measure which exceeds anything reasonably thought to be required for the purpose of dealing with a situation and therefore contravenes Article 26 of the Constitution.

I propose to deal with ground (2) and then (1) in that order. As to ground (2) Mr Patel's contention in his written submissions is that even if the applicants' activities were and are a threat to public security, to resort to detention without trial exceeds anything which could be reasonably thought necessary to meet the situation because:

(a) The ordinary criminal law and ordinary criminal procedure were adequate to meet the situation;

(b) Ordinary surveillance by the police and customs officials would be adequate to ensure that there would be no repetition of the activities in question;

(c) The activities do not represent a threat to the life of the nation or to the Government or to constituted authority and should be dealt by less drastic measures;

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(d) The activities apart from first applicant have been all but one admitted immediately after their arrest and determination and consequently to continue to detain them without trial is unnecessary and excessive.

Mr Patel cited page 260 of *Kapwepwe and Kaenga* (1) case where it was said:

"The machinery of detention . . . without trial . . . is by definition, intended for circumstances where the ordinary criminal law or the ordinary criminal procedure is regarded by the detaining authority as inadequate to meet the particular situation."

Counsel submitted that the important aspect of the dictum is that the detaining authority must regard the ordinary criminal law or ordinary criminal procedure as inadequate to meet the particular situation. Counsel argued that although there is no legal obligation on the executive to prosecute in the criminal courts where the matter falls within the expression for the purpose of preserving public security", the grounds in *Kapwepwe* case disclosed conspiracies which if provable were criminal and a threat to public security. Counsel submitted that the argument that there is no obligation to prosecute cannot be sustained as a general proposition. Counsel also argued that as per guidelines in the *Kapwepwe* case (1) there is no insufficient evidence in the present case and unlikely that there were sources of information involved which it was undesirable to expose. Mr Adam in his oral submissions on the point argued that to invoke powers of detention for offences which carry a maximum fine of K100 is an abuse.

In his submissions on ground (2) Mr Kinariwala on behalf of the respondent, argued that the burden to show that the measure taken by the detaining authority was unreasonable is on the applicants themselves. He submitted that on the affidavit evidence on record the applicants have not proved this. Mr Kinariwala also contended that on the authority of *Kapwepwe* case (1) there is no obligation on the detaining authority to prosecute rather than to detain. Counsel pointed out that the fact that the applicants hate not been prosecuted is not in itself evidence of unreasonableness.

I have very carefully addressed my mind to the arguments and submissions on ground (2). The common paragraph to all the applicants, grounds of detention discloses that the detaining authority is under a genuine apprehension that if the applicants are left at large they will continue to persist in the unlawful activities. The applicants were detained pursuant to regulation 33(1) of the Preservation of Public Security Regulations, Cap.106 which reads:

"33(1) Whenever the President is satisfied that for the purpose of preserving public security it is necessary to exercise control over any person, the President may make an order against such person, directing that such person be detained and thereupon such person shall be arrested, whether in or outside the prescribed area, and detained."

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In the case of *Shamwana v Attorney-General* (2), the Supreme Court held inter alia that a Presidential Detention Order is, on the face of it a valid order and a detainee must establish a prima facie case as to its alleged invalidity.

It appears to me that a Presidential Detention order cannot therefore be challenged on the basis that the activities which the detaining authority think are a threat to public security are admitted or not admitted. Thus the fact that some of the applicants have admitted the alleged unlawful activities is not a basis for challenging a Presidential Detention Order.

It was also argued on behalf of the applicants that indefinite detention without trial is a measure which contravenes Art. 26 of the Constitution. This Article reads:

"26. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of Article 15, 18, 19, 21, 22, 23, 24, or 25 to the extent that it is shown that the law in question authorises the taking, during any period when the Republic is at war or when a declaration under Article 30 is in force, of measures for the purpose of dealing with any situation existing or arising during that period; and nothing done by any person under the

authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the measures taken exceeded anything which, having due regard to the circumstances, prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation in question."

