

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

WRIT PETITION No.16115 OF 2017

ORDER: (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner has assailed the detention order dated 14.02.2017 passed by the 5th respondent-Collector & District Magistrate, Nalgonda District. Pursuant to the said order, the detenu has been detained since 15.02.2017.

2. Learned counsel appearing on behalf of the petitioner submits that the detaining authority has mentioned in the detention regarding involvement of the detenu in order 19 cases, however relied upon only 6 cases, as under:

i) Crime No.245 of 2016 under Section 384, 120(B) IPC and Section 25(1-A) of The Arms Act 1959 of Nalgonda I Town Police Station.

ii) Crime No.246 of 2016 under Section 384, 120 (B) IPC and Section 25(1-A) of The Arms Act 1959 of Nalgonda I Town Police Station.

iii) Crime No.247 of 2016 under Section 384, 120(B) IPC and Section 25(1-A) of The Arms Act 1959 of Nalgonda I Town Police Station.

iv) Crime No.199 of 2016 under Section 384, 120(B) IPC, 370(A) IPC and Section 25(1-B)(a) of The Indian Arms Act 1959 and Section 5 of Explosive Substances Act 1908 of Miryalaguda I Town Police Station.

v) Crime No.265 of 2016 under Section 384, 120B IPC and Section 25(1-B) of The Arms Act 1959 and Section 5 of Explosive Substances Act 1908 of Nalgonda II Town Police Station.

vi) Crime No.181 of 2016 under Section 120-B, 381 read with 511 IPC and Section 25 (1-B) of The Arms Act 1959 of Yadagirigutta Police Station.

3. Learned counsel for the petitioner submits that the known language of the detenu is Telugu. However, the documents are supplied to him in English language which cause prejudice in making effective representation. In the grounds of detention, one of the ground is that the detenu being the member of gang of Late Nayeem resorted to illegal activities like extortion, criminal intimidation, land grabbing, forcible settlements to make easy money and also procuring female infants, women folk for his late gangster Nayeem besides promoting enmity between different communities. All above offences of murder, rioting, criminal intimidations, attempt to murder, promoting enmity/religious feelings between different communities and promoting communal hatred etc., and heinous acts by the detenu repeatedly by creating fear and panic among the public and caused feelings of insecurity to their lives and properties, large sections of people are adversely affected by his unlawful activities.

4. Learned counsel further submits that among 6 relied upon cases, there is no any case of murder or attempt to murder registered against the detenu. Thus the detaining

authority wrongly given its satisfaction that the cases registered against the detenu under ordinary law have no deterrent effect in curbing his unlawful activities. Thus, the preventive detention order is required to curtail his activities. This order has been passed by the detaining authority without application of mind for the reasons that there is no case registered against the detenu for the offence punishable under Sections 302 and 307 IPC for murder and attempt to murder respectively.

5. Learned Government Pleader appearing on behalf of the State submits that there are total 19 cases registered against the detenu and 11th case is registered under Section 307 IPC in addition to other sections of law. Thus the detenu has been indulging in other offences including attempt to murder. Therefore, the detaining authority has mentioned in its detention order dated 14.02.2017 regarding the case registered against the detenu for attempt to murder.

6. Learned Government Pleader has fairly conceded that the detaining authority has relied upon 6 cases mentioned above. However none of the cases is registered under Sections 302 or 307 IPC. He further submits that the detenu is a gangster of late Nayeem gang and he has been threat to the public at large, thus prejudicial to the public order. Therefore it was necessary for the respondents to curtail his activities by imposing detention order as imposed

by the 5th respondent vide its detention order dated 14.02.2017.

7. We have heard the learned counsel for the parties and perused the record on file.

8. We note, in the grounds of detention, it is specifically mentioned that the detenu is involved in 19 offences, such as, murder, rioting, criminal intimidation, land grabbing, extortion, promoting enmity and religious feelings between different communities and also promoting communal hatred etc., since 2010 in the limits of Nalgonda I Town, Nalgonda II Town, Yadagiri and Miryalaguda Police Stations.

9. In the grounds of detention, it is further stated that as per the material placed before the detaining authority the detenu was involved in 19 cases. We note, except 11th case i.e., Crime No.292 of 2013 was registered for the offence punishable under Sections 147, 148, 363, 307 read with 149 IPC and section 7(1) of Crl. Law Amd. Act of Nalgonda I Town Police Station.

10. Out of 19 cases mentioned above, none of the cases is registered under Section 302 IPC but only one case is registered under Section 307 IPC along with other provisions noted above. Thus, the sponsoring authority placed wrong information before the detaining authority and the detaining authority without application of mind and without noting that

in total 19 cases leave apart 6 cases relied upon none of the case is registered under Section 302 IPC. Thus, the sponsoring authority tried to influence the detaining authority by giving incorrect information and the detaining authority relied upon whatever stated by the sponsoring authority and has passed detention order dated 14.02.2017.

11. As regard the ground taken by the learned counsel for the petitioner that the respondent failed to supply the material documents relied upon within 5 days from the date of detention, we find substance in the submission of learned counsel for the respondent-State that the detenu signed each and every document in English, he dropped out from B.Tech. Thus, we cannot believe that the detenu was not familiar and fully conversant with English.

12. In addition to above, as stated by the learned counsel for the respondent-State that in addition to documents in English, translation in Telugu has also supplied of all the relied upon documents. Thus, we do not find any substance in the argument of the learned counsel for the petitioner.

13. However the fact is that none of the cases relied upon is registered against the detenu for murder or attempt to murder. Even out of 19 cases, none of the cases is registered for murder. Thus, the detaining authority has

come to its satisfaction based on the wrong facts. Accordingly, the detention order deserves to be quashed.

14. In view of the above discussion, the impugned detention order dated 14.02.2017 passed by the 5th respondent in Ref.No.C1/188/2017 is hereby quashed.

15. Consequently, the Superintendent, Central Prison, Warangal, Warangal District, is directed to release the detenu i.e., Shaik Chand alias Shaik Abdullah, forthwith, if not required in any other case.

16. Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SURESH KUMAR KAIT,J.

T. AMARNATH GOUD,J.

Date : 20-11-2017
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