

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE M.S.K. JAISWAL**

Writ Petition No.29653 of 2017

ORAL ORDER: (Per Suresh Kumar Kait, J)

Vide the present petition, petitioner has challenged detention order dated 06.01.2017 passed by the 1st respondent and the order dated 17.03.2017 passed by the 2nd respondent vide G.O.Rt.No.738 of 2017, whereunder the detenue is detained in jail.

In the detention order, it is sated that the detenue is involved in 11 property offences and he has been creating fear and panic among general public by committing such offences in public places and thus he has been acting in a manner prejudicial to the maintenance of public order apart from disturbing peace, tranquillity and social harmony in the society.

We note, in the grounds of detention, the detaining authority has mentioned the details of bail petitions moved by the detenue, which are as under:

1. You moved a bail petition in Cr.No.84/2016, u/s 394 IPC of Saidabad PS before the Hon'ble VII ACMM, Hyderabad on 04.10.2016 and the Hon'ble Magistrate granted bail to you vide CrI.M.P.No.919/2016, dated 04.10.2016. But you continue to be in judicial custody as you have not furnished sureties.
2. You moved a bail petition in Cr.No.132/2016, u/s 392 IPC of Chandrayangutta PS before the Hon'ble CMM, Hyderabad on 04.10.2016 and the Hon'ble Magistrate granted bail to you on 04.10.2016. But, you continue to be in judicial custody as you have not furnished sureties.
3. You moved a bail petition in Cr.No.96/2016, u/s 392 IPC of Chandanagar PS before the Hon'ble XIX MM At Miyapur, Cyberabad on 05.10.2016 and the Hon'ble Magistrate granted bail to you vide CrI.M.P.No.3406/2016, dated 07.10.2016. While you were in judicial custody, you admitted guilt. You were convicted and sentenced to undergo RI for a period of one year and to pay a fine of Rs.1,000/- in default SI for three months vide CC No.1016/2016, dated 27.12.2016 on the file of the Hon'ble XIX MM Cyberabad, Kukatpally at Miyapur.
4. You moved a bail petition in Cr.No.219/2016, u/s 392 IPC of KPHB Colony PS before the Hon'ble XIX MM at L.B.Nagar, Cyberabad on

05.10.2016 and the Hon'ble Magistrate granted bail to you vide CrI.M.P.No.3410/2016, dated 07.10.2016. While you were in judicial custody, you admitted guilt. You were convicted and sentenced to undergo RI for period of