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At the Supreme Court

M.Cr.M 6552/05

M.Cr.M 6432/05

M.Cr.M 6388/05

Before: The Honorable Judge, A. Prokachia

The Appellant in M.Cr.M 6552/05: Rassam Abidat

The Appellant in M.Cr.M 6432/05: Ahmed Masslemani

The Appellant in M.Cr.M 6388/05: Nasser Abu Hadir

Versus

The Respondent: The State of Israel

An appeal against the decision of the District Court in Jerusalem dated 30 June 2005 in M.M 4571/05 in Cr.C 841/05, given by the Honorable Judge, M. Ravid

Date of Sitting: 3rd of the month of Av, 5765 (8 August 2005)

On behalf of Appellant in M.Cr.M 6552/05: Adv. Maher Hanna

On behalf of Appellant in M.Cr.M 6432/05: Adv. Lea Tsemel

On behalf of Appellant in M.Cr.M 6388/05: Adv. Rami Othman

On behalf of the Respondent: Adv. Geula Cohen

The decision at the District Court (30 June 2005): M.M (Jerusalem) 4571/05 The State of Israel Vs. Rassam Abidat, M. Ravid

Decision

1. The appellants were detained until the end of the legal proceedings against them, following the decision of the District Court in Jerusalem (the Hon. Judge Ravid). They are appealing to this court against their detention.

2. An indictment was filed against the Appellants attributing to them offenses of membership in a terrorist organization and activity in a terrorist organization in violation of Articles 2 and 3 of the Terror Prevention Ordinance, 5708 – 1948. The background for the indictments is that at a date, preceding 2000 the Appellants joined the Popular Front for the Liberation of Palestine organization which is defined as a terrorist organization, and acted within it over the years, until the filing of the indictment. Within their membership in the organization the Appellants were active at the organization's offices, participated in conventions organized by the organization, and carried speeches within them. Appellant 1 was even responsible for funding the activity of the organization's youth movement and served as its contact person with the organization's senior members. Within the Appellants' membership in the organization, they performed, *inter alia*, the following actions:

a. During 2004, Appellant 1 transferred funds to Ma'atzem Sheikh for the purpose of performing various activities of the organization. According to his request, Appellant 1 transferred through Appellant 2 NIS 800 for the purpose of organizing a party for the graduates of the Matriculation Exams on behalf of the organization that was held in August 2004 at the YMCA institutions in Jerusalem. Appellant 3 was present at the party on behalf of the organization.

b. During 2004, Appellant 1 transferred funds to the Sheikh for purchasing gifts for the organization's prisoners.

c. In the beginning of 2005, the Appellants participated in the organization's convention held in At Tur, and spoke one after the other, regarding the organization's participation in the elections of the Palestinian Authority.

d. Around that time, Appellant 1 and another person, Sallah Hamuri, visited Mohammed Hanafsa, who was released at the time from prison, where he served a prison sentence due to his membership in the organization. Appellant 1 identified himself as the organization's representative and offered him assistance on behalf of the organization if he encounters any difficulties. Afterwards, Hamuri contacted Hanafsa and asked him to find an apartment which would be used for opening a club for the organization in Al 'Eizariya. After Hamuri's detention, Appellant 1 contacted Hanafsa in order to check whether an apartment was found, and when he received a negative answer, Appellant 1 encouraged Hanafsa to continue the search for a suitable apartment. Appellant 1 also asked Hanafsa to assist the organization's candidate in the Palestinian Authority's election campaign.

e. On another occasion, Appellant 1 contacted Hanafsa and asked him to distribute meat to the organization's bereaved families and prisoners' families in Al 'Eizariya. Hanafsa acceded to the request of Appellant, who took care of transferring a meat delivery to Hanafsa for distribution.

f. In March 2005, Appellant 1 organized a meeting of the organization's activists from Jerusalem, Abu Dis and Al 'Eizariya. At a meeting in Abu Dis, Appellant 1 and Appellant 3 spoke to the activists and discussed the organization's activity.

g. About a week later, the Appellants participated in a meeting of the organization's activists in Ar Ram, in which it was decided to establish regional committees which will be active in the Palestinian Authority's elections.

