

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION NO.1368 OF 2016

DATED:08-06-2016

Between:

A. Shakila Begum ... Petitioner

And

The State of Andhra Pradesh
Rep. by its Chief Secretary
Secretariat Buildings
Hyderabad
and others

... Respondents

COUNSEL FOR THE PETITIONER: Sri C.V. Mohan Reddy, Senior Counsel,

for Smt. B. Mohana Reddy

COUNSEL FOR THE RESPONDENTS: Mr. C.S. Surya Prakash Rao,
Special Government Pleader,
attached to the Advocate General (AP)

THE COURT MADE THE FOLLOWING:

ORDER: *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

This writ petition is filed for a direction to the respondents to release Mr. Pataan Nissar Ahmed Khan (hereinafter called 'the detenu') after setting aside the detention order vide Roc.C2/7611/2015, dt.24.11.2015, of respondent No.2, as confirmed in G.O. Rt. No.104, dt.12.01.2016, of respondent No.1.

At the hearing, Mr. C.V. Mohan Reddy, learned Senior Counsel appearing for the petitioner, submitted that one of the main issues raised in the writ petition is that the order of detention mentioned that the same was made as the activities of the detenu were found prejudicial to the maintenance of public peace and law and order instead of public order. He further submitted that in *Vasanthu Sumalatha v. State of Andhra Pradesh*^[1] a Division Bench of this Court, dealt with an identical issue and having considered the judgments of the Supreme Court in *Madhu Limaye v. Sub-Divisional Magistrate*^[2], *Ram Monohar Lohia v. The State of Bihar*^[3], *Commissioner of Police v. C. Anita*^[4], *Kanu Biswas v. State of West Bengal*^[5], *Kishori Mohan Bera v. State of West Bengal*^[6], *Pushkar Mukherjee v. State of W.B*^[7], *Arun Ghosh v. State of West Bengal*^[8], *Nagendra Nath Mondal v. State of West Bengal*^[9], *Kuso Sah v. State of Bihar*^[10], *Harpreet Kaur v. State of Maharashtra*^[11], *T.K. Gopal v. State of Karnataka*^[12], and *State of Maharashtra v. Mohd. Yakub*^[13], it has held that the ground of 'public peace' and 'law and order' is based on extraneous and irrelevant considerations and thereby vitiating the detention order itself. Sri C.S. Surya Prakash Rao,

learned Special Government Pleader representing the learned Advocate General (AP), has fairly conceded that the writ petition on hand is covered by the above-mentioned judgment of the Division Bench in all fours.

In the light of the above submissions and the judgment of the Division Bench referred to above, the impugned detention order and the confirmation order passed against the detenu are set aside and the writ petition is allowed as prayed for. The detenu shall be released forthwith from the detention.

As a sequel to disposal of the writ petition, W.P.M.P. No.21301 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

08-06-2016

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[\[1\]](#) 2016 (1) ALT 738
[\[2\]](#) (1970) 3 SCC 746
[\[3\]](#) AIR 1966 SC 740
[\[4\]](#) (2004) 7 SCC 467
[\[5\]](#) (1972) 3 SCC 831
[\[6\]](#) (1972) 3 SCC 845
[\[7\]](#) (1969) 1 SCC 10
[\[8\]](#) (1970) 1 SCC 98
[\[9\]](#) (1972) 1 SCC 498
[\[10\]](#) (1974) 1 SCC 185
[\[11\]](#) (1992) 2 SCC 177
[\[12\]](#) (2000) 6 SCC 168

[\[13\]](#) (1980) 3 SCC 57