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APHC010061742026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3562]
(Special Original Jurisdiction)

FRIDAY, THE 3rd DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT PETITION NO: 3507/2026

Between:

1. VANDALAM DOMINI, W/O VANDALAM BALU BADDAR, AGED 27 YEARS, R/O, CHIIMA GANGAVARAM, DARAKONDA, GUDEM KOTHA VEEDHI, VISAKHAPATNAM DISRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT BUILDINGS, AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT - 522238.
2. THE PRINCIPAL SECRETARY TO GOVEMMENTFAC, REVENUE(EXCISE-II) DEPARTMENT, STATE OF ANDHRA PRADESH, SECRETARIAT BUILDINGS, AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT - 522238.
3. THE SUPERINTENDENT OF POLICE, ALLURI SEETHARAMARAJU DISTRICT - 531025.
4. THE SUPERINTENDENT, CENTRAL PRISON, VISAKHAPATNAM, VISAKHAPATNAM DISTRICT - 530040

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased toPleased to issue writ order or direction more particularly one in the nature of writ of Habeas Corpus under Article 226 of the constitution of India directing the 5th respondent to produce Vandalam Balu Baddar S/o. Buddhu , who is now detained in Central Prison, Visakhapatnam before this Hon'ble Court and he may be ordered to be released forthwith after deelaring his detention vide orders passed in G.O.RT.NO.708, dt. 09.07.2025, passed by the 2ndrespondent which was confirmed by the orders passed in G.O.Rt.No. 1231, dt.l0.10.2025 Revenue(Excise-II) Dept., as illegal and un constitutional and pass

Counsel for the Petitioner:

1. D PURNACHANDRA REDDY

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL

The Court made the following:

ORDER: :-*(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri D.Purna Chandra Reddy, learned counsel for the petitioner and Sri Kirthi Teja Kondaveeti, learned Government Pleader, attached to the office of the learned Additional Advocate General, appearing for the respondents.

2. The detenu, by name Vandalam Balu Baddar, S/o Budhu, aged about 25 years, is the husband of the petitioner. An order of preventive detention was passed against the detenu by the State *vide* G.O.Rt.No.708, Revenue (Excise.III) Department, dated 09.07.2025, under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short, "the PIT NDPS Act"). The said order was confirmed by the State *vide* G.O.Rt.No.1231, Revenue (Excise.III) Department, dated 10.10.2025, for a period of twelve months from the date of detention. The detention order was passed taking into consideration three criminal cases pending against the detenu.

3. Subsequently, the detenu submitted a representation dated 05.01.2026 seeking revocation of the detention order and his release. As the representation was not considered, the present writ petition came to be filed challenging the order of detention as well as the order confirming the detention.

4. During the pendency of the writ petition, the representation was rejected by the Government vide order dated 18.03.2026.

5. Learned counsel for the petitioner submits that there has been an inordinate and unexplained delay in deciding the representation. He submits that such delay has vitiated the continued detention of the detenu, as neither the order dated 18.03.2026 rejecting the representation nor the counter affidavit filed by the respondents discloses any explanation for the delay.

6. Learned Special Government Pleader, appearing for the respondents, submits, referring to paragraph No.6 of the counter affidavit filed by respondent No.2, that the representation dated 05.01.2026 was received on 07.01.2026 and was ultimately rejected on 18.03.2026. Though it is contended that there is no unexplained or abnormal delay, it is fairly admitted that neither the order rejecting the representation nor the counter affidavit furnishes any explanation for the delay, except mentioning the dates of receipt and rejection of the representation.

7. We have considered the aforesaid submissions and perused the material on record.

8. It is not in dispute that the representation dated 05.01.2026 was received by the Government on 07.01.2026. It came to be rejected only on 18.03.2026. A perusal of paragraph 6 of the counter affidavit

reveals that no explanation whatsoever has been furnished for the time taken in considering and rejecting the representation.

9. In ***K.M.Abdulla Kunhi and B.L.Abdul Khader v. Union of India and others***[1] (supra), the Hon'ble Apex Court held that the representation relates to the liberty of the individual, the highly cherished right enshrined in Article 21 of the Constitution of India. Clause (5) of Article 22 therefore casts a legal obligation on the Government to consider the representation as early as possible. It is a constitutional mandate, commanding the concerned authority to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words 'as soon as may be'' occurring in clause (5) of Article 22 reflects the concern of the framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay.

