

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE
OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION No. 34582 OF 2016

Between:

Jigireddi Nooka Raju

... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
General Administration Department (Law & Order),
Secretariat, Velagapudi,
Guntur District, and another

... Respondents

Date of Order Pronounced : 07-06-2017

SUBMITTED FOR APPROVAL:

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

AND

THE HON'BLE Ms. JUSTICE J.UMA DEVI

1. Whether Reporters of Local newspapers
May be allowed to see the judgment? Yes/No
2. Whether the copy of judgment may
be marked to Law Reporters/Journals? Yes/No
3. Whether Their Lordships wish to see the
Fair copy of the judgment? Yes/No

C.V.NAGARJUNA REDDY, J.

J.UMA DEVI, J.

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

AND

THE HON'BLE Ms. JUSTICE J.UMA DEVI

+WRIT PETITION No. 34582 OF 2016

%Dated: 07-06-2017

#Jigireddi Nooka Raju,

S/o Jigireddi Gowri Naidu @ Naidu,

24 years, Agricultural Coolie,

R/o Butchampeta Village, Rolugunta Mandal,

Visakhapatnam District

... Petitioner

VERSUS

\$The State of Andhra Pradesh,

Rep. by its Principal Secretary,

General Administration Department (Law & Order),

Secretariat, Velagapudi,

Guntur District, and another

... Respondents

!Counsel for the petitioner

:

Sri Challa Dhanamjaya

^Counsel for the respondents

:

G.P. for Home (A.P.)

<GIST :

>HEAD NOTE :

?Cases referred :

1. (2011) 5 SCC 244
2. (2003) 8 SCC 342
3. 2016 (3) ALT (Criminal) 413 (DB) (A.P.)
4. 2017 (1) ALD (Criminal) 89

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

AND

THE HON'BLE Ms. JUSTICE J.UMA DEVI

W.P.No. 34582 OF 2016

DATED 07TH JUNE, 2017

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

The son of one Jigireddi Gowri Naidu @ Naidu (hereinafter referred to as 'the detenu') filed this Writ Petition for issue of *Habeas Corpus* seeking release of the detenu after setting aside the detention order in (M) R.C.No. 1616/2016/C2 dated 19-09-2016.

2. The main ground of challenge to the impugned detention order is that out of five criminal cases on which the detention order was passed, the detenu could not secure bail in one case *i.e.* crime No. 23 of 2016 of Rolugunta Police Station and that in spite of the fact that the detenu has been in judicial custody from 12-04-2016 and that there being no possibility of grant of bail, the impugned detention order was passed on 19-09-2016.

3. Sri Challa Dhanamjaya, learned counsel for the petitioner, submitted that the detention order suffers from complete non-application of mind for the reason that respondent No. 2 has not recorded his satisfaction that there is a likelihood of the detenu securing bail and repeating the activities alleged against him. In support of his submission, learned counsel for the petitioner placed reliance on the judgments in ***Rekha Vs. State of Tamil Nadu***¹, ***Union of India Vs. Paul Manickam***², ***K.Anju Vs. State of Telangana and another***³ and ***M.Ram Vs. State of Telangana and others***⁴.

4. Learned Assistant Government Pleader for Home (A.P.), however, sought to support the detention order.

¹ (2011) 5 SCC 244

² (2003) 8 SCC 342

³ 2016 (3) ALT (Criminal) 413 (DB) (A.P.)

⁴ 2017 (1) ALD (Criminal) 89

5. After referring to the case laws and the principles settled therein by the Apex Court in **Rekha** (1st *supra*) and **Paul Manickam** (2nd *supra*), this Court in **K.Anju** (3rd *supra*) held as under:

"Preventive detention of the detenu, who was already in judicial custody, in the absence of any reasonable possibility of his being released on bail, was wholly unwarranted and illegal."

6. A perusal of the detention order shows that respondent No. 2 has mentioned that out of five criminal cases, the detenu has obtained bail in four cases; that one case is under investigation at present and that the detenu is in Central Jail, Visakhapatnam. As per the settled legal position as referred to above, the detaining authority must arrive at the satisfaction that if the detenu, at the time of passing of detention order, was under judicial custody, there is a reasonable possibility of his coming out of jail by securing bail. Learned Assistant Government Pleader has fairly conceded that while respondent No. 2 has not recorded such satisfaction, as a matter of fact the detenu's bail application in crime No. 23 of 2016 was dismissed by this Court in Criminal Petition No. 10018 of 2016 on 19-07-2016. It is not the plea of the respondents that after dismissal of the said bail application and before the detention order was passed, any fresh bail application was moved by the detenu. Therefore, on the facts which prevailed on the date of passing of the detention order, there was no reasonable possibility of the detenu securing bail in order to entertain an apprehension by the detaining authority that he is likely to come out of custody and repeat the commission of the offences, causing disturbance to public order.

7. In the light of the above facts, we have no hesitation to hold that the impugned detention order cannot be sustained and the same is accordingly quashed.

8. The Writ Petition is accordingly allowed.

C.V.NAGARJUNA REDDY, J.

J.UMA DEVI, J.

Date: 07-06-2017

Note:

L.R. Copies to be marked.

B/O

JSK

