

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI

WRIT PETITION NO.42438 OF 2016

DATED:07-06-2017

Between:

K. Charan Goud ... Petitioner

And

The State of Telangana
Rep. by its Chief Secretary
General Administration (Law and Order) Department
Secretariat Buildings
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER : Smt. B. Mohana Reddy

COUNSEL FOR THE RESPONDENTS: G.P. for Home (TS)



THE COURT MADE THE FOLLOWING:

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

This writ petition is filed for issue of writ of habeas corpus for setting one K. Narsing Das Goud @ Pochi, S/o. K. Charan Goud, (for short, 'the detenu') at liberty by declaring the detention order passed by respondent No.2 vide proceedings in SB(I) No.483/PD//S-1/2016, dt.13.10.2016, as illegal.

2. We have heard Smt. B. Mohana Reddy, learned counsel for the detenu, and the learned Government Pleader for Home (TS).

3. A perusal of the grounds of detention shows that respondent No.2 has referred to the crime history of the detenu as under:

"As per the documents placed before the undersigned, initially you have committed an offence vide Cr. No.624/2006 U/s 307 r/w 34 IPC of S.R. Nagar PS. You surrendered before the Hon'ble III ACMM, Hyderabad on 14.09.2006 and the Hon'ble Magistrate remanded you to judicial custody. Subsequently, the case was ended in acquittal vide Sessions Case No.223/2009, dt.28.05.2010 on the file of Hon'ble VII AMSJ, Hyderabad.

After your release from jail on bail, you have committed one more offence vide Cr.No.778/2010 of S.R. Nagar Police Station. You were arrested on 18.07.2010 and remanded to judicial custody. The case ended in acquittal vide Sessions Case No.490/2014, dt.29.04.2015 on the file of Hon'ble MSJ, Hyderabad.

After your release from jail on bail, you have committed one more offence vide Cr. No.611/2016 of S.R. Nagar Police Station. You were arrested on 05.09.2016 and remanded to judicial custody. Subsequently you were released on bail vide Release order Dis. No.2110/2016, dt.08.09.2016 on the file of the III ACMM, Hyderabad.

After your release from jail on bail in the above offence, you have committed two more offences vide Cr. Nos.663/2016 of S.R. Nagar P.S. & 368/2016 of Sanathnagar P.S.. You were arrested on 29.09.2016 in Cr. No.663/2016 of S.R. Nagar P.S. and remanded to judicial custody."

In the impugned detention order, respondent No.2 has relied upon three crimes, i.e., Crime No.611 of 2016 of S.R. Nagar Police Station, registered for the offences under Sections 452 and 384 read with Section 34 IPC; Crime No.663 of 2016 of S.R. Nagar Police Station, registered for the offences under Sections 147, 148, 324, 427 and 452 read with Section 149 IPC; and Crime No.368 of 2016 of Sanathnagar Police Station,

registered for the offences under Sections 448 and 324 read with Section 34 IPC.

4. In Crime No.611 of 2016 it was alleged that the detenu indulged in extortion, collecting rowdy mamool from a liquor shop on 01.09.2016. In Crime No.663 of 2016 it was alleged that the detenu along with his associates by names, Srikanth Reddy, Farooq, Mental Khaja, Nazeeb and three others, went to the house of one Lakkarajula Tirumala Rao, S/o. Late L. Chandra Sekhar Rao, at Vinayak Rao Nagar, Borabanda, Hyderabad, and formed themselves into an unlawful assembly armed with iron rods, beer bottles and bricks, that they trespassed into the house of said Tirumala Rao and attempted to assault him and his friends due to previous enmity, that on seeing the detenu and his associates, Tirumala Rao and his friends, except Nadeem Hussain, managed to escape from the spot, and that the associates of the detenu, Mental Khaja and Nazeeb, assaulted the friend of Mr. Tirumala Rao, Mr. Nadeem Hussain, with a brick and caused severe bleeding injuries on his head. It was further alleged that the detenu along with his associates also damaged the household articles of the said Tirumala Rao and also pelted stones on the nearby houses before fleeing from the scene. It was further alleged that the detenu moved a bail application on 03.10.2016 before the jurisdictional Magistrate and the same was dismissed on 05.10.2016 and that the second bail application filed on 13.10.2016 was pending. It was alleged that due to the aforementioned acts of the detenu and his associates, the complainant, his friends and the people residing in the vicinity of the scene of offence got panicky and are left in a state of fear and thereby their acts adversely affect the public order.

5. In Crime No.368 of 2016, it was alleged that the detenu along with his associates trespassed into the house of one Madpu Nagesh, brought him out of his house and created ruckus by questioning as to why he is not moving with them, that when the detenu tried to assault the complainant - Madpu Nagesh with a beer bottle, the latter had a narrow escape as he has moved aside, but the broken beer bottle hit the big toe of the complainant resulting in bleeding injuries. It was further alleged that later the detenu and his associates assaulted the complainant with hands and took him in an auto where they continued to assault him and left him at Borabanda and fled away. That the victim was referred to Neelima Hospital, Sanathnagar, Hyderabad, where he was treated as an out patient vide MLC No.1375, dt.20.09.2016. It was further alleged that the detenu was arrested in connection Crime No.663 of 2016 on 29.09.2016 and his arrest in that case was regularized through prisoner transit warrant dt.01.10.2016 and a charge sheet has been filed.

6. Smt. B. Mohana Reddy, learned counsel for the detenu, submitted that the alleged acts of the detenu at the most constitute disturbance to law and order, but not public order. She has also submitted that as the detenu was under detention as on the date of passing of the detention order, there is no reasonable possibility of his coming out on bail and causing threat to breach of public order.

7. After hearing the learned Government Pleader for Home (TS) and carefully perusing the material on record, we are of the opinion that the activities of the detenu have the potential of causing disturbance to public order as it is alleged that he was attacking his adversaries by maintaining a group and disturbing the whole locality in which the victims were residing.

8. The judgment in *Pushkar Mukherjee v. The State of West Bengal*¹ relied upon by the learned counsel for the detenu does not come to the aid of her client as the acts alleged against the detenus therein relate to specific instances, whereas in the instant case as evident from the allegations in Crime No.611 of 2016 the detenu has indulged in extortion from a liquor shop in the name of rowdy mamool. This case therefore cannot be said to confine to a law and order problem, as it has the propensity of disturbance to public order.

9. As regards the submission of the learned counsel for the detenu that there is no possibility of the detenu coming out of bail, respondent No.2, in the impugned detention order, has made himself aware of the fact of the detenu moving the first bail application and also its dismissal, in the impugned detention order. He has also referred to the second bail application filed on 13.10.2016 which was pending for orders as on the date of the detention. Obviously, apprehending the detenu's release in pursuance of the second bail application, respondent No.2 has issued the impugned detention order. Considering the long criminal history of the detenu and on appreciation of the facts of the case in their entirety, we are of the opinion that the impugned detention order does not suffer from any illegality or constitutional violation warranting interference of this Court.

10. The writ petition is therefore dismissed.

C.V. NAGARJUNA REDDY, J

J. UMA DEVI, J

07-06-2017
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¹ (1969) 1 SCC 10