The fact that Zambia is still under a state of emergency is public as well common knowledge. In the case of *Chisata and Another v The Attorney-General* (3), the Supreme Court among other things held that:

"(ii) Article 26 of the Constitution indicates that the measures taken must be 'shown' to be unreasonable, seemingly it is the detainee who must undertake such burden."

It is now settled law that there is no obligation upon the detaining authority to institute a criminal prosecution rather that detain. (See *Kapwepwe* case). The grounds of detention may be mainly precautionary and based on suspicion. The affidavit in opposition discloses that a situation has arisen where a number of people including the applicants have been detained for smuggling and illegal trafficking in a poisonous drug. This situation is said to have assumed dangerous proportions and the smugglers have resorted to sophisticated methods and means that it has become difficult to detect. Mr Kinariwala submits that the applicants have not "shown" that the measure taken by the detaining authority to deal with this situation exceeds anything which could reasonably be thought to be required for purpose of dealing with the situation. I am inclined to agree with him. The admission of the activities by the second and third applicants does not therefore make the indefinite detention

without trial unreasonable. I hold that Article 26 of the Constitution has not been contravened by the measures taken by the detaining authority. This application based on this ground cannot therefore succeed.

This brings me to the first ground in support of the application. Mr Patel pointed out in his written submissions that the grounds of detention show that the applicants have been detained:

(a) In order to prevent and suppress crime;
(b) For the prevention of the concerted defiance of and disobedience of the law; and
(c) For the preservation of public security.

Mr. Patel submitted that (a) and (b) are extracted out of context from section 2 of Cap.106. He argued that the crucial issue is the proper interpretation of section 2, and in particular of certain of the words and expressions appearing in that section. He submitted that it is trite law in Zambia that words, phrases and expressions must be constructed in the context of the section and not in a vacuum. He cited the case of *Sinkamba v Doyle* (4) in support of this submission and argued that the literal approach in interpretation has been out moded, submitting that the detaining authority by extracting the words and expression from the context in the narrow sense of the immediately surrounding words fell into error and understood the words to bear meanings which cannot be reasonable. Counsel submitted that the modern approach to interpretation of statutory provisions is one of purposive approach where the question is: what was the statute trying to do? He cited paragraph 8 of the Scottish Law Commission which states:

"...the rules of interpretation ... have tended excessively to emphasise the literal meaning of statutory provisions without giving due weight to their meaning wider
contexts...literalism has in a number of recent cases been in effect repudiated ..."

Council also relied paragraph 11 of the same report where it says:

"Apart from their general attitude to statutes, there have been important developments by the courts of the more detailed principles of interpretation. That the so-called "literal rule" does not today confine the judge to a sterile grammatical analysis of the actual words which he is called upon to interpret has been emphasised by Lord Somervell in *A.G. v Prince August of Hanover* (1957) All E.R. at page 61 paragraph F&G where he said: 'It is unreal to proceed as if the court looked first at the provision dispute without knowing whether it was contained in a Finance Act or a Public Health Act. The title and general scope of the Act constitute the background of the context. When a court comes to Act itself, bearing in mind any relevant extraneous matters, there is, in my opinion, one compelling rule. The whole, or any part, of the Act may be referred to and relied on."

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Counsel submitted that the context of the statute is not called to aid only where there is an ambiguity but even at arriving at the ordinary meaning of the words in question. Counsel also cited the case of *Sinkamba* (4) where at page 6 Doyle, C.J., said:

"Thus in one sense it could be said that there is little value in debating what is the 'plain', or 'ordinary', or 'literal', or 'grammatical' meaning of any word or phrase. Dictionary meanings and 'ordinary' meanings are, however, properly used as working hypotheses, as starting points, although in the final analysis these must always give way to the meaning which the context requires. As Pollock, C.B. said in *Waugh v Middleton* (2) at page 356:

> "...however plain the apparent grammatical construction of the sentence may be, if it be properly clear from the contents of the same document that the apparent grammatical construction cannot be the true one, then that which, upon the whole, is the true meaning shall prevail, in spite of the grammatical construction of a particular part of it."

Mr. Patel submitted that the original meaning of word today is arrived at not in the immediate context but in the widest sense.

Counsel argued that the long title of the Preservation of Public Security Act suggests that the Act was intended to make provision for the Preservation of Public Security and matters incidental submitting that no other purpose was intended and that the Act did not make provision for anything not connected with public security.