The indictments attribute to the Appellants membership in a terrorist organization, and promotion of activity in the organization, *inter alia*, through participation in discussions, organization of activities and speaking in conventions.

3. Upon the filing of the indictment, the State moved to detain the Appellants until the end of proceedings against them. The District Court accepted the motion and instructed their detention, after it found that there is a sufficient evidential basis, that detention causes are valid and that in the circumstances of the matter, detention alternatives are not suitable.

The Court found that against Appellant 1 there is alleged evidence for his being in charge of financial matters in the organization, as well as for his activity within the organization as was expressed in his meeting with Hanafsa, his activity for distributing meat to the organization members' families, and his active participation in the Abu Dis convention (testimonies of Mohammed Hanafsa, Jaber, Mohammed Sanawi and the photo line up).

As to Appellant 2, it found that there is alleged evidence for his participation in the organization's meeting in Abu Tor, his speech there, leaflet distribution by him and his involvement in transferring funds for the organization's student party. It also found that there is evidence regarding his participation in a meeting of Popular Front activists in Ar Ram (testimonies of Ma'atzem Sheikh, Musa Darwish, Mohammad Sintawi and a photo line up).

As to Appellant 3 – it found that there is evidence regarding his participation in the organization's student party, his participation in the organization's activist meeting in At Tur and his speech there, and his participation in the Abu Dis meeting and his speech there (testimonies of Bassem Abbed, Ma'atzem Sheikh, Mohammed Hanafsa, Mohammed Sinawi, Jaber Jaber and a photo line up).

From the aforesaid evidence basis, the District Court concluded that these are activists in a terrorist organization, who hold management positions, participate in discussions and decision making within the organization, and speak at public assemblies. According to the court this activity entails significant danger, seeking to enhance the activity of the military arm of the organization, aiming to promote terrorist activity against Israel. The Court adds that "there is evidence that the screen that differentiates between military activity and social or propaganda activity is very very thin", and therefore, the Appellants' dangerousness is not decreased by the fact that the activity attributed to them in the organization is of civil nature and not military.

In light of the aforesaid conclusions, the lower court decided with regard to the Appellants that their activity is ideological activity undermining the security of the State, for which a detention alternative is not appropriate, as it cannot diminish the Appellants' dangerousness. Support for that lies in the fact that all of the Appellants have prior convictions for security offences. In light of all of the aforesaid, it instructed their detention until the end of legal proceedings against them.

4. The Appellants claim that there is no room for their detention until the end of proceedings, and they should be released under a detention alternative.

Appellant 1 argues that there is no alleged basis in the evidence for the accusations against him. The testimonies on which the prosecution relies are full of internal and external contradictions. The evidence material too does not indicate the Appellant's intention to assist a terrorist organization. The Appellant who assisted the organization of a municipal school student party and made political speeches regarding the elections for the Palestinian Authority did not intend in his actions to promote terrorist activity and the judicial determination according to which his actions contain potential for terrorist activity should not be accepted. It is, as argued, activity which is civil by its nature, that included the organization of a party for high-school graduates or distribution of meat and gifts to prisoners' families or bereaved families and performing educational activities regarding elections for the Palestinian Authority, all of which are not offences and entail no danger. It was further argued that the element of "holding a position in a terrorist organization's management" as contemplated in the provisions of Article 2 to the Ordinance is not fulfilled in his case, and it being criminal law, it should be narrowly interpreted.

It was further argued that no detention cause exists here. The facts detailed in the indictment, even under the assumption that there is evidence to establish them, do not indicate the dangerousness of the Appellant. Moreover, in any case, there is an efficient house arrest alternative, at the Appellant's home, being disconnected from a phone line, in the city of Nazareth, which is located at a very long distance from the location of performance of the offences attributed to him. Such seclusion in his home will ensure that even those civil activities attributed to him in the indictments will not be performed.

