

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

WRIT PETITION NO.16186 OF 2017

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present Writ Petition, the petitioner has challenged the order dated 10.02.2017, passed by the Collector and District Magistrate, Nalgonda District, second respondent, in Proc.No.C1/187/2017, which was confirmed by the first respondent vide G.O.Rt.No.496, General Administration (Spl.(Law & Order) Department, dated 20.02.2017, whereunder the petitioner has been detained.

2. Learned counsel for the petitioner submits that though the detaining authority mentioned in the grounds of detention that the detenu was involved in 10 cases, it has passed the detention order basing on six cases. He further submits that in the grounds of detention, it is specifically stated that the detenu has been habitually engaging himself in unlawful acts and indulging in a series of offences and dangerous activities such as murder, rioting, criminal intimidation, attempt to murder, extortion, land grabbing, illegal possession of arms, etc., and heinous acts and thereby causing harm, panic in the minds of public in the limits of Nalgonda I Town Police Station, Nalgonda District which are prejudicial to the maintenance of 'public order'. He further submits that initially the detenu was arrested on 10.08.2016 and thereafter, in all the cases, he came out on bail on

02.12.2016 on the condition that he shall report to the Nalgonda I Town Police Station everyday and that thereafter, he was never involved in any of such activities. Thereafter, the detenu was arrested on 09.01.2017 in Crime No.265 of 2016 of Police Station, Nalgonda II Town registered for the offences punishable under Sections 384, 120-B IPC, Section 25(1B) of the Arms Act, 1959 and Section 5 of the Explosive Substance Act, 1908. Thus, the detaining authority had no occasion to impose the detention order against the detenu, since there was no involvement of the detenu in any of the illegal activities.

3. Learned Government Pleader appearing on behalf of the State submits that the detenu is habitually engaging himself in unlawful acts and indulging in a series of offences and dangerous activities such as murder, rioting, criminal intimidation, attempt to murder, extortion, land grabbing, illegal possession of arms, etc., and heinous acts and thereby causing harm, panic in the minds of public in the limits of Nalgonda I Town Police Station, Nalgonda District which are prejudicial to the maintenance of 'public order'.

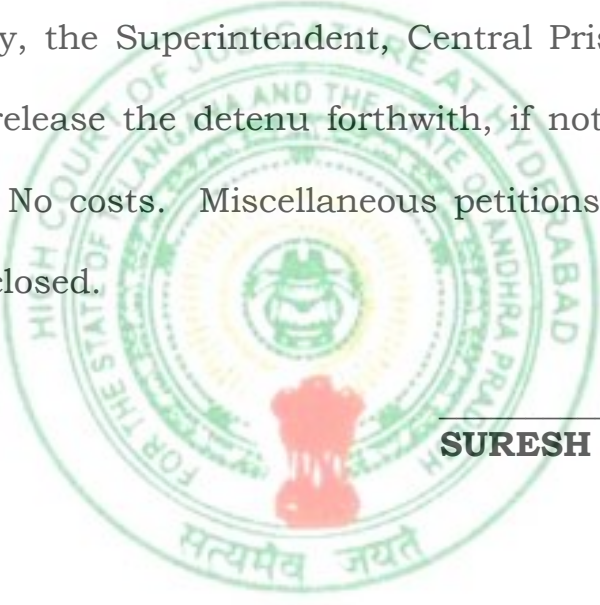
4. Learned Government Pleader has fairly conceded that in the grounds of detention order, by mistake, it was mentioned that the detenu involved in attempt to murder cases also. In fact, there is no case registered against the detenu for the offence punishable under Section 307 IPC (attempt to murder). He further submitted that on receipt of report of the Advisory

Board, State Government has issued orders vide G.O.Rt.No.951, dated 20.04.2017, confirming the detention of the detenu for a period of 12 months with effect from 11.02.2017. In the said orders, it is specifically mentioned that after careful examination of the entire record, it has been observed that the detenu has been habitually engaging himself in unlawful activities and indulging in the acts of goondaism by acting as a member of criminal gang and committed gruesome offences like murders, attempt to murder, rioting, criminal intimidation, land grabbing, extortion, illegal possession of arms, etc., and heinous acts in the limits of Nalgonda II Town Police Station.

5. The detaining authority relied upon six cases while passing the detention order, but the fact remains that 10 cases were registered against the detenu. Though no case was registered for the offence punishable under Section 307 IPC (attempt to murder) against the detenu, the detaining authority in the detention order as well as the Government in G.O.Rt.No.951, dated 20.04.2017, mentioned the said offence against the detenu. It seems that the detention order is passed mechanically without verifying the facts. In addition to the above, it is pertinent to mention here that the detenu was released on bail in Crime No.245 of 2016 on the condition that he shall appear before the Station House Officer, Nalgonda I Town Police Station everyday till filing of the charge sheet. This aspect has not been considered by the detaining authority while

passing the detention order. Thus, it can be said that there was no occasion for the respondents to impose the detention order against the detenu.

6. For the above reasons, the Writ Petition is allowed. The impugned detention order dated 10.02.2017, passed by the Collector and District Magistrate, Nalgonda District in Proc.No.C1/187/2017 which was confirmed by the first respondent vide G.O.Rt.No.496, General Administration (Spl.(Law & Order) Department, dated 20.02.2017, is set aside. Consequently, the Superintendent, Central Prison, Warangal is directed to release the detenu forthwith, if not required in any other case. No costs. Miscellaneous petitions pending, if any, shall stand closed.



SURESH KUMAR KAIT, J

T.AMARNATH GOUD, J

Date: 02-01-2018
TJMR