

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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W.P. NO. 1619 of 2015

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Date of Judgment: 11.3.2015

Between:

K. Asha

...Petitioner

And

The State of Andhra Pradesh

..Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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W.P. NO. 1619 of 2015

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ORDER:

Heard learned counsel for the parties.

Wife of the detenu has filed this writ petition questioning the detention order dated 5.1.2015 passed by the 2nd respondent under the provisions of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No. 1 of

1986), which was confirmed by the 1st respondent in G.O.Rt.No. 76, General Administration (Law & Order) dated 8.1.2015.

While the writ petition raises several contentions challenging the detention order, learned senior counsel appearing for the petitioner has confined his submissions primarily to ground No. IV of the grounds wherein it is claimed that on the date of passing of the detention order which is based on five crimes registered against the detenu, he was enlarged on bail in almost all the crimes. The learned senior counsel for the petitioner states that in four crimes the detenu has already secured an order of bail even prior to the date of passing of the detention order and in the remaining one crime he was granted bail, but that order of bail was passed after the detention order. The petitioner has also filed a reply-affidavit along with copies of bail orders in two crimes.

Though counter-affidavit filed by the detaining authority states in para-12 that the detention order is based on subjective satisfaction, but it is stated that merely because the detenu is enlarged on bail, it is not a ground not to detain him under the Act 1/86. In substance, the fact that the bail orders were not placed before the detaining authority while passing the detention

order is not controverted in the counter-affidavit and learned Advocate General also does not dispute that the detention order impugned does not refer to bail orders having been placed and examined by the detaining authority.

The issue involved was already considered by this Court in W.P.No. 32710 of 2014 and batch, dated 2.3.2015. In addition to it, the learned senior counsel for the petitioner has also placed reliance upon the decision of a Division Bench of this Court reported in *S. Sattu Vs. Government of A.P. and others* (2014 (1) ALD (CrI) 973) wherein also similar detention order passed under the Act 1/86 was set aside on the similar ground that the orders of bail granted to the detenu therein were not placed before the detaining authority.

Thus in view of the consistent view of the Court as above, the order of detention is required to be quashed on the aforesaid ground.

Accordingly the writ petition is allowed, the detention order is quashed and the detenu Kanderi Raghupati Giribabu @ Giri Naidu s/o K. Raghupati Naidu shall be released from custody forthwith if he is not required in any other case.

Miscellaneous applications, if any, shall stand closed. No order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 11.3.2015

NB:

The order be communicated to the concerned authorities
today itself.

/BO/

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