5. As to Appellant 2, it was argued that it is not at all possible to conclude from the evidential material that he joined the Popular Front organization. He claims that he had already been tried and convicted in the past, in 2001 for membership in the organization, and therefore there was no room to try him again for it, and the lower court in his matter, did not address that claim in its decision. It was further argued that the only piece of evidence on which the indictment is constructed relies on inadmissible hearsay evidence. According to his argument, the Appellant participated in lectures and workshops for supervision of the main elections for the Palestinian Authority, in which there is no illegal element. As to the transfer of funds for a party for the organization's graduates, not only is there no evidence for his involvement in it, but there has been no proven connection between that transfer and activity in the organization. Even if it were proven that the money was designated for illegal activity, even then, the Appellant had no awareness of that. It was further argued that there is no dangerousness posed by the Appellant. He is a respected physician in his community, responsible for public health clinics in the West Bank region. According to him, the court's conclusion regarding his dangerousness derives from an opinion of the Israel Security Agency's ("ISA") representative that was submitted to the court, which leans on remarks made by other detainees from organization, who are not witnesses in the trial, and on quotations from the organization's internet website, and it is not possible to rely on all of these for the detention proceeding. It was further argued, that even if a dangerousness cause does exist, a detention alternative should be preferred and applied in this case.

6. As to Appellant 3, it was argued, first, that the requirement of alleged evidence is not fulfilled in his case. It was not proven that the assemblies and conventions in

which he participated were organized by the Popular Front organization. Those were political assemblies held towards the election of the chairman of the Palestinian Authority, and most of the evidential material relies on the statements of a number of witnesses, in which the activity of other bodies within the organization was discussed. The mentioning of Appellant 3 in those statements is minor, and was not raised in the context of the social-political activity specified in the indictment. The only connection in the witnesses' statements between the Appellant and his activity in the organization is hearsay evidence which is inadmissible in the legal proceedings. It was also argued that even if the facts of the indictment are proven, that is not sufficient for establishment of the elements of offences for which he is indicted. Moreover, no detention cause occurs in this case, since there is no concern regarding dangerousness or disruption of legal proceedings. It is, at most, social activity lacking any dangerousness. The lower court erred in that it did not examine at all a detention alternative while considering the Appellant's personal circumstances, as required according to case law.

7. The State Attorney claims that the evidential material in the prosecution file sets sufficient foundation for the indictments against all three defendants. She further mentions that each of the Appellants has a criminal record of security offences. The Appellants are incriminated by a number of people who were interrogated, and who are involved themselves in activity hostile to the State of Israel within the organization. She insists that from the evidence it is reflected that the Appellants appear together in a significant number of the organization's events, and that negates the possibility of innocent participation in one event or another. She agrees that it is allegedly activity of civil nature, but according to her that does not reduce the criminality of the Appellants' actions who promote an organization of a terrorist nature that endangers the security of the State. Therefore, there is an un-rebutted dangerousness presumption with regard to the Appellants that is enhanced in light of their criminal record of offences of the same type and their insistence on returning to involvement that endangers the security of the State.

The State's Attorney requested to present privileged material regarding the detention cause regarding the Appellants' dangerousness. The Appellants' attorneys objected to the submittal of that material. I decided to accept the privileged material for review regarding the detention causes aspect only, in light of past case law that recognized this practice as long as it is limited to detention causes, unlike their use for establishing the actual offences which are the subject matter of the indictment. The privileged material was admitted, as aforesaid, with awareness of the rule according to which its evidential value is influenced by the fact that the opponent did not have the opportunity to review it and address it (M.Cr.M 2845/05 The State of Israel Vs. Oded Golan; M.Cr.M 597/93 The State of Israel Vs. Aboutbul, Piskei Din 47 (1), 340, paragraph 4; M.Cr.M 2857/01 Mougrabi Vs. The State of Israel; M.Cr.M 3976/03 Shloush Vs. The State of Israel).

