

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

WRIT PETITION No. 18874 OF 2017

ORDER: (Oral)

(Per Hon'ble Sri Justice *SURESH KUMAR KAIT*)

Vide the present petition, the petitioner has challenged detention order, dated 19.04.2017, passed by the 2nd respondent and consequent orders passed by the other respondents, whereby the detenu was detained in the jail.

Learned counsel for the petitioner argued on the last date of hearing that the detenu was originally arrested on 11.11.2016 in connection with Crime No.234 of 2016 of Chinthakommadinne Police Station for the first time and since then he is in judicial custody. But, it is mentioned in the order of detention that the detenu was came out on bail on 06.02.2017 and continued to indulge in similar activities. But, the fact remains that after the detenu was arrested on 11.11.2016, he never released from prison, as such, after coming out on bail, habitually committing similar offences will not arise.

Learned counsel for the petitioner submits that the said statement shows non-application of mind on the part of the detaining authority, which prejudice to the liberty of the detenu. Learned counsel further submits that the detenu is in judicial custody from 12.11.2016, but the detaining authority neither expressed in the order about the awareness of the said fact nor recorded his satisfaction about the necessity to pass the order against a person, who is in judicial custody, and also about the imminent possibility

of his release on bail in the said cases where he is placed in judicial custody.

The present petition was heard on 08.11.2017. On the said date learned Government Pleader sought time to take instructions whether the detenu was released after 11.11.2016 or not. Today, on instructions, the learned Government Pleader submits that the detenu was never released after 11.11.2016.

In view of the facts recorded above and the admission of the learned Government Pleader it is established that the detenu was not released on 11.11.2016, whereas in the detention order it is mentioned that the detenu was came out on bail on 06.02.2017 and continued to indulge in similar activities. But, the fact remains that after the detenu was arrested on 11.11.2016, he never released from prison, which shows non-application of mind of respondent Nos.2 and 3 in passing the detention order against the alleged detenu.

Accordingly, we hereby set aside the order, dated 19.04.2017, and consequential order, and the detenu is set free from the detention.

Consequently, the Superintendent, Central Prison, Kadapa District, is directed to release the detenu i.e., Subramanyam, forthwith, if not required in any other case.

Miscellaneous petitions, if any, shall stand closed. No costs.

SURESH KUMAR KAIT, J

P. KESHAVA RAO, J

Date: 14.11.2017
ES/CCM