

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.27576 of 2018

ORDER:

In this Writ Petition, filed under Article 226 of the Constitution of India, the challenge is to the order, dated 12.07.2018, passed in M.C.No.D/1327/2018 of the Executive Magistrate & Tahasildar, Hasanparthy Mandal, Warangal (Urban) District. The said notice reflects that Smt.Daravath Venkatamma, W/o Narsimulu entered into a security bond for good behaviour for a period of one year and bound herself in default thereof, for forfeiture of a sum of Rs.1,00,000/- to the State; but, has committed a breach of bond by committing an offence punishable under Section 7A read with 8(e) of Prohibition Act; and, that for the said offence, a crime in COR No.83/2018 was registered by the Prohibition & Excise Station, Hanamkonda, and that therefore, she was required to pay the said penalty of Rs.1,00,000/- or show cause within seven days, as to why she should not be adjudged for imprisonment until such bond period expires.

Heard Sri V.V.Satish, learned counsel appearing for the petitioner, and the learned Government Pleader for Prohibition & Excise appearing for the respondents. I have perused the material record.

Learned counsel appearing for the petitioner and the learned Government Pleader are in agreement that the issue

involved in this Writ Petition is squarely covered by the orders of this Court, dated 04.02.2016, passed in W.P.No.3413 of 2016. In the said orders, this Court opined that mere arraignment in an offence cannot be taken to be a conviction, whereby it could be said that the accused had committed a breach of the bond furnished by him for maintaining good behaviour. Accordingly, this Court had set aside a similar notice challenged in the said writ petition as unsustainable and observed that the detention of the person on such ground, namely, failure to pay the amount of penalty would also be rendered illegal.

Having regard to the said reasoning, the impugned notice, dated 12.07.2018, which is unsustainable, is set aside; and, as a consequence, this Court holds that the detention of Smt.Daravath Venkatamma W/o Narasimulu, owing to the failure to pay the penalty amount would also be rendered illegal.

Accordingly, this Writ Petition is allowed and the impugned notice, dated 12.07.2018, is set aside. Since it is represented that the relative of the petitioner is already detained in prison, the respondent authorities are directed to forthwith release the said detenu, Smt.Daravath Venkatamma W/o Narasimulu, if her confinement is not required in connection with any other case. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.V.SESHA SAI, J

06th August, 2018.

Note:

*Furnish C.C. of the order
within two days.*

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