

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

WRIT PETITION NO.11983 OF 2017

ORDER: (per Hon'ble Sri Justice T.Amarnath Goud)

The petitioner seeks a writ of *habeas corpus* directing the respondent authorities to produce her husband, Katravath Thara Singh, now detained at Central Prison, Cherlapally, and to release him forthwith, after declaring the order of detention dated 02.02.2017 passed by the Collector and District Magistrate, Nagarkurnool District, first respondent herein, under Section 3(1) & (2) read with Section 2(a) and (b) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986 (for short, the Act), confirmed by the Government of Telangana, *vide* G.O.Rt.No.818 dated 27.03.2017, as illegal.

2. The order of preventive detention dated 02.02.2017 passed by the first respondent, in exercise of power under Section 3 of the Act was approved by the Government of Telangana, *vide* G.O.Rt.No.358 dated 09.02.2017. Thereafter, upon consideration of the report submitted by the Advisory Board, constituted under Section 9 of the Act, the Government of Telangana confirmed the detention of the petitioner's husband, the detenu, for a period of 12 months from 02.02.2017, *vide* G.O.Rt.No.818 dated 27.03.2017.

3. The grounds for detention appended to the order of detention dated 02.02.2017 reflect that the detaining authority took into account three criminal cases involving the detenu for forming the subjective satisfaction that he needed to be detained in exercise of power under the Act. In the grounds of detention, the first respondent noted that the detenu did not have any licence or hold any permit to deal with any kind of intoxicants under the provisions of the A.P.Excise Act, 1968 (adapted by the State of Telangana); selling arrack was banned in the State from 01.10.1993 onwards through G.O.Ms.No.402 dated 24.04.1993; import, transport, manufacture, collection, possession, sale or purchase of arrack without any licence or permit was prohibited in the State; issuance of licence for possession or sale of arrack is banned in the State in the larger interest of public health and welfare; sale of arrack is an offence; the material placed before him revealed that the detenu was indulging in clandestine movement and sale of illicitly distilled liquor in Shankaraiahgutta Thanda and Achampet Town, Nagarkurnool district in contravention of the A.P.Prohibition Act, 1995 (Adapted by the State of Telangana); and he was thus acting as a bootlegger as defined in Section 2(b) of the Act.

4. The first respondent – detaining authority referred to three criminal cases registered against the detenu, which are as follows:

“Ground No.1: Crime No.204/2016, dated 26.09.2016, registered under Section 34(3) of the A.P. Excise Act, 1968 at Achampet Excise Station.

The contents of the above crime reveal that on 26.09.2016, searched the house of the detenu at Shankaraiahgutta Thanda by following due process of law and found six bags of black jaggery, each bag containing 50 kgs, altogether 300 kgs and 10 kgs of alum in another bag. Samples were sent to the Chemical Examiner, Hyderabad who, after analyzing the samples, came to the conclusion, by his report dated 16.01.2017, that the jaggery is unfit for human consumption, but it could be used as raw material in manufacture of illicitly distilled liquor.

Ground No.2: Crime No.207/2016, dated 01.10.2016, registered under Section 7-A read with Section 8(e) of the A.P. Prohibition Act, 1995 in Excise Station, Achampet.

On 01.10.2016, the Excise Officials found five plastic bottles with the accused, each containing two liters of illicitly distilled liquor. The samples were sent to the Chemical Examiner, Hyderabad who, after analyzing the samples, came to the conclusion, by his report dated 22.11.2016, that the sample is illicitly distilled liquor and it is not fit for human consumption and injurious to health.

Ground No.3: Crime No.4/2017, dated 07.01.2017, registered under Section 7-A read with Section 8(e) of the A.P. Prohibition Act, 1995 in Excise Station, Achampet.

