

*THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI*

WRIT PETITION No.10142 of 2016

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

By way of her amended prayer in this writ petition, the petitioner sought release of her husband, A. Satish Singh, by way of a Writ of Habeas Corpus after setting aside the detention order dated 22.03.2016 passed by the Collector and District Magistrate, Hyderabad, and the confirmation thereof *vide* G.O.Rt.No.1343, General Administration (Law & Order) Department, dated 13.06.2016, extending the period of detention for a period of twelve months from the date of detention, i.e. 22.03.2016.

Preventive detention based on 'suspicion jurisdiction' is a necessary evil in our democratic society to protect public order and to that extent, individual liberties of the citizens would have to give away. However, Article 22 of the Constitution postulates various safeguards which require to be scrupulously adhered to while effecting such detention. This Court, being the sentinel on the qui vive, would be on guard to protect the citizen against any constitutional violations in this regard. In terms of the constitutional mandate, a detaining authority, who exercises 'suspicion jurisdiction' and arrives at subjective satisfaction to the effect that the detention of the person concerned is warranted in the interest of public order, must necessarily apply its mind to the material before it and upon due consideration of such relevant material, arrive at an informed conclusion that such detention is necessary on facts. Any lapse in this regard on the part of the detaining authority would be demonstrative of lack of application of mind or non-application of mind, as the case may

be, and would warrant interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution.

In the present case, the order of detention dated 22.03.2016 states as follows:

“I am aware that you Sri A. Satish Singh @ Gidda Satish S/o A. Ramesh Singh, is under judicial remand at Central Prison Chanchalguda, I believe you will be released on bail. After releasing on bail you have been indulging in similar offences. In fact, the behaviour of You is becoming more bitter and belligerent day to day and because of your activities the public in Dhoolpet and Charminar of Excise Stations Dhoolpet and Charminar limits are being affected at large.” (*emphasis is ours*)

However, in the grounds of detention, it is stated as under:

“Sri A. Satish Singh @ Gidda Satish S/o Ramesh Singh aged about (36) years, R/o H.No.14-10-657, Near Hanuman Temple, Lower Dhoolpet, Hyderabad District was arrested on 18.03.2016 in excise cases of Proh & Excise station Charminar and released on bail and You involved in the activities of illegal possession, transportation and sale of I.D Liquor. The Proh & Excise station Charminar officials registered (33) cases from 2012 onwards. The normal legal procedure would involve more time and not be an effective deterrent to prevent you from indulging in further prejudicial activities.” (*emphasis is ours*)

The afore-stated two extracts demonstrate in clear terms that there is contradiction between the order and the grounds as to the aspect of bail. That apart, the language and grammar in the order of detention, signed by no less than a Collector of a District, an I.A.S. Officer, leads to a strong suspicion as to whether it could have been authored by him. These two factors cumulatively give rise to the inescapable inference that the Collector and District Magistrate, Hyderabad, was neither the author of the order nor was he aware of the contents of the said documents

when he signed them. There is no other explanation for the contradiction in the order and the grounds, both of which were signed by the Collector and District Magistrate, Hyderabad. This kind of lackadaisical attitude on the part of the detaining authority in delegating the essential function of analysing the relevant material and arriving at subjective satisfaction cannot be countenanced in the light of the constitutional mandate and the weighty responsibility and obligation resting upon the Collector, in the capacity of a detaining authority. The order of detention is therefore vitiated by non-application of mind by the detaining authority.

On the above analysis, the writ petition is allowed setting aside the detention order dated 22.03.2016, which was confirmed by the Government of Telangana vide G.O.Rt.No.1343, General Administration (Law & Order) Department, dated 13.06.2016, in relation to the petitioner's husband, A. Satish Singh. He shall be set at liberty forthwith in the event his confinement is not required in relation with any other case. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

M. SEETHARAMA MURTI, J

Date:31.08.2016

GJ