

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

WRIT PETITION NO.4330 OF 2018

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

This writ petition is filed seeking issuance of a Writ of Habeas Corpus directing the respondents to forthwith produce Gaffar Khan @ Jigar, who is now detained in Central Prison, Chanchalguda, Hyderabad, before this Court and declare the order of detention dated 11.09.2017 passed by the Commissioner of Police, Hyderabad City, Hyderabad, second respondent herein, under Section 3 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers, Spurious Seed Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and While Collar or Financial Offenders Act, 1986 (for short, the Act), confirmed by the Government of Telangana, *vide* G.O.Rt.No.2390, dated 17.11.2017, on the ground that he is a goonda, as illegal, improper and incorrect.

2. The order of preventive detention dated 11.10.2017 passed by the second respondent, in exercise of his power under Section 3 of the Act, was approved by the Government of Telangana, *vide* G.O.Rt.No.2008 dated 18.09.2017. 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 *detenu* for a period of 12 months from 13.09.2017, *vide* G.O.Rt.No.2390, dated 17.11.2017.

3. The grounds for detention appended to the order of detention dated 11.10.2017, reflect that the detaining authority took into account five criminal cases, involving the *detenu* in coming to his subjective satisfaction, that needed detention of the *detenu* in exercise of power under the Act. In the grounds of detention, the second respondent noted that the material placed before him revealed that the *detenu* was indulging in series of property offences by committing burglaries which are prejudicial to the maintenance of public order.

4. The grounds of detention which were served on the *detenu* refer to the following five crimes:

(i) Crime No.60/2017 dated 02.03.2017 on the file of Ramgopalpet Police Station, registered for the offences punishable under Sections 457 and 380 IPC.

(ii) Crime No.272/2016 dated 19.11.2016 on the file of Malakpet Police Station, registered for the offences punishable under Sections 457 and 380 IPC.

(iii) Crime No.21/2017 dated 14.01.2017 on the file of Amberpet Police Station, registered for the offences punishable under Sections 457 and 380 IPC.

(iv) Crime No.11/2017 dated 18.01.2017 on the file of Santosh Nagar Police Station, registered for the offences punishable under Section 380 IPC.

(v) Crime No.60/2017 dated 07.03.2017 on the file of Golconda Police Station, registered for the offences punishable under Section 380 IPC.

5. The *detenu* was given a right to make a representation against his detention, to the detaining authority, the Advisory Board and also to the Government of Telangana.

6. Sri M.Prudhvi Raj, learned counsel for the petitioner, would contend that in all the aforestated cases, the *detenu* obtained bail with conditions and is free since last four months. It is urged that the sponsoring authority deliberately suppressed the said fact and made the detaining authority to pass the detention order. In all the cases, the *detenu* was shown as accused basing on the alleged confessions said to have been made by the *detenu*, which has no legal sanctity. He only pleaded and tried to impress upon this Court stating that the *detenu* is innocent and is unnecessarily implicated. No argument has been advanced in the light of requirement envisaged under Article 22 of the Constitution of India and he has not pointed out any infirmity in the impugned order. He placed reliance on a decision of the Apex Court in **Imam Shaik v. State of West Bengal**¹.

7. The learned Advocate General (Telangana State), appearing on behalf of the respondents, would contend that the satisfaction of the detaining authority was based on the material placed before him. He would further contend that the *detenu* is

¹ (1975) 3 SCC 301

repeatedly involving in series of property offences by committing burglaries in the limits of Hyderabad, Cyberabad and Rachakonda Police Commissionerates and recoveries were also made basing upon his confession statements, which acts are prejudicial to the maintenance of public order; that the order of detention is valid and does not necessitate interference. He further contends that the release of the *detenu* would definitely be a threat to public peace and tranquility. According to him, during the seasonal period, the public would be moving different places apart from attending various family functions giving further scope to the *detenu* to commit offences. Thus, he supported the order of detention as just and proper and not violative of any rights conferred upon the citizen under the Constitution of India.

8. A perusal of the order and the grounds of detention show that the *detenue* was involved in the crimes of similar nature. He indulged in committing offences of similar nature, after getting himself released on bail in earlier crime. As observed earlier, the counsel could not make out a case, showing violation of Article 22(5) of the Constitution of India. He pleaded the innocence of the *detenu*, basing on the merits of each case, which cannot be adjudicated in this writ petition.

9. The judgment of the Apex Court in **Imam Shaik's** case (supra), which is relied upon by the counsel, is of no help to the *detenu*. On the other hand, it goes against the *detenu*. It was a case where detention order came to be passed three months

after the last prejudicial activity; meaning thereby that there were no incidents between the last prejudicial activity and the passing of the detention order. Dealing with the same, the Apex Court held as under.

“15. In the two thefts mentioned in the particulars of the grounds of detention, substantial quantities of M.S. Angles were stolen away with consequent disruption of supplies and services viz., power and light, essential to the community. Moreover, it was entirely for the detaining authority to make a prognosis of the petitioner's future behaviour on the basis of his past activities. This Court cannot test the subjective satisfaction of the authority as to the propensity of the petitioner to act in a manner prejudicial to supplies and services essential to the community, by objective standards.”

10. In view of the above judgment, the argument of the counsel that the authority could not have passed the detention order when the *detenu* was on bail in all the five cases and when there are no incidents after his release cannot be accepted.

11. Learned counsel for the petitioner laid much stress on the genuinity and authenticity of the receipts dated 13.09.2017 and 17.09.2017 said to have been signed by the *detenu*. According to him, the *detenu* being an illiterate person could not written the receipt in English and that too in his own handwriting. It is noted that the signature on the said receipts is not in dispute. The *detenu* has signed those receipts. Further, the translated version of the order and the grounds of detention were served on the *detenu* on 17.09.2017 in the presence of jail authorities who attested the same. Hence, the authenticity or genuinity of the receipts cannot be gone into. His plea also appears to be that only English versions of the documents were furnished to the

detenu as such he could not make an effective representation to the authorities. But the material on record is otherwise. The signature of the *detenu* is found on all the translated copies of the documents furnished to the *detenu*. Therefore, the plea of the *detenu* that he was greatly prejudiced due to non-furnishing of translated copies cannot be accepted.

12. In view of the aforesaid discussion, the writ petition is accordingly dismissed confirming the order of detention dated 11.09.2017 passed by the second respondent confirmed under G.O.Rt.No.2390, dated 17.11.2017. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.



C.PRAVEEN KUMAR, J

T.AMARNATH GOUD, J

Date: 15-06-2018
TJMR