

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

AND

THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.28481 of 2018

02.11.2018

Between:

Manda Krishna Veni

..Petitioner

and

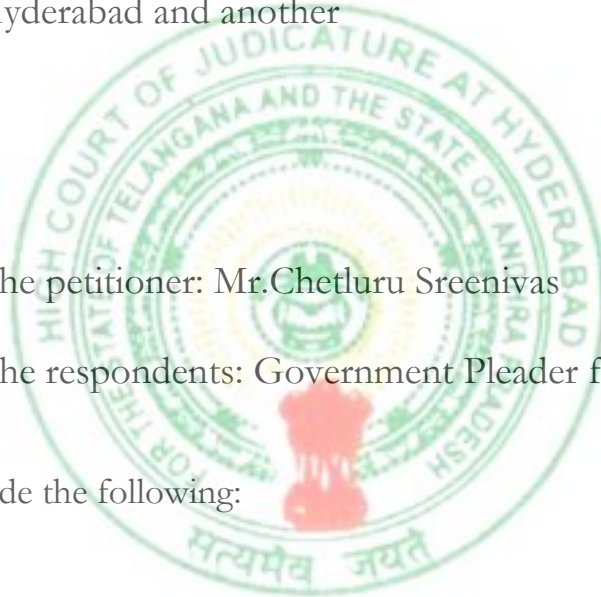
The State of Telangana,
represented by its Principal Secretary,
General Administration (Spl.Law & Order) Department,
Secretariat, Hyderabad and another

..Respondents

Counsel for the petitioner: Mr.Chetluru Sreenivas

Counsel for the respondents: Government Pleader for Home (T.S.)

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* for release of Manda Rajesh, S/o late Veeraju (hereinafter referred to as 'the alleged detenu') after setting aside the detention order, *vide* SB(I)No.9/PD-1/HYD/2018, dated 05.02.2018, issued by respondent No.2, as approved in G.O.Rt.No.258, General Administration (SPL. LAW & ORDER) Department, dated 09.02.2018, and confirmed in G.O.Rt.No.555, General Administration (SPL. LAW & ORDER) Department, dated 20.03.2018, issued by respondent No.1.

2. We have heard the learned counsel for both the parties and perused the record.

3. The detenu is the accused in nine criminal cases, out of which (i) crime No.232 of 2017 of Shahinayathgunj Police Station registered for the offences punishable under Sections 419 and 420 I.P.C.; (ii) crime No.236 of 2017 of Shahinayathgunj Police Station registered for the offences punishable under Sections 420, 468 and 471 I.P.C.; (iii) crime No.399 of 2017 of Karimnagar II Town Police Station registered for the offence punishable under Section 420 I.P.C., and (iv) crime No.641 of 2008 of Humayun Nagar Police Station registered for the offences punishable under Sections 420 and 506 I.P.C., have been relied in the grounds of arrest.

It is the pleaded case of the petitioner with respect to which there is no dispute that the petitioner was released on bail. It is the admitted position that in bail orders, dated 12.12.2017, regarding crime Nos.232 and 236 of 2017, the following condition has been imposed.

“Further, the Petitioner/Accused is directed to appear before the SHO of concerned PS on every alternate day in between 8.00 AM to 11.00 AM for a period of Two months or till filing of Charge Sheet, whichever is earlier.”

The impugned detention order was passed on 05.02.2018. As no charge sheets were filed in the above crimes, the two months period for which the detenu shall appear before the Station House Officer concerned on every alternate day expired on 12.02.2018 i.e., one week after the passing of the impugned detention order. In the impugned detention order, respondent No.2, *inter alia*, has stated as under.

“As you have made persistent efforts to come out of jail by moving bail petitions and finally succeeded in getting bails in all the four cases in which you were remanded to judicial custody and were released on bail, there is every likelihood of your indulging in similar prejudicial activities, which are detrimental to public order, unless you are prevented from doing so by an appropriate order of detention.”

4. Mr.Chetluru Sreenivas, learned counsel for the petitioner, has submitted that neither in the above reproduced part of the

impugned detention order nor anywhere else, respondent No.2 has recorded his awareness that the two bail orders referred to above contained the condition that the detenu shall report in the Police Station concerned on every alternate day. He has, therefore, submitted that the impugned detention order suffers from non-application of mind.

5. The learned Government Pleader for Home (T.S.) appearing for the respondents has taken us through the impugned detention order, in which the above observations were made, and submitted that respondent No.2 has clearly stated therein that the arrest of the detenu was regularised in crime No.641 of 2008 of Humayun Nagar Police Station through a remand warrant duly returning the Non-Bailable Warrants for violating the bail condition. He has, accordingly, submitted that respondent No.2 is aware of the detenu violating the bail condition.

6. Admittedly, respondent No.2 has not referred to the bail condition incorporated in the bail orders passed in crime Nos.232 and 236 of 2018 though he has narrated the previous incident of the detenu violating the bail conditions. In **M.Ahamedkutty v. Union of India**¹ and **Union of India v. Paul Manickam**², the Supreme Court held that if the detaining authority is not in awareness of the

¹ (1990) 2 SCC 1

² (2003) 8 SCC 342

relevant conditions in the bail orders, the detention order is liable to be quashed on the ground of non-application of mind and improper satisfaction. This is for the reason that if the conditions of bail are effective enough to prevent the detenu from indulging in offences in future, there would be no need for the detaining authority to invoke the provisions of the Preventive Detention Act, 1950, which is an exception to Articles 19 and 21 of the Constitution of India.

7. Mere fact that respondent No.2 has referred to the petitioner violating the bail conditions in connection with the earlier crimes, would not cure the defect, which the impugned detention order suffers from. In the light of the law laid down by the Supreme Court in the judgments referred to supra, the impugned detention order is not sustainable.

8. In the result, the Writ Petition is allowed. Impugned detention order, *vide* SB(I)No.9/PD-1/HYD/2018, dated 05.02.2018, issued by respondent No.2, as approved in G.O.Rt.No.258, General Administration (SPL. LAW & ORDER) Department, dated 09.02.2018, and confirmed in G.O.Rt.No.555, General Administration (SPL. LAW & ORDER) Department, dated 20.03.2018, issued by respondent No.1, is set aside. The detenu *viz.*, Manda Rajesh, S/o late Veeraju, is directed to be

released from the detention forthwith, if he is not required in connection with any other case(s).

C.V.NAGARJUNA REDDY, J

P.KESHAHA RAO, J

02nd November, 2018
GHN