8. I have examined the evidential material held by the prosecution, while addressing some parts of it that the defense requested to emphasize. I have come to the conclusion that the indictments against the Appellants are based on an alleged evidential basis that is sufficient for proving their guilt, as required for a detention until the end of proceedings.

Appellant 1 – Rassam Abidat

In the statement of Musa Darwish, dated 16 March 2005 (at 19:15), he provides a lot of information regarding many activists in the Popular Front organization. Among other things, he mentions that in various occasions, he met Appellant 1 at the Popular Front's offices in Wadi al Joz. In his statement dated 10 April 2005 (at 16:45) he describes a meeting of the Popular Front in At Tur, in which about 20 to 25 of the movement's activists were present, including Appellant 1 who also spoke and talked about the organization's participation in the elections for the Palestinian Authority. He referred to him and others as activists in the organization in Jerusalem. He identified Appellant 1 in a photo line up.

In the statement of Ma'atzem Sheik Dated 7 April 2005, he testifies regarding his activity in the organization and regarding a student party that they organized in 2004 for the termination of their Matriculation Exams at the YMCA. They received all of the money for the party from Appellant 1, who is responsible, according to him, for the financial management of the Popular Front in Jerusalem and distributes money to the movements (page 2). According to him, from time to time he and another person would contact Appellant 1 to ask for money for the movement's activities, *inter alia*, he describes his reference to Appellant 1 to receive financing for the student party, which he received through Appellant 2 (page 3). He also describes the meeting in At Tur of the Popular Front's members in which Appellant 1 was also present, *inter alia*. The goal of the meeting was, according to him, to examine what the Popular Front would do with regard to the elections for the Palestinian Authority. Some of the activity in the organization involved visitations to the organizations' prisoners' families, and granting gifts, for which the funding was given by Appellant 1. In his statement dated 13 April 2005, Ma'atzem Sheik repeats that Appellant 1 spoke at the meeting in 2005 prior to the elections for the Palestinian Authority. He too identified Appellant 1 in a photo line up.

In the statement of Mohammed Hanafsa dated 28 April 2005, he says that after his release from prison, following the serving of a sentence due to activity in a terrorist organization, Appellant 1 came to him with Sallah Hamuri as the organization's representatives to help him, and in his statement dated 3 May 2005, he says that he knew that he was an activist of the organization. They contacted him later as well, regarding the promotion of various activities in the organization (pages 1 to 2). In his statement dated 4 May 2005, he describes a meeting of the organization's activists in Abu Dis and Al 'Eizariya that Appellant 1 participated in. In his statement dated 15 May 2005 he addresses Appellant 1's connecting him regarding the meat distribution to the families of the movements' prisoners' and casualties, a mission that he performed. That witness too identified Appellant 1 in a photo line up.

Jaber Jaber, in his statement dated 5 May 2005, describes an activist convention in Abu Dis and implicates Appellant 1 as someone who participated in that meeting and spoke in it. He elaborates regarding Appellant 1's activity and his control over the financial matters of the organization. He too identified Appellant 1 in a photo line up.

In Mohammed Sinawi's statement dated 11 May 2005, he mentions the Popular Front's meeting at the UNRWA school in Abu Dis in which Appellant 1 was present too, the theme of which was related to the organization's activity regarding the elections for the Palestinian Authority, and afterwards there was a continuation in a meeting in Ar Ram in which Appellant 1 was present too. He too recognized Appellant 1 in photos.

Appellant 1 has a prior conviction for activity in a terrorist organization and providing means for performing a crime dated September 11, 2001 (Severe Crime 4028/01). He was sentenced for these offences to 24 months of actual imprisonment and a suspended prison sentence.

Appellant 2 – Ahmed Masslemani

9. In Darwish's statement from 10 April 2005, he implicates Appellant 2 as a participant in the organization's meeting in At Tur together with 20 to 25 other activists of the organization and as one who spoke in that meeting and distributed leaflets regarding elections in the Palestinian Authority. He said in that context, that those who were there are the Popular Front's activists in Jerusalem, and "these are their headquarters' members".