10. Para No.12 of ***K.M.Abdulla Kunhi*** (supra) reads as under:

> *"The representation relates to the liberty of the individual, the highly cherished right enshrined in Article 21 of our Constitution. Clause (5) of Article 22 therefore, casts a legal obligation on the government to consider the representation as early as possible. It is a constitutional mandate commanding the concerned authority to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words "as soon as may be" occurring in clause (5) of Article 22 reflects the concern of the Framers*

[1] (1991) 1 SCC 476

that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard and fast rule in this regard. It depends upon the facts and circumstances of each case. There is no period prescribed either under the Constitution or under the concerned detention law, within which the representation should be dealt with. The requirement however, is that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. This has been emphasised and re-emphasised by a series of decisions of this Court. (See: Jayanarayan Sukul v. State of W.M. [(1970) 1 SCC 219]; Frances Coralie Mullin v. W.C. Khambra [(1980) 2 SCC 275: 1980 SCC (Cri) 419]; Rama Dhondu Borade v. V.K. Saraf, Commissioner of Police [(1989) 3 SCC 173 : 1989 SCC (Cri) 520] and Aslam Ahmed Zahire Ahmed Shaik v. Union of India [(1989) 3 SCC 277 : 1989 SCC (Cri) 554] .)"

11. On the point of delayed consideration of representation, In ***K.M.Abdulla Kunhi*** (supra), the Constitution Bench of the Hon'ble Supreme Court further held that if the detenu does not exercise his right to make representation against the order of detention but presents the representation to the Government after the Government has confirmed the order of detention, the Government still has to consider such representation and release the detenu if the detention is not within the power conferred under the statute. It was held that so long as the representation is independently considered by the Government and if there is no delay in considering the representation, the fact that it is

considered after the confirmation of the detention makes little difference on the validity of the detention or confirmation of the detention. The confirmation cannot be invalidated solely on the ground that the representation is considered subsequent to confirmation of the detention.

12. Paragraph Nos.19 and 20 of ***K.M.Abdulla Kunhi*** (supra) read as under:

> *"19. There is no constitutional mandate under cl. (5) of Article 22, much less any statutory requirement to consider the representation before confirming the order of detention. As long as the Government without delay considers the representation with an unbiased mind there is no basis for concluding that the absence of independent consideration is the obvious result if the representation is not considered before the confirmation of detention. Indeed, there is no justification for imposing this restriction on the power of the Government. As observed earlier, the Government's consideration of the representation is for a different purpose, namely to find out whether the detention is in conformity with the power under the statute. This has been explained in Haradhan Saha case, where Ray, C.J., speaking for the Constitution Bench observed that the consideration of the representation by the Government is only to ascertain whether the detention order is in conformity with the power under the law. There need not be a speaking order in disposing such representation. There is also no failure of justice by the order not being a Speaking order. All that is necessary is that there should be real and proper consideration by the Government.*
>
> *20. It is necessary to mention that with regard to liberty of citizens the court stands guard over the facts and requirements of law, but court cannot draw presumption against any authority without material. It may be borne in mind that the confirmation of detention does not preclude the government from revoking the order of detention upon considering the representation.*

Secondly, there may be cases where the government has to consider the representation only after confirmation of detention. Clause (5) of Article 22 suggests that the representation could be received even after confirmation of the order of detention. The words 'shall afford him the earliest opportunity of making a representation against the order in clause (5) of Article 22 suggest that the obligation of the government is to offer the detenu an opportunity of making a representation against the order, before it is confirmed according to the procedure laid down under Section 8 of the Act. But if the detenu does not exercise his right to make representation at that stage, but presents it to the government after the government has confirmed the order of detention, the government still has to consider such representation and release the detenu if the detention is not within the power conferred under the statute. The confirmation of the order of detention is not conclusive as against the detenu. It can be revoked suo motu under Section 11 or upon a representation of the detenu. It seems to us therefore, that so long as the representation is independently considered by the government and if there is no delay in considering the representation, the fact that it is considered after the confirmation of detention makes little difference on the validity of the detention or confirmation of the detention. The confirmation cannot be invalidated solely on the ground that the representation is considered subsequent to confirmation of the detention. Nor it could be presumed that such consideration is not an independent consideration. With all respect, we are not inclined to subscribe to the views expressed in V.J. Jain [(1979) 4 SCC 401 : 1980 SCC (Cri) 4], Om Prakash Bahl [W.P. No. 845 of 1979, decided on October 15, 1979 (Unreported)] and Khairul Haque cases [W.P. No. 246 of 1969, decided on September 10, 1969 (Unreported)] . They cannot be considered to be good law and hence stand overruled.

