

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Petition No.16927 of 2018

DATED:04-07-2018

Between:

S. Mahender ... Petitioner

And

The State of Andhra Pradesh
Represented by its Chief Secretary
General Administration (Law & Order) Dept.,
Secretariat Buildings, Velagapudi
Guntur District
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. S. Dushyanth Reddy

COUNSEL FOR THE RESPONDENTS: Mr. C.S. Suryaprakash Rao
Special Government Pleader (AP)

THE COURT MADE THE FOLLOWING:

ORDER: (*per the Hon'ble Sri Justice C.V. Nagarjuna Reddy*)

This writ petition is filed for issue of habeas corpus to declare the detention order in Ref.C.1(M)/9/2018, dt.04.03.2018, passed by respondent No.2 and the consequential confirmation order passed by respondent No.1, vide G.O. Rt. No.897, dt.24.04.2018, as illegal, arbitrary and unconstitutional and consequently to direct the respondents to produce Sangati Subbaiah, father of the petitioner (hereinafter referred to as “the alleged detenu”) before this Court and set him at liberty.

2. Though several grounds have been raised in the writ petition, at the hearing, Sri S. Dushyanth Reddy, learned counsel for the petitioner, mainly advanced the submission that despite the fact that the alleged detenu was in judicial custody in connection with various criminal cases, respondent No.2 - detaining authority has not recorded his satisfaction that there is a likelihood of the detenu securing bail and repeating the commission of the offences after his release. The fact that the impugned detention order does not refer to the subjective satisfaction of the detaining authority on the abovementioned aspect is not disputed by the learned Special Government Pleader (AP).

3. It is settled legal principle that where the detaining authority does not record his satisfaction that the detenu, who was in judicial custody at the time of passing the detention order, is likely to be released on bail and repeat the offences disturbing the public order, such order is not sustainable in law (See **N. Meera Rani v. Government of Tamil Nadu**¹). In the light of the admitted fact that the impugned detention order does not contain the subjective satisfaction as referred to above, the same cannot be sustained.

4. The writ petition is accordingly allowed and the impugned detention order, as confirmed by respondent No.1, by order, dt.24.04.2018, is set aside. The detenu is directed to be released from the detention forthwith, if he is not required in any other case or crime.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

04-07-2018

bmr

¹ (1989) 4 SCC 418