

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 22093 OF 2017

DATED 24TH JANUARY, 2018

Between:

N.Babbulu Singh

... Petitioner

AND

The State of Telangana,
Rep. by its Chief Secretary,
General Administration (L&O) Department,
Secretariat Buildings,
Hyderabad, and others

... Respondents

Counsel for the petitioner : Smt. B.Mohana Reddy

Counsel for the respondents : G.P. for Home (T.S.)

THIS COURT MADE THE FOLLOWING

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

This Writ Petition is filed questioning the detention of one Nimba Sunil Singh, S/o Banaras Singh (hereinafter referred to as 'the detenu') *vide* proceedings No. C3/2508/2017 dated 05-06-2017 passed by respondent No. 2.

2. Smt. B.Mohana Reddy, learned counsel for the petitioner, has advanced three submissions, namely; (1) that respondent No. 1 has not issued proceedings confirming the detention order and thereby the detention is vitiated; (2) that as on the date of detention, the detenu was in judicial custody and that therefore there was no likelihood of his coming out on bail and repeating his alleged activities and that respondent No. 2 has not recorded his satisfaction to this effect; and (3) that the relevant material was not supplied to the detenu in the language known to him *i.e.* Hindi. A detailed counter affidavit has been filed on behalf of the respondents.

3. As regards the first submission of leaned counsel for the petitioner, learned Government Pleader has produced before the Court G.O.Rt.No. 1533 General Administration (Spl.) (Law & Order) Department dated 14-07-2017, whereby respondent No. 1

confirmed the detention of the detenu. Upon perusal of this G.O., learned counsel for the petitioner has fairly conceded that the first ground raised by her is not sustainable.

4. With regard to the second ground, the first crime registered against the detenu was crime No. 9 of 2017 dated 27-01-2017 for being in possession of 15 small plastic sachets each containing 10 grams of Ganja, totaling 150 grams of Ganja. The detenu surrendered himself before the jurisdictional Court and thereafter he was released on bail in connection with the said case. After his release, two more crimes came to be registered against him i.e. crime No. 43 of 2017 dated 08-04-2017 and crime No. 79 of 2017 dated 21-05-2017 on the file of Prohibition and Excise Station, Serilingampally, Ranga Reddy District. Before the detention order was passed on 05-06-2017, the detenu applied for bail in both the cases which, on being opposed, were dismissed. Immediately thereafter, the impugned detention order was passed on 05-06-2017, wherein respondent No. 2 observed as under:

"In spite of being arrested earlier you have not mend(ed) your ways and after coming out on bail, you are habitually involving in illegal possession and sales of Ganja which is adversely affecting the Health of gullible public and disturbing public order."

Learned counsel for the petitioner has strenuously submitted that the fact that the bail applications in the two later cases were dismissed would show that there is no likelihood of the detenu coming out of the custody and repeating the offences. She has referred to and relied on the judgment of the Supreme Court in ***N.Meera Rani Vs. Government of Tamil Nadu and another***¹ to buttress her submission that unless the facts of the case show that in a case where the detenu is already in custody and there is no likelihood of his coming out of such custody and repeating the offences prejudicial to the security of the State or to the maintenance of public order, the detention order cannot be sustained.

5. From the facts narrated above, it is clear that after the detenu was released from the custody in connection with crime No. 9 of 2017, he allegedly committed two more offences in quick succession leading to registration of crime Nos. 43 and 79 of 2017. These facts therefore justify the above reproduced observation of respondent No. 2 that the detenu is habitually repeating the offences of illegal possession and sale of Ganja after his coming

¹ (1989) 4 SCC 418

out on bail. In ***N.Meera Rani*** (*supra*), the Supreme Court held as under:

"We may summarise and reiterate the settled principle. Subsisting custody of the detenu by itself does not invalidate an order of his preventive detention and the decision must depend on the facts of the particular case; preventive detention being necessary to prevent the detenu from acting in any manner prejudicial to the security of the State or to the maintenance of public order etc. ordinarily it is not needed when the detenu is already in custody; the detaining authority must show its awareness to the fact of subsisting custody of the detenu and take that factor into account while making the order; but, even so, if the detaining authority is reasonably satisfied on cogent material that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made even in anticipation to operate on his release. This appears to us, to be the correct legal position."

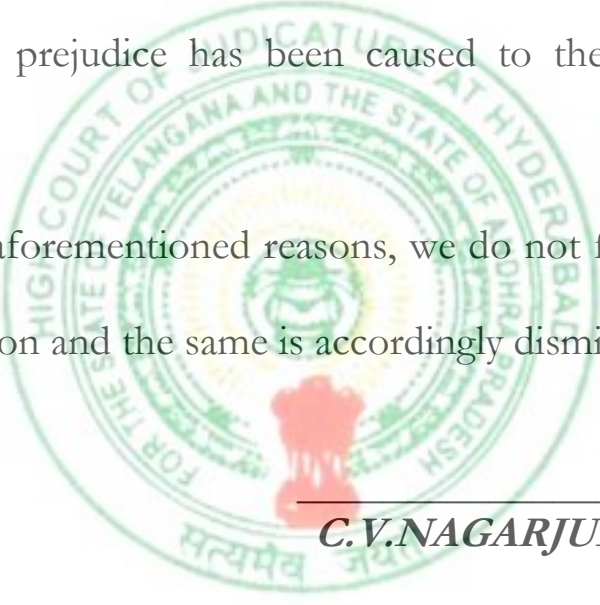
From the ratio laid down by the Supreme Court in the above reproduced para of the judgment, it is clear that subsisting custody of the detenu by itself does not invalidate the order of his preventive detention and the decision must depend on the facts of the particular case. The detaining authority must be satisfied on cogent material that there is a likelihood of his release and in view of his antecedent activities which are proximate in point of time

and that he must be detained in order to prevent him from indulging in such prejudicial activities. The detenu not only repeated the offences after his release on bail but also he made applications albeit unsuccessfully for coming out on bail. These facts constitute cogent material for respondent No. 2 to believe that there is a likelihood of the release of the detenu and that there is a likelihood of his repeating similar offences if he comes out on bail. Therefore, on the facts of the present case, the ratio in ***N.Meera Rani*** (*supra*), instead of helping the petitioner, turns against him.

6. With respect to the third submission, learned counsel for the petitioner has submitted that an important material relating to details of report on effects of taking Ganja on human beings given by the Professor and H.O.D., Department of Forensic Medicine, Osmania Medical College, Hyderabad, was not furnished to the detenu in complete shape in the language known to him *i.e.* Hindi, in that while the original report in English runs to four pages, the respondents furnished to the detenu only one page of the said report in Hindi. Learned Government Pleader has submitted that of the entire report running to four pages, only one page of it

contains the effects of Ganja on human beings and that the rest of the report deals with effects of other drugs such as Charas, Marijuana *etc.*,. Learned counsel for the petitioner has not disputed this submission. As the detenu was detained in connection with Ganja only, the report to the extent of Ganja alone is relevant for the detenu. Admittedly, the relevant part of the report pertaining to Ganja was supplied to the detenu after translation in Hindi. Therefore, no prejudice has been caused to the detenu in this regard.

7. For the aforementioned reasons, we do not find any merit in this Writ Petition and the same is accordingly dismissed.



C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 24-01-2018
JSK