In Ma'atzem Sheik's statement dated 7 April 2005, he connects Appellant 2 to the Popular Front movement's activists, and says that money for the graduates' party of the organization was received from Appellant 1 through Appellant 2 (page 3). He later repeats and tells of the activist meeting before the elections in which Appellant 2 was present too, regarding the formulation of the Popular Front's activity regarding the elections (pages 3 to 4). Also in his statement dated 13 April 2005, he again tells about receiving money from Appellant 2 in order to perform the organization's activity regarding youth, and that in a meeting in Sawaneh in 2005, before the elections, Appellant 2 also spoke. He identified Appellant 2 in photos.

In Sinawi's statement dated 11 May 2005, he describes a meeting of the Popular Front's activists in Ar Ram, in which Appellant 2 was also present, and in which it was decided how to act in the elections for the Palestinian Authority.

Jaber Jaber, in his statement dated 5 May 2005, tells about the convention in Ar Ram, in which he met the Popular Front's activists, and he identifies Appellant 2 in the photos as one of those who were present there.

Appellant 2 has a criminal record in offences of a security nature. He was convicted in the past of membership in an illegal association in 1984 and of belonging to a terrorist organization in 2002, and he was sentenced to a 15 month imprisonment sentence.

Appellant 3 – Nasser Abu Hadir

10. Appellant 3's involvement in activity in the Popular Front organization is indicated by the following evidence:

In Darwish's statement dated 16 March 2005, he mentions (in page 6) that when he would arrive at the Popular Front's offices in Wadi al Joz, on various occasions he met

there, *inter alia*, Appellant 3. In his statement dated 31 March 2005, he mentions that he saw Appellant 3 in 2004 at the YMCA but in a line up he was not sure of his identification. In his statement dated 24 March 2005, he refers to the student party on behalf of the Popular Front organization at the YMCA and mentions again that Appellant 3 was present there, even though he testified that he did not know about his connection to the Popular Front (page 3). In his statement dated 10 April 2005, he testified regarding the Popular Front's meeting in At Tur, in which Appellant 3 was also present "he is also in the Popular Front" and added "I think that everyone there is an activist in the Popular Front in Jerusalem and those are their headquarters' members"... (page 2).

In Bassam Abbed's statement dated 21 March 2005 describing the student party in which "Nasser Abu Hadir of Shu'fat, about 50 years old, who is known from the Popular Front ..." (page 2) was also present. In his statement dated 3 April 2005, he describes the party at the YMCA and according to him he knows Appellant 3 and "it is known that he belongs to the Popular front", even though he adds that he does not know what his connection to the Popular Front is.

Ma'atzem Sheik's statement dated 7 April 2005 indicates that in addition to Appellant 1 who was in contact with him, there were more people who belong to the movement, including Appellant 3. He also mentions that in a meeting in At Tur there were activists in the Popular Front, including Appellant 3. In his statement dated 13 April 2005, he mentions that in a meeting in Sawaneh in 2005 before the elections for the Palestinian Authority Appellant 3 spoke too, for about 5 to 10 minutes (pages 2 to 3). He was identified in a photo line up.

In Mohammad Hanafsa's statement dated 4 May 2005, he describes the meeting of the Popular Front's activists before the elections, and according to him, Appellant 3 arrived together with Appellant 1 and talked about the elections and the activity that should be carried out within the organization in that matter. He was identified in a photo line up.

Jaber Jaber, in his statement dated 5 May 2005, also describes the Popular Front's meeting in Abu Dis in which he met Appellant 3 as one of those responsible for the convention of Jerusalem residents. In the convention Appellant 3, spoke and talked about the Popular Front's involvement in the elections in the Palestinian Authority (page 2 to 3). He also refers to a dispute that arose regarding financial aid on behalf of the organization of which Appellant 1 and Appellant 3 were in charge (page 4). Appellant 3 was identified by Jaber in a photo line up.

