

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.NO.21007 OF 2017

ORAL ORDER (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioner has challenged the order dated 4.4.2017 and the subsequent order passed thereto whereunder the detenu has been ordered to be detained in Central Prison, Kadapa.

Learned counsel appearing on behalf of the petitioner has drawn the attention of this court to the grounds of detention where under it is mentioned that in spite of registration of crimes and arrests, it is evident that the detenu came out from the prison on bail and is habitually committing similar offences and moreover the laws, under which he is being prosecuted, are not deterring his activities or curb his illegal activities. It is further mentioned that his activities are resulting in deforestation and causing ecological imbalance, resulting in financial loss to the community and affecting the environment, for which no one is directly affected, but all the people are affected and suffering indirectly.

In the rejoinder to the reply affidavit, it is specifically stated that the detenu was in judicial custody of Judicial Magistrate of First Class, Railway Kodur in connection with Crime No.151/2014 dated 7.9.2014 under Sections 147, 148, 307, 353, 379 read with 149 of IPC, section 20(1)(c) (ii)(iii)(vi) and Section 29(4)(b) of A. P. Forest Act, 1967 and Rule 3 of A. P. Sandal Wood and Red Sanders Wood Transit Rules, 1969 and Section 3 of PDPP Act, 1984 of Obulavaripalli Police Station of Kadapa District, at the time of detention order passed against the detenu.

The learned counsel for the petitioner submits that when the detenu has been in judicial custody since 7.9.2014, there was no necessity for the 2nd respondent to pass the detention order to curtail his activities as mentioned above.

In addition to above, as per the statement of the learned counsel for the petitioner, the detenu was arrested on 30.10.2016 in Crime No.146/2016 of Police Station Khajipet, YSR Kadapa District, whereas as per the rejoinder to the reply filed by the respondents, detenu remained on bail from 25.6.2014 to 17.10.2016 and while on bail, the detenu did not change his attitude and ceaselessly indulged in red sanders smuggling activities and involved in several red sanders smuggling cases in YSR Kadapa and Chittoor Districts.

This court has put a specific query whether the detenu was arrested in the year 2014 and thereafter whether he remained in judicial custody or, whether he was on bail during the period from 25.06.2014 to 17.10.2016. The counsel for the respondents failed to furnish any information whether the detenu was on bail or in jail.

Further, as per the submissions of the learned counsel for the petitioner, the detenu did not file any bail application in any of the cases. This has not been disputed by the learned counsel by the respondents. Therefore, the question of detaining him by passing the detention order to curtail his activities holding that they are prejudicial to the public order, does not arise.

It seems the detention order is passed in a hurried manner without application of mind and without verifying the correct facts on record. Accordingly, the same deserves to be quashed.

For the foregoing reasons, we hereby quash the detention proceedings passed by the 2nd respondent – Collector and District Magistrate in Ref:C1/63/M/2017 dated 4.4.2017 and the subsequent order of the 1st respondent – Government, in confirming the detention order, in G.O.Rt.No.1071 General Administration (Law and Order) Department dated 12.05.2017.

The writ petition is accordingly allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

The Superintendent of Jails, Central Prison, Kadapa, YSR District, is directed to release the detenu – Nanubala Ramudu @ Andala Ramudu, s/o Chinna Gurrappa, forthwith, if not required in any other case.

SURESH KUMAR KAIT,J

T.AMARNATH GOUD,J

DATE:27—12—2017

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