

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND**

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.4720 of 2016

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Dated 29th June, 2016

Between:

Bhukya Vijaya

.....Petitioner

And

The State of Telangana, General & Administration (Law & Order)
Department, rep.by Chief Secretary to Government, Telangana
Secretariat, Hyderabad and others

.....Respondents

Counsel for the petitioner: Sri Vikas Joshi

Counsel for the Respondents: GP for Home (TS)

The Court made the following:

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND**

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.4720 of 2016

ORDER:

The detention of one Bhukya Sunder (hereinafter referred to as 'the detenu') under the provisions of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the PD Act') by respondent No.2 as confirmed by respondent No.1 is questioned in this writ petition by the wife of the detenu.

The detenu was detained on the ground that he was bootlegger involved in the activity of sale of illicitly distilled (ID) liquor. The

grounds of detention referred to and relied upon four criminal cases, namely, COR.No.699/2012-13, dated 09.01.2013; COR.No.275/2015-16, dated 02.07.2015; COR.No.399/2015-16, dated 19.08.2015 and COR.No.413/2015-16, dated 28.08.2015, on the file of the Prohibition & Excise Station, Dharmapuri registered under Section 7(A) r/w 8(e) of the A.P.Prohibition Act, 1995 and 34(e) of the A.P.Excise Act, 1968. One of the main grounds of challenge to the impugned detention is that respondent No.2 was not in awareness of the fact that the detenu was released on conditional bails granted by the jurisdictional Court in three cases out of four.

In support of this plea, the petitioner has filed copies of conditional bail orders, a perusal of which shows that in each of these cases, the learned II Additional Judicial Magistrate of First Class at Jagtial has imposed conditions for release of the detenu on bail.

A perusal of the record shows that the bail order, dated 26.05.2014, in COR.No.699/2012-13, the detenu was released on the conditions that he shall produce two sureties for Rs.15,000/- and also appear before the police station concerned for a period of twelve weeks on every Monday between 10.00 am and 12.00 noon and he shall also deposit his passport. Similar conditions were imposed in the bail orders, dated 26.08.2015, in COR.No.399/15-16 and dated 14.09.2015, in COR.No.413/2015-16.

The learned Government Pleader has not disputed that the conditional bail order is a relevant factor to be taken into consideration by the detaining authority and that respondent No.2 has failed to consider the conditional bail orders.

In **M.Ahamedkutty v. Union of India and another**^[1] and **Union of India v. Paul Manickam and another**^[2], the Supreme Court held that if the detaining authority is not in awareness of the relevant conditions in the bail orders, the detention order is liable to be quashed on the ground of non-application of mind and improper

satisfaction. This is for the reason that if the conditions of bail are effective enough to prevent the detenu from indulging in offences in future, there would be no need for the detaining authority to invoke the provisions of the PD Act which is an exception to Articles 19 and 21 of the Constitution of India.

As respondent No.2 failed to notice the conditional bail orders, the impugned detention order as confirmed by respondent No.1 cannot be sustained and the same are accordingly set aside and the detenu shall be forthwith released from jail.

The writ petition is allowed accordingly.

As a sequel to disposal of the writ petition, WP.MP.No.6045 of 2016 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

29th June, 2016
VGB

[\[1\]](#) (1990) 2 SCC 1

[\[2\]](#) (2003) 8 SCC 342