Sinawi (in a statement dated 11 May 2005) also describes a meeting of the Popular Front in Abu Dis in which Appellant 3 and others participated regarding the elections for the Palestinian Authority. Afterwards, he describes an additional meeting in Ar Ram in which Appellant 3 was also present, as well as others, in which it was decided to establish committees that would act in the whole Jerusalem region regarding the elections. He identified Appellant 3 in a photo line up.

Appellant 3 has prior convictions, *inter alia*, for membership in an illegal association in 1972, for which he was sentenced to 6 months of actual imprisonment; membership in an illegal association in March 1981, for which he was sentenced to 5 years of actual imprisonment; stone throwing and participation in a prohibited

gathering in October 1980, for which he was sentenced to one month of actual imprisonment; as well as belonging to a terrorist organization in February 2000, for which he was sentenced to an 11-month imprisonment.

11. The evidential material is sufficient to allegedly prove the Appellants' guilt in the offences of violation of Articles 2 and 3 of the Terror Prevention Ordinance that are attributed to them.

Article 2 of the Ordinance determines:

"Activity in a terrorist organization"

A person who holds a position in the management or training of a terrorist organization, or participates in discussions or decision making of a terrorist organization, or serves as a member of a terrorist organization's tribunal or makes a propaganda speech in a public gathering or on a radio on behalf of a terrorist organization, will be indicted for an offence, and upon his conviction will be liable for an imprisonment sentence of up to twenty years"

Article 3 of the Ordinance determines:

"Membership in a terrorist organization"

A person who is a member in a terrorist organization will be accused of an offence and upon his conviction he will be liable for an imprisonment sentence of up to five years".

The three Appellants are members in the Popular Front organization and fulfill an active role within it. They take an active part in the organization's management in the Jerusalem region, participate in its discussions and decision making and make speeches in meetings and events of the organization. That conclusion is drawn from a mosaic of the testimonies of witnesses who are involved, themselves, in a terrorist organization's activity against Israel, that describe in extensive detail its action methods and the Appellants' involvement within it.

It is true, that the activity attributed to the Appellants, as indicated in the evidential material, is of organizational-civilian nature and not military. It involves financial management for funding various activities, providing financial aid for an event of the organization's youth, assistance to needy families who are related to the organization, assistance to a released prisoner who is related to the organization, and involvement in the organization's activity with regard to the matter of the elections for the Palestinian Authority in which the three take part. The specific contexts of the various activities do not bear a special weight by themselves, however, upon their accumulation they draw a picture of methodic activity within the organization's actions, and indicate deep involvement in reaching its objectives – which are implementing terror against Israel aiming to harm the security of the State. It is true that financial aid for a party of high school graduates or distribution of gifts to needy families, or assistance to a released prisoner may be, on their own, "innocent" actions in other contexts. However, in the context of the subject matter, these actions are related to the leadership of a body that, alongside with its civil activity has a military-

terrorist side intended for reaching the goal of terroristic fighting, aimed to cause personal injuries to the citizens of the State of Israel. On the face of it, the organization's civil activity is intended to aid the military activity and to serve as a basis and infrastructure for it. It has not been otherwise proven to us. Therefore, it is not possible to isolate the civil function from the military function in the organization's activity and any distinction and separation between them is artificial and wrong. The civil function feeds the military purpose, and the military purpose provides the cause and purpose for the civil financial activity and for the transfer of funding required for the organization's activity, including acts of aiding the needy, and performing social activities for the organization's youth, in order to encourage their involvement and belonging to the organization (M.Cr.M 7385/03 Aghabria Vs. The State of Israel; M.Cr.M 7223/03 Sheik Ra'ed (Ben Sallah) Mahajna Vs. The State of Israel).

