

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE MS. JUSTICE J.UMA DEVI**

WRIT PETITION No.44536 of 2016

Date: 27.06.2017

Between:

G.Sankaramma, W/o G.Subbi Reddy

.. Petitioner

and

1.The State of Andhra Pradesh, represented by its Chief
Secretary, Velagapudi, Vijayawada
and 2 others

.. Respondents

Counsel for the Petitioner : Mr.MSP Kamaraju

Counsel for Respondents : Mr.C.S.Surya Prakash Rao,
Special G.P. (AP)

THE COURT MADE THE FOLLOWING:

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

The validity of detention of one Gajulapalli Subba Reddy, S/o Subbi Reddy (hereinafter referred to as “the detenu”), native of Thipparajupalli village, B.Kodur Mandal, YSR Kadapa District, vide order in Ref: C1/889/M/2016, dated 13.10.2016 of respondent No.2 is questioned in this writ petition.

At the hearing, Mr.M.S.P.Kamaraju, learned Counsel for the petitioner advanced several submissions. However, it will suffice if one such submission is referred to for the purpose of disposal of this writ petition. This submission is to the effect that though the detenu was granted bail in all 9 criminal cases registered against him, he has not chosen to come out of judicial custody from 29.03.2016 when his last bail application was allowed till the detention order was passed on 13.10.2016. This submission is not disputed by the learned Special Government Pleader (AP). However, in the detention order, respondent No.2 *inter alia* stated as under:

“ Whereas it is further reported that in spite of registration of crimes and arrest, it is evident that the said Rice Mill Subba Reddy @ Subbi Reddy @ Kopparthonipalli Subba Reddy @ Gajulapalli Subba Reddy, S/o Subbi Reddy @ Subba Reddy @ Venkata Subba Reddy, age 48 years, caste: Kapu, occupation: Red Sanders Smuggling, Kopparthivanipalli @ Thippirajupalli village, B.Koduru Mandal, Y.S.R. District, now residing at Telugu Ganga colony, Badvel town, Y.S.R. District came out from the prison on bail and is habitually

committing similar offences and moreover the laws, under which he is being prosecuted, are not deterring his activities or curb his illegal activities with a view to prevent him from causing damage to the National wealth.” (Emphasis added)

As noted herein before the detenu was arrested for the first time on 31.12.2015 and he did not come out of judicial custody till the detention order was passed. Therefore, the above extracted statement of respondent No.2 that the detenu came out from the prison on bail and he is habitually committing similar offences, is *ex facie* incorrect.

Before passing a preventive detention order which is an exception to Article 21 of the Constitution of India depriving a person of his personal liberty, the detaining authority must make proper application of mind. As respondent No.2 has formed a wrong impression that the detenu has been repeating the commission of offences after obtaining bail and coming out of the custody and this opinion having formed the basis for the detention of the detenu, the impugned order is not sustainable and the same is accordingly set aside.

The Writ Petition is accordingly allowed. The detenu - Gajulapalli Subba Reddy shall be forthwith set at liberty if he is not required in connection with any other criminal case.

As a sequel to disposal of the writ petition, WPMP No.54943 of 2016 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

J.UMA DEVI, J

27.06.2017
Gsn.

