

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No.14096 of 2017

ORDER : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioner has challenged the order dated 18.01.2017, whereby, the detenu has been detained.

2. Counsel appearing on behalf of the petitioner submits that in the grounds of detention, the detaining authority has specifically mentioned that in Crime No.18 of 2016 registered for the offences under Sections 392 of IPC and Section 25(1)(a) of the Arms Act of P.S. Mulkanoor of Warangal Urban District, the detenu was released on bail on 13.08.2016 vide Court order dispatch No.649 on the file of Additional JFCM Court, Husnabad when he was in Central Prison, Warangal. In Crime No.24 of 2016 registered for the offence under Section 392 of IPC on the file of P.S.Chityal of Jayashanker Bhupalpally District, he was released on bail on 15.09.2016 vide release order dispatch No.883 on the file of Additional JFCM Court, Parkal. In Crime No.46 of 2016 registered for the offence under Section 379 of IPC on the file of Regonda Police Station, the detenu was released on bail on 13.08.2016, vide release order dispatch No.736 on the file of Additional JFCM Court, Parkal.

3. Learned counsel appearing on behalf of petitioner submits that none of the bail papers mentioned above are in existence. However, in the counter affidavit filed by the respondents, it is stated that the detenu was released on 15.09.2016 in the above said three cases. On

filing reply to the counter affidavit, now the respondents have stated that the detenu was only directed to be released vide order dated 23.09.2016, but in fact, he was not released either on 13.08.2016 or 15.09.2016.

4. It is not in dispute that in the counter affidavit, the respondents have stated that the detenu was released on 15.09.2016, but in the additional counter affidavit they stated that he was directed to be released on 24.09.2016.

5. It is admitted case of the respondents now in the counter affidavit and additional counter affidavit that the detenu was not released on 13.08.2016 in Crime Nos.18 of 2016 and 46 of 2016 or on 15.09.2016 in Crime No.24 of 2016.

6. We note, based upon the aforesaid facts that the detenu was released on bail on 13.08.2016 in Crime No.18 of 2016 of P.S.Mulkanoor and Crime No.46 of 2016 of Regonda Police Station, and further released on 15.09.2016 in Crime No.24 of 2016 of P.S.Chityal of Jayashanker Bhupalpally District, the detaining authority has come to the conclusion that he shall indulge in similar activities, which cannot be prevented by normal course. Accordingly, passed the impugned detention order.

7. In view of above, in our considered opinion, the impugned detention order is passed based on the non-existing orders and the detaining authority has not applied its mind properly while passing the said order. Hence, it deserves to be quashed.

8. Accordingly, the impugned detention order dated 18.01.2017 passed by the 2nd respondent and the further confirmation orders issued in G.O.Rt.No.248, dated 24.01.2017 and G.O.Rt.No.788, dated 23.03.2017, are hereby quashed.

9. Consequently, the Superintendent, Central Prison, Warangal is directed to release the detenu forthwith, if he is not required in any other criminal case.

10. Writ petition is accordingly allowed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

U.DURGA PRASAD RAO, J

29th November, 2017

ajr

