

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.26322 OF 2017

ORDER:

The writ petition is filed questioning the action of the 1st respondent in not considering the representation of the petitioner dated 28.7.2017 for release of her husband i.e., K. Gangi Reddy (Detenue) from Central Prison, Kadapa detained in pursuance of the order dated 20.01.2017 passed by the 2nd respondent as arbitrary and illegal.

The grievance of the petitioner is that the application made by her seeking temporary release of the detenue is not being considered by the 1st respondent. It is not in dispute that the detenue has been detained as a preventive measure by order dated 20.01.2017 passed by the 2nd respondent in exercise of the powers conferred under Section 3(2) of The A.P./T.S Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short, "the Act").

It is the case of the petitioner that her brother-in-law i.e., detenue's brother is seriously ill and bed ridden and as such the detenue desires to visit his brother as there is apprehension that the sick brother of the detenue may not survive long. On account of such fear of the detenue's brother, detenue's brother had fixed the marriage of his daughter Harsitha and the marriage is scheduled to be held on 16.8.2017 at their residence at Tirupati. As detenue's brother is sick and will not be able to attend the rituals being the natural brother and being the uncle of bride the detenue is the one who has to perform the rituals as per the Hindu customs. In those circumstances, on behalf of the detenue, the petitioner had approached the first respondent vide her request letter dated

28.7.2017 setting out all the details to release the detenue temporarily for a period of one month to enable the detenue to fulfil his obligations to his family. The same is not being considered. Hence, the present writ petition.

Learned Government Pleader for Home while opposing the writ petition would submit that there was no proper application made by the petitioner to the Principal Secretary, General Administration Department, Government of Andhra Pradesh, Secretariat, Vijayawada and whereas the application should have been made to the Principal Secretary, General Administration Department, Law and Order Department, Government of Andhra Pradesh, Vijayawada. The General Administration Department being a vast department with different wings and the petitioner having been made the application to the wrong department, cannot blame the respondents for not considering her request.

Learned Government Pleader would further submit that the detenue is involved in a large number of cases and he has been detained on account of the fact that he was involved with the red sanders cases and a large number of cases are pending against him both with respect to the offences under Sections of IPC and Forest Act. Learned Government Pleader would also submit that as a matter of fact, detenue had absconded from the country and he was brought back from Mauritius with great difficulties and there is every likelihood of the detenue absconding if he is released even for temporarily and there is no way that once again to catch the detenue. She would also submit that the request made by the petitioner to the District Collector was also not considered and rejected on 4.8.1997.

Having considered the respective submissions and a perusal of Section 15 of the Act discloses that the Government is the competent

authority who can consider the case of the petitioner for release of the detenue temporarily by exercising the power in relation of the persons detained.

Inasmuch as the petitioner had not made the proper application, the writ petition is disposed of giving liberty to the petitioner to approach the Secretary, General Administration Department, Law and Order, Government of Andhra Pradesh, Vijayawada which is the proper department to consider the application of the petitioner. Narration of the respective contentions shall not be construed as this Court is not expressing any opinion with respect to the merits of the matter while considering the application of the petitioner. In view of the circumstances stated by the petitioner seeking to release of the detenue to perform the marriage of his brother's son may be considered objectively in accordance with the law within the parameters. Though the learned Government Pleader for Home submits that the detention proceedings dated 20.01.2017, issued by the 2nd respondent-District Collector are challenged before this Court in W.P.No.8152 of 2017 and it is pending, considering the facts of the case, the same has no relevance as to the case of the petitioner as the present case squarely falls within the scope of Section 15 of the Act and the pendency of the said writ petition cannot be an impediment to consider the application of the petitioner in terms of provisions of Section 15 of the Act.

With the above observations, the writ petition is disposed of. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE CHALLA KODANDA RAM

Dated:11.08.2017
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