The Popular Front's activity endangers the wellbeing of the citizens of the State. This activity is very close to the homes of the citizens of Israel and it poses a direct and severe threat on their lives and wellbeing. The State and the legal system must protect the public's wellbeing from the danger posed by the terrorist organization, and one of the ways to do that is through the disarming of the organization's leaders from their power and status, and weakening their ability to promote the organization's activity - whether directly, on the military level, or indirectly, through development of the civil arm of the organization's activity.

From the aforesaid, the conclusion is drawn that there is an alleged evidential basis against the Appellants. I should note in this context that even though I had reviewed the privileged material that was submitted to me by the State regarding the detention causes, I did not deem it fit to rely thereon, and this decision of mine is based only on the exposed evidential material that was laid in front of the parties and the court.

Detention causes

12. In the Appellants' matter, a detention cause is established due to dangerousness in light of their membership in a terrorist organization and their activity within it. This involvement in a terrorist organization creates a dangerousness presumption according to the Pre Trial Detention Law (Articles 21(a)(1)(c)(2) and Article 35(b) of that law; M.Cr.M 8900/04 Gol Vs. The State of Israel (the Hon. Judge Naor)). Rebuttal of the dangerousness presumption lies on the Appellants' shoulders, and it was not rebutted in the circumstances of this case. The case involves three Appellants of a recognized and respectable status in the organization, they are some of the most senior activists within it, and are involved in the activity performed in it, directly and on a daily basis. Their status and positions in the organization embody the danger that exists as a result of the existence and activity of the organization itself. They express in their actions the goals of the terror – harming the security of the State and its citizens. Under these circumstances, their dangerousness presumption remains un-rebutted. This court has noted in the past that:

"... money transfers for supporting families of terrorists – suicide bombers and security prisoners serve as an encouragement and incentive for homicidal terror activity, and they are not similar to the mere fulfillment of religious commandments of supporting the poor

and the needy, under which the appellant and his counsel are trying to seek shelter..."

(Judge Beinisch in the matter of Sheik Ra'ed (Ben Sallah) Mahajna, there, Paragraph 5).

Exceptional severity is added to the dangerousness cause that applies in the Appellants' matter, in light of the fact that they already have a criminal record for offences of a security nature. They served imprisonment sentences for offences of that type, and that did not deter them from returning to extensive activity in a terrorist organization and even to bearing within it leadership roles. This situation reflects ideological insistence and persistence on behalf of the Appellants' in involvement in activity aimed against the wellbeing of the public in Israel, and returning to such activity again and again even after convictions and serving imprisonment sentences. That reality, in which terror ideology is combined with commitment to achieving a goal, together with willingness to bear personal risks and pay a personal price, entails in it significant danger to the security of society in Israel. The State is obliged to protect itself against such danger with the means that the law avails to it.

13. In light of the nature of the risks on hand, there is no room in the circumstances of the matter for a detention alternative with regard to any of the Appellants. The house arrest alternative does not negate ideological activity of an activist in a terrorist organization who may easily conduct his hostile activity, even through various communication means, from his home. The dangers from terrorist activity are grave, and therefore, there should not be a counter-risk taken by releasing organization activists to a detention alternative, other than in a place where such alternative provides an appropriate guarantee for achieving the detention's purpose while decreasing the harm to the personal freedom of the detainees (M.Cr.M 6031/01 Kostro Vs. The State of Israel). That is not the case with the Appellants in our matter. The nature of the offences attributed to them on the background of their connections and activity in the organization, the fact that they were not deterred from continuation of activity in the organization in spite of their clear criminal record in offences of that type, and their insistence on continuing that activity, on an ideological background as well as their senior status in the organization, all of these indicate that it is not possible to prevent the danger posed by them through a detention alternative (compare, the Mahajna case, there, paragraph 5).

In light of the aforesaid, I do not see room to accept the appeals and I reject them.

The Appellants shall remain in detention until the end of their trial.

Given today, 12th of the month of Av, 5765 (17 August 2005)

Judge

The wording of this document is subject to articulation and editing changes.