On 07.01.2017, the Excise Officials found one person coming by walk holding a bag in his hands. Upon seeing the officials, the said person ran away leaving the bag there itself. The staff chased him, but in vain. On enquiry, the Excise Officials came to know that the person is the detenu. On verifying the bag, they found a plastic can containing 10 liters of illicitly distilled liquor was kept. The samples were sent to the Chemical Examiner, Hyderabad who, after analyzing the samples, came to the conclusion, by his report dated 16.01.2017, that the sample is illicitly distilled liquor and it is not fit for human consumption and injurious to health.

5. The first respondent, in the detention order, referred to the charge-sheet filed in three criminal cases, and to the remarks of the Professor and Chief Physician, Osmania General Hospital, Hyderabad dated 18.07.2007 on the ill-effects of illicitly distilled liquor upon the human body. The first respondent recorded his satisfaction that recourse to the normal law would involve considerable time and may not be an effective deterrent in preventing the detenu from indulging in similar further activities which were prejudicial to the maintenance of public order in and around Achampet Village and Mandal, Nagarkurnool District. The first respondent also opined that unless and until the detenu was detained, there was every likelihood that he would again and again indulge in such illegal activities of bootlegging. The first respondent further stated that after careful consideration of the facts and circumstances and the material placed before him, he was satisfied that there was an urgent necessity to detain him under the Act and accordingly passed the detention order dated 02.02.2017 detaining the detenu in preventive detention for a period of 12 months.

6. Sri Vedula Venkataramana, learned senior counsel appearing on behalf of the petitioner, would submit that black jaggery and alum are, by itself, neither an intoxicant nor is it liquor and that mere possession of black jogger and alum is not an offence. He would further submit that there was no material before the first respondent – detaining authority to show that

there was a likelihood of breach of public order and that there was no basis for him to presume that the black jaggery and alum would be used for manufacture of illicitly distilled liquor. He would further submit that the subjective satisfaction of the first respondent that the detenu had been indulging in clandestine movement and sale of illicitly distilled liquor, is based on non-existent material and suffers from non-application of mind and that the grounds of preventive detention are totally vague and none of the grounds disclose that the acts of the detenu are threat to maintenance of public order and hence the order of the first respondent is liable to be set aside. In support of his contention, he relied on **Samala Dhana Laxmi v. State of Telangana**¹.

7. *Per contra*, learned Government Pleader for Home (Telangana) would submit that the satisfaction of the detaining authority was based on the material placed before him, as the detenu is habitually engaged himself in unlawful bootlegging activities. He would further submit that the detenu is repeatedly involving in manufacture and selling of illicitly distilled liquor, which is prohibited in the State, as it is injurious to public health and the said act is prejudicial to the maintenance of public order and that the order of detention is valid and does not

¹ 2016 (2) ALD (CrL.) 288

necessitate interference. In support of his contention, he relied on **Ganesh Traders v. District Collector, Karimnagar**².

8. This Court is not inclined to accept the arguments of the learned senior counsel appearing for the petitioner as the facts in **Samala Dhana Laxmi**'s case (1 supra) are distinguishable from the present case. In **Samala Dhana Laxmi**'s case (1 supra), the detenu, in the series of offences, was found in possession of only black jaggery and alum, but in the instant case, the deceased was found not only with possession of black jaggery with alum, but also with illicitly distilled liquor. The black jaggery and alum are raw material used for manufacturing of illicitly distilled liquor which is unfit for human consumption and is injurious to health. Normally, in most of the cases, possession of black jaggery and alum is not an offence, but the conduct of the detenu in possession of the black jaggery, alum and illicitly distilled liquor is a clear indication that he is involved in bootlegging.

9. Learned senior counsel would submit that as there are distinctions between the each of the grounds of detention, the detention order is liable to be set aside. He would further submit that even if one of the grounds for detention is found to be defective, it would be enough to vitiate the order of detention. However, as we find that none of the grounds for detention cited

² 2002 (1) ALD 210

by the first respondent is liable to be declared illegal, this argument is of no avail.

10. We see no reasons to interfere with the order of detention and the writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date: 10-11-2017
TJMR

T.AMARNATH GOUD, J