Mr Patel further argued that the most important issue likely to be decisive in this case is the meaning of the word "crime" in the expression "prevention and suppression of violence, intimidation, disorder and crime". He contended that the word "crime" must mean crime related to public security arguing that the word cannot mean any crime but crime connected with civil unrest. He cited for these submissions cases of *Kaira* (5) and *Joyce Banda* (6). (I will revert to these cases later in my judgment).

Turning to the expression "prevention of the concerted defiance or/and disobedience of the law" In section 2 Cap.106, Mr Patel submitted that it is untenable that two men acting together to smuggle and traffic in drugs can be said to be acting in concerted defiance of lawful authority. "Concerted" according to counsel, means something far more organised and widespread; while "defiance and disobedience of lawful authority" means that the authority is defied and disobeyed and not that the law is being contravened. He submitted that smuggling and selling drugs cannot be understood to be associated with public security.

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In his oral submissions Mr Adam submitted on the point that the activities alleged in the applicants' grounds of detention did and do not amount to a threat to public security; moreso that some were committed over a period of two years.

In reply on behalf of the respondent Mr Kinariwala first summarised section 2 Cap.106 under five heads. He submitted that section 2 of the Act is explicit and unambiguous, clearly setting out the intention of the legislature. He also cited several authorities on interpretation of statutes. He submitted that the concluding paragraph in the grounds of detention reveals that the detaining authority had in its mind "the prevention and suppression of crime" which is part of the definition of section 2. Counsel also argued that the ordinary meaning of the word "crime" means every act punishable by law and a danger to public security. Mr Kinariwala further argued that the activities alleged against the applicants disclose the offences of conspiracy to commit a misdemeanour contrary to section 395 of the Penal Code; smuggling contrary to section 149 as read with section 155 of the Customs and Excise Act; illegal importation of poisons; sale of poisons without permit; and contravention of the Exchange Control Regulations. Counsel argued that if illegal trafficking in emeralds and precious stones can be held to fall within the definition of the section (*Mudenda* case (7)), why should activities relating to conspiracy, smuggling and trafficking in drugs not fall within the same section? Counsel finally submitted that the grounds are intra vires the Act making the detention of all the three applicants lawful.

I have fully considered these powerful and learned submissions. I see no conflicts in the various authorities cited setting our principles governing interpretation of statutes. I accept the view taken in *Sinkamba* case (4) where it was said that "Dictionary" meanings and "ordinary" meanings are, however, properly used as working hypotheses, as starting points, although in the final analysis these must give way to the meaning which the context requires.

In the instant case it is quite apparent from the submissions that it is not in dispute that most of the grounds of detentions amount to crimes in the Zambian laws. The issue as I see it is whether these alleged crimes are such crimes to warrant the invoking of the powers of detention as contained in Regulation 33(1) of the Preservation of Public Security Regulations.

At this stage I must mention that it has been said that the expression "public security" in section 2 of the Act is not "exhaustive" but "illustrative" (see *Mudenda* case (7)). The simple dictionary meaning of "exhaustive" is "comprehensive" while the dictionary meaning of "illustrative" is serving as an explanation or example. It may be said in other words that section 2 is not comprehensive, it only gives examples. I must also add that in an application for a writ of habeas corpus the issue is not the truthfulness or the falsity of the grounds.

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The word "crime" appearing in section 2 of cap.106 seems to have not been specifically defined and decided in relation to applications for habeas corpus. But it has been discussed in some other cases. In the case of *Joyce Banda* (6), Baron, D.C.J. while making reference to the police powers under Regulation 33(6) of the Preservation of Public Security Regulations said at page 239:

> "The police officer must have reason to believe that the person concerned, if left at liberty, is likely to engage in activities prejudicial to public security. If what the police officer "had reason to believe" was not as a matter of law a good ground for detention under reg.33(1) then the arrest and detention under 33(6) were unlawful ab initio. Suppose, for instance, the police officer believed that it was a valid ground of detention under reg. 33(1) that the person concerned had committed a series of petty thefts from local stores. Or to use an example which is unfortunately not hypothetical, suppose the police officer detains a person, invoking reg. 33(6) in order to put pressure on him to disclose information concerning the commission of an offence by someone else (see *Mulwanda* (9)). It is, one would have thought, self-evident that the regulation does not give power to detain for reasons such as those."

