APHC010127632026

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

WEDNESDAY, THE 9th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 6954 OF 2026

Between:

1. POLAVARAPU LAKSHMI SIRISHA, W/o. Polavarapu Nukaraju Aged 33 years, R/o. D.No. 10-20 Venkatagiri, Rajamandry Rural Pidimgoyyi. East Godavari District

...Petitioner

AND

1. The State of Andhra Pradesh, Represented by its Chief Secretary, Secretariat Buildings, Amaravathi at Velagapudi Guntur District.522327.

2. The Collector and District Magistrate, Rajamahendravaram, East Godavari District. 533101.

3. The Superintendent of Police, Rajamahendravaram, East Godavari District. 533101.

4. The Superintendent, Central Prison, Rajamahendravaram East Godavari District. 533101.

...Respondents

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 4th respondent to produce Polavarapu Nookaraju, who is now detained in Central Prison, Rajamahendravaram, East Godavari District before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention vide RefNo.Ml/541052/2025, dt. 24.11.2025, passed by the 2nd respondent which was confirmed by the 1st respondent vide G.O.Rt.No. 200,dt.02.02.2026 General Administration (SC-I) Dept., as illegal and un constitutional and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to grant Leave to the Petitioner to file the Reply Affidavit to the Counter Affidavit filed by the 2nd Respondent in W.P.No.6954 of 2026 and pass

Counsel for the Petitioner: KADIYAM NEELAKANTESWARA RAO

Counsel for the Respondents: THE ADVOCATE GENERAL Counsel for the Respondents:ADDL ADVOCATE GENERAL

The Court made the following order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

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ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri Kadiyam Neelakanteswara Rao learned counsel for the petitioner and Sri Akula Venkata Sai Jagadeesh, learned Assistant Government Pleader for the respondents.

2. This petition under Article 226 of Constitution of India has been filed by the petitioner for release of the detenu namely Polavarapu Nookaraju after setting aside the order of preventive detention dated 24.11.2025 passed by respondent NO.2 under Section 3 (1) & (2) r/w. Section 2(b) of the Andhra Pradesh Prevention of Dangerous Activities of Boot-leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986 (in short Act, 1986) as also the order of confirmation vid e G.O.Rt.No.200 dated 02.02.2026.

3. Learned counsel for the petitioner submits that challenging the order of preventive detention and the order of the confirmation, this petition was filed. The representation by the petitioner has been submitted to the Government on 12.02.2026, which was received by respondent No.1 on 13.02.2026 but by the time of filing of the writ petition, it was not considered. However, during pendency of the petition, the said representation was rejected on 15.08.2026. Learned counsel for

the petitioner submits that there is inordinate delay in consideration of the petitioner's representation. The detenu has fundamental right of consideration of the representation expeditiously and as soon as possible. It is further submits that in the order of rejection which has been brought on record along with counter affidavit nor in the counter affidavit filed by the respondents, there is no explanation much less reasonable explanation giving for such long delay of more than six months.

4. Learned Assistant Government pleader submits that the representation dated 11.02.2026 was given to the Chief Secretary to the Government against the preventive detention order on 20.02.2026. The direction was issued to the District Collector to submit the detailed report to the Government. The same was submitted on 13.08.2026 and there after the order has been passed on 15.08.2026. Under these circumstances, his submission is that there is delay in submission of remarks.

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

6. We are of the view that even the delay in submission of remarks, the State cannot take the benefit because the District Collector is the State authority. The District Collector has submitted remarks after almost

six months. Once the remarks were called vide memo dated 20.02.2026 it should have been submitted without any delay or atleast there should have been some reasonable and possible explanation for such delay.

7. The law is well settled on the aspect with respect to the unexplained delay in consideration of the representation.

8. Article 22 of the Constitution of India mandates that the detenu must be afforded an opportunity to make a representation against the order of detention. If the detaining authority is satisfied with the grounds raised in the representation, it is open to the authority to revoke the order of detention.

9. In ***Rashid Kapadia v. Medha Gadgil*** [1] the Hon'ble Apex Court held that any unreasonable and unexplainable delay in considering the representation is held to be fatal to the continued detention of the detenue. Para Nos.12, 13 & 14 in ***Rashid Kapadia*** (supra) reads as under:

> **"12.** It can be seen from the above extracted portion that the first respondent called for the parawise remarks of the sponsoring authority (Customs Department) on 9-8-2011. However, the sponsoring authority responded to the inquiry of the first respondent on 26-8-2011 with a delay of fifteen days. The reasons for such delay have not been explained by the sponsoring authority, represented by the third respondent herein. There is

[1] (2012) 11 SCC 745

nothing on the record placed before us, which explains the abovementioned delay on the part of the third respondent's Department.

13. It is well settled that the right of a person, who is preventively detained, to make a representation and have it considered by the authority concerned as expeditiously as possible, is a constitutional right under Article 22(5). Any unreasonable and unexplainable delay in considering the representation is held to be fatal to the continued detention of the detenu. The proposition is too well settled in a long line of decisions of this Court. We do not think it necessary to examine the authorities on this aspect, except to take note of a couple of judgments where the principle is discussed in detail. They are: *Mohinuddin* v. *District Magistrate, Beed* [(1987) 4 SCC 58 : 1987 SCC (Cri) 674] and *Harshala Santosh Patil* v. *State of Maharashtra* [(2006) 12 SCC 211 : (2007) 1 SCC (Cri) 680] .

14. Thereore, we have no option, but to come to the conclusion that the detention order cannot be sustained on the abovementioned ground alone and it is required to be, accordingly, set aside."

10. In ***Vandalam Domini v. State of Andhra Pradesh***[2] the Co-ordinate Bench of this Court held that in the absence of any explanation, the delay remains unexplained, and it has to be taken that the delay is without any cause and in view of that the continued detention of detenu is illegal and entitled to release. Para Nos.14 & 15 in ***Vandalam Domini*** (supra) reads as under:

"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.

[2] W.P.No.3507 of 2026 APHC decided on 03.07.2026

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

11. In the present case, for the reasons of delay in consideration of the representation the order of preventive detention dated 24.11.2025 as also the confirmation order dated 02.02.2026 cannot be sustained.

12. The order of preventive detention has been passed under Sections 3(1) and 3(2) r/w. Section 2(b) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

13. In **Shiv Parsad Bhatnagar vs. State of M.P and another**[3], the Hon'ble Apex Court has held that "the single vicious ground is sufficient to vitiate an order of detention."

14. The writ petition is allowed. The order of preventive detention dated 24.11.2025 and the order of confirmation dated 02.02.2026 are set aside.

15. The detenu shall be set at liberty immediately, if he is not in detention in any other pending case.

16. Since, we have set aside the order on the ground of non-consideration of the relevant material the bail orders, and the bail conditions by the detaining authority, we provide that the detaining

[3] (1981) 2 SCC 456

authority shall be at liberty to pass fresh order but in accordance with law and in case any order of detention is so passed afresh, the period of detention shall not exceed the statutory period in total 12 months, including the period already served under the impugned detention orders.

No order as to costs.

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

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RAVI NATH TILHARI,J

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ALAPATI GIRIDHAR,J

Dated: 09.09.2026
AG

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 6954/2026

Dated: 09.09.2026
AG