13. Recently, in ***Cheemparthi Shaheen v. the State of Andhra Pradesh (W.P.No.34357 of 2025 dated 01.07.2026),*** this Court on consideration of various pronouncements on the subject of

compliance in the cases of ***Rajammal v. State or Tamilnadu and another***[2]***, Pabitra N.Rana v. Union of India and others***[3]***, Rashid Kanadia v. Medha Gadgil and others***[4]***, Abdul Nasar Adam Ismail v. State of Maharashtra***[5]***, and Icchu Devi Choraria v. Union of India and others***[6], held in paragraphs 23 and 24 as under :

> *"23. It is thus well settled in law that the detenu has a fundamental right to make the representation against his detention order and has a right for its consideration as expeditiously as possible with a sense of urgency without an avoidable delay. Though there is no hard and fast rule with respect to the time and delay but it depends upon the facts and circumstances of each case. In case of delayed disposal of representation the delay must be explained and such explanation must stand the test of reasonableness to the satisfaction of the Court.*
>
> *24. The representation, even if not filed against the order of detention at the initial stage but is filed after the order of detention has been confirmed by the State still the detenu will have a right to make the representation which survives even after the confirmation of the detention order. The same principle for expeditious disposal of the representation without delay continues to be the fundamental right of the detenu in terms of the law as laid down in the aforesaid judgments in view of Articles 21 and 22 (5) of the Constitution of India. So delay in disposal of the representation even after the order of detention has been confirmed by the State must be justified by giving proper and sufficient explanation. If there is no sufficient explanation or a Court finds delay unreasonable and is not satisfied on the grounds for delay, the continued detention would become illegal. The order of detention on such ground would not be*

[2] (1999) 1 SCC 417
[3] (1980) 2 SCC 338
[4] (2012) 11 SCC 745
[5] (2013) 4 SCC 435
[6] (1980) 4 SCC 531

> *illegal or void but pursuant to that order of detention, the detenu cannot be detained any further. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal."*

14. There is a delay in deciding the representation. The representation was received on 07.01.2026 and was rejected only on 18.03.2026, i.e., after a period of more than two months. There is no explanation whatsoever for such delay. In the absence of any explanation, the delay remains unexplained, and it has to be taken that the delay is without any cause.

15. In view of the aforesaid, we hold that the continued detention of the detenu is illegal and he is entitled to release.

16. The Writ Petition is ***allowed***, setting aside the impugned order of preventive detention by the State by G.O.Rt.No.708, Revenue (Excise.III) Department, dated 09.07.2025, passed against the detenu, and the order of confirmation by the State by G.O.Rt.No.1231, Revenue (Excise.III) Department, dated 10.10.2025, holding that the continued detention is illegal. The detenu by name Vandalam Balu Baddar, S/o Budhu, Age 25 yrs, Chinna Gangavaram Village, G.K.Veedhi Mandal, Alluri Seetharamaraju District, Andhra Pradesh, shall be released/set free forthwith, if not required in any other case.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

SUBHENDU SAMANTA, J

Date :03.07.2026.
RPD.

Whether the order is :

Speaking	Yes/ No	Reasoned	✔ Yes/ No
Reportable	✔ Yes/ No	Non-Reportable	Yes/ No

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

(ALLOWED)

WRIT PETITION NO: 3507 of 2026

Date : 03.07.2026

Note :- L.R. Copy to be marked.

B/o
RPD.

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

*** THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

+ WRIT PETITION NO: 3507 OF 2026

% **03.07.2026.**

Vandalam Domini

……Petitioner

And:

$ The State of Andhra Pradesh and 3 others

….Respondents.

!Counsel for the Appellant : Sri D.Purna Chandra Reddy,

^Counsel for the respondents : Sri Kirthi Teja Kondaveeti
: Learned Government Pleader,
attached to the office of the learned Additional Advocate General.

<Gist:

>Head Note:

? Cases referred:

1. (1991) 1 SCC 476
2. (1999) 1 SCC 417
3. (1980) 2 SCC 338
4. (2012) 11 SCC 745
5. (2013) 4 SCC 435
6. (1980) 4 SCC 531

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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WRIT PETITION NO: 3507 OF 2026

DATE OF JUDGMENT PRONOUNCED: ***03.07.2026.***

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

1.	*Whether Reporters of Local newspapers may be allowed to see the Judgments?*	*Yes/No*
2.	*Whether the copies of judgment may be marked to Law Reporters/Journals*	*Yes/No*
3.	*Whether Your Lordships wish to see the fair copy of the Judgment?*	*Yes/No*

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RAVI NATH TILHARI, J

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SUBHENDU SAMANTA, J