In the case of *Kaira* (5) Cullinan J., at Pages 78 and 79 put the matter as follows:

"I hesitate to think however that the Parliament intended to cover the prevention and suppression of all crimes. I cannot see how for example even a marked prevalence the offence of common nuisance could in a way endanger the security of the nation."

I entirely agree with these observations. I would only add that "crime" in that section must mean all crimes which are a threat to public security and must also depend on the circumstances the particular crimes are committed: that is whether they become a danger to public security.

In the case of the first applicant the detaining authority alleges criminal activities in grounds one, two, three, four and five. I have doubts, however, whether ground six discloses any criminal activity.

In the case of the second and third applicants grounds 1-3 and 5- 8 all allege various criminal activities. I am in doubt about grounds 4 and 9. The detaining authority contend that these ground are prejudicial to public security and that there genuine apprehension that if the applicants are left at large they will continue to persist in these unlawful activities and thus to prevent and suppress these crimes they have found it necessary to detain the three applicants. In *Kapwepwe and Kaenga* (1) case the court said:

"The machinery of detention or restriction without trial...is, by definition, intended for circumstances where the ordinary

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> criminal law or the ordinary criminal procedure is regarded by the detaining authority as inadequate to meet the particular situation. There may be various reasons for the inadequacy; there may be insufficient evidence to secure a conviction or it may not be possible to secure a conviction without disclosing sources of inormation which it would be contrary to the national interest to disclose; or the information available may raise no more than a suspicion, but one which someone charged with the security of the nation dare not ignore; or the activity in which the person concerned is believed to have engaged may not be a criminal offence; or the detaining authority may simply believe that the person concerned, if not detained is likely to engage in activities prejudicial to public security. And one must not lose sight of the fact that there is no onus on the detaining authority to prove any allegation beyond reasonable doubt, or indeed to any other standard, or to support any suspicion. The question is one purely for his subjective satisfaction. These are far-reaching powers. In particular it must be stressed that the President has been given power by Parliament to detain persons who are not even thought to have committed any offence or to have engaged in activities prejudicial to security or public order, but who, perhaps because of their known associates or for some other reasons, the President believes it would be dangerous not to detain."

It must be pointed out that the detaining authority in the present case has expressed apprehension. Paragraph 13 of the affidavit in opposition reads:

> "That I say that the smuggling of and the illegal trafficking in Mandrax has assumed such a dangerous proportion in Zambia recently that a very large quantity of Mandrax perhaps running into millions have been smuggled in Zambia from some foreign countries and illegally sold, and in certain cases re-smuggled out to other foreign countries and in this connection so far more than thirty-five people including the applicants, have been detained in Zambia during the last four months by His Excellency the President under Regulation 33 (1) of the Preservation of Public Security Regulations, Cap.106 and their names have been published in Government Gazette Notices numbers 552 of 1985; 555 of 1985; 601 of 1985; 637 of 1985; 642 of 1985; 855 of 1985; 926 of 1985; 954 of 1985; 1004 of 1985 and 1037 of 1985 to which I crave leave to refer. I further say that in the smuggling and the illegal trafficking of Mandrax the smugglers and traffickers have resorted to such

> sophisticated methods and means that it has become extremely difficult for the law enforcing agencies to detect the same."

The foregoing is the background of the situation which led the detaining authority to invoke the powers of detention. While I accept that the word "crime" in section 2 of Cap.106 cannot mean "all crimes",

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the offences disclosed in the grounds of detention in the present application in my view cannot therefore be said to be "petty." I am unable to hold that the applicants' activities as contained in the grounds of their detentions did not constitute a threat to public security within the meaning of section 2 of the Preservation of Public Security Regulations. Accordingly I hold that the applicants' Presidential Detention Orders are intra vires. On this ground also this application must fail. I, therefore, refuse to grant the application. I make no order as to costs.

Application dismissed
