

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE P. KESHA RAO**

WRIT PETITION No.11620 OF 2017

ORDER: (Oral)

(Per Hon'ble Sri Justice SURESH KUMAR KAIT)

Vide the present petition, the petitioner has assailed the detention order dated 30.12.2016 and subsequent orders passed thereto, whereby the alleged detenu is put under the detention by the respondents.

2. Learned counsel appearing on behalf of the petitioner submits that the entire order of detention refers to the violation of penal provisions under the IPC pertaining to the house burglary and theft in dwelling houses, which would not effect the Public Order, and at the most, the alleged offence may come under the Law and Order disturbance. The purpose by putting the detenu under detention is to prevent the detenu from acting in any manner prejudicial to the security of the State or to the maintenance of the Public Order. Ordinarily, it is not needed when the detenu is already in the custody. The detaining authority must show its awareness to the facts of subsisting custody of the detenu, and take that factor into account, while making the order. If, the detaining authority is reasonably satisfied on the cogent material that there is likelihood of release of detenu and his alleged activities are proximate at that point of time, the detenu must be detained in order to prevent from indulging in

such prejudicial activities. But in the present case, the detaining authority has categorically stated in the counter that the detenu arrest in all the remaining cases was regularized on P.T warrants. Therefore, the prevention detention is not needed when detenu is already in custody. The detaining authority must show its awareness to the fact of subsisting custody of the detenu and take that factor into account, while making the order.

3. To strengthen his argument, the learned counsel for the petitioner has relied upon the Supreme Court judgment reported in **Sama Aruna v. State of Telangana and another**¹ and the judgments of this Court reported in **C. Neela V. The State of Telangana rep. by its Chief Secretary General Administration (Law & Order) Department & Others**² and **P. Naga Raju V. The State of Telangana and others**³.

4. In counter-affidavit filed by the respondents, it is stated that the detenu is a habitual property offender, having indulged in series of property offences, house burglaries in the limits of Hyderabad, Rachakonda and Cyberabad Police Commissionerates. The detenu is goonda within the meaning of Section 2(g) of the Telangana Prevention of Dangerous Activities of boot Leggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short “the Act”), as the offences registered against him are covered by

¹ Criminal Appeal No.885 of 2017

² WP No.42652 of 2016

³ W.P.No.34674 of 2015

Chapter XVII of IPC. Since the year 2016, he was involved in as many as 48 house burglary offences, creating large scale fear and panic in the minds of public, affecting the public order adversely. The detaining authority having been considered the abundant material placed before them and having satisfied that the cases registered against him under the ordinary law have no desired effect, he continued the same even after releasing on bail earlier. During the year 2016, in quick succession, he was involved in as many as 43 offences. In view of the above, the detenu is not amenable to ordinary law, unless he is prevented by invoking the provisions under the preventive detention laws.

5. We note, in the counter-affidavit, it is stated that the detenu was released in 4 cases, whereas, in additional counter-affidavit, it is stated that the detention order was passed on 30.12.2016, and before passing the order, the detenu was released on bail in 15 cases. Since all the cases are of a similar nature and under the same offences, the detaining authority had apprehension that he would be immediately released on bail in other matters also. Therefore, having apprehension of that, the detaining authority has passed the detention order.

6. It is not in dispute that if the detenu is under the judicial custody, and there is no apprehension of being released on bail, there is no necessity to pass detention order.

But if the cases registered against the detenu are of a similar nature, and in some cases the detenu is released on bail, there is every likelihood that he would be released on bail in other cases also and indulge in similar activities.

7. In the year 2016 itself, he was involved in 48 cases, out of them, in 15 cases he has been granted bail. There is likelihood of getting bail in rest of the cases also being of similar nature. If such offences are committed frequently, then certainly, there is a threat to the public order in the society. Accordingly, the cases cited by the counsel for the petitioner have no relevance in the facts and circumstances of the present case.

8. In view of the above, we find no ground to intervene in the detention order passed by the respondents.

9. Finding no merit in the instant petition, the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

JUSTICE P. KESHAVA RAO.

Date : 08-11-2017
Gvl