

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

WRIT PETITION No.28449 of 2018

Date: 04.10.2018

Between :

Noorunnisa

... Petitioner

And

The State of Telangana,
rep. by its Chief Secretary,
General Administration (Law & Order) Department,
Secretariat Buildings,
Hyderabad and others.

... Respondents

COUNSEL FOR PETITIONER : Smt. B. Mohana Reddy

COUNSEL FOR RESPONDENTS : G.P. for Home (T.S.)

THE COURT MADE THE FOLLOWING:

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

The detention of one Amjad Khwaja Amin Shaik @ Amja, the husband of the petitioner (for short 'the detenu') vide Proc. No.SB(I) No.87/PD-2/HYD/2018, dated 19.06.2018 passed by respondent No.2, is assailed in this writ petition.

We have heard Smt. B. Mohana Reddy, learned counsel for the petitioner, and the learned Government Pleader for Home (Telangana State).

Though several points have been urged by the learned counsel for the petitioner, it will suffice if one of them is adverted to and adjudicated upon.

The point is that, though the detenu was released on conditional bail vide order dated 04.05.2018 in CrI.M.P.No.1192 of 2018 in Crime No.33/2018 of Charminar Police Station, respondent No.2 has not shown his awareness of the said conditions, subject to which the bail was granted. In the impugned detention order dated 19.06.2018, respondent No.2 stated that the detenu has moved a bail application in

Crime No.33/2018 on 25.04.2018 and that the jurisdictional Magistrate granted him bail on 04.05.2018, and that he was released from jail on 22.05.2018.

Along with the counter affidavit, a copy of the order dated 04.05.2018 in CrI.M.P.No.1192 of 2018 is filed. The concluding portion of the said bail order reads as under:

“8. In the result, the petition is allowed. The petitioner/A1 is ordered to be enlarged on bail on his executing a personal bond for Rs.15,000/- (Rupees fifteen thousand only) with two local sureties for like sum each to the satisfaction of concerned Court. The petitioner/A1 is directed to appear before the concerned SHO twice in a week i.e. on every Sunday and Thursday between 10.00 a.m. and 5.00 p.m. until further orders and also directed to cooperate with the Investigating Officer in further investigation.”

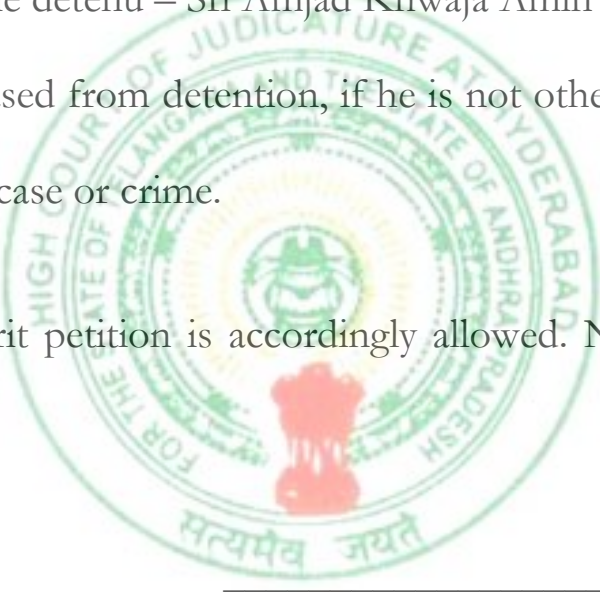
In VASANTHU SUMALATHA v. STATE OF ANDHRA PRADESH¹, after a detailed review of the case law a Division Bench of this Court held that if conditional orders of bail had been brought to his notice, it may well have resulted in the detaining authority arriving at the subjective satisfaction that the detention of the detenus was unnecessary. The Division Bench further held that failure of the detaining

¹ 2016 (1) ALT 738 (D.B.)

authority to consider the orders granting conditional bail would vitiate the orders of detention.

In the light of the above legal position and in view of the failure of respondent No.2 to record his awareness of the conditions in the bail order, the impugned order vide Proc. No.SB(I) No.87/PD-2/HYD/2018, dated 19.06.2018 passed by respondent No.2 stands vitiated and the same is accordingly set aside. The detenu – Sri Amjad Khwaja Amin Shaik @ Amja shall be released from detention, if he is not otherwise required in any other case or crime.

The writ petition is accordingly allowed. No order as to costs.



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

04.10.2018.

Msr

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