

**The Israeli Police Force – Petitioner**

*versus*

**Moshe Halevy – Suspect**

**Represented by Boaz Guttman, Advocate**

### **Ruling**

Today is the fifth day of the suspect's arrest, and the petition to re-examine that was filed by his attorney is supported by two underpinnings: first, the fact that, as stated, the suspect has been under arrest for five days - and it may reasonably be assumed that if the suspect had been tried in connection with the offence of which he is suspected, he would not have been arrested at all; and second, the fact that it is possible to deviate slightly from the release decision given by the Honourable Justice Shapiro, while still preserving the goal of the restrictions set by the Honourable Justice Shapiro, with a less severe injury to the suspect's liberties.

The petitioner's attorney argues that this does not constitute a change in the circumstances.

Note that the chief bone of contention in this case - and I understand that it is now less urgent - was the suspect's refusal to consent to the terms of release which prohibited him from using the Internet for a 30 day period.

The liberty to use the Internet is naturally a less powerful liberty than that of going free, which is liberty in itself. Facing that right is the suspect's duty to refrain from causing harm, from violating the law and obstructing justice. The problem is that the suspect violated his obligations, and therefore his right has been taken from him. There is a question of balance and proportionality. It is true that the suspect could have appealed against those release terms and taken issue with them in the usual way, but there is a similarity in principle between a suspect brought before us who does not comply with the other conditions of bail and the procedure for "testing guarantees", and the petition before us - this is due to the fact that according to the statement given by the suspect's attorney, the suspect's use of the Internet was not only a hobby but his livelihood too. I have been shown a letter from Mr Amir Gans, confirming that the work that the suspect performs for him - and which he is in the middle of - is effected via the internet.

The goal of prohibiting the suspect from accessing the Internet was a dual one: first, to prevent the continued commission of offences, and second, to rule out concerns as to the possible obstruction of justice and investigation - this in light of the suspect's internet skills and the fact that the offence attributed to him was effected through that medium.

The proposal made today enables the petitioner to supervise, either "online" or in retrospect, the suspect's operations on the network, and is likely to create a more correct proportionality in terms of that restriction, and also to allay the concerns noted above. It also provides balance, in light of the fact that the suspect has already been under arrest for five days, and although arrest is not a payment on account of the punishment, we cannot ignore the price that it constitutes for the suspect who – we should remember - committed an offence of prohibited publication, under Section 70 of the Courts Law, an offence liable to cause physical injury and perhaps obstruction of justice as well, though not liable to endanger human life.

Under these circumstances, I release the suspect on the conditions on which he was released by the Honourable Justice Shapiro; I authorise Mr Amir Gans as a third-party guarantor; and I confirm that the suspect may use the Internet on the conditions specified in the petition filed on his behalf today, and this once the suspect, by means of others, has installed in the offices of the investigating unit a device enabling long-distance control, monitoring, supervision and recording of all his computer operations.

In order to effect the above-mentioned, I extend the absolute prohibition on the suspect to use the Internet, and this until 26 September 2006, or until the installation of the above-mentioned device in the offices of the investigating unit and the other actions listed in the petition to re-examine - whichever comes later.

Given today 22 September 2006 in the presence of the parties.

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Avichai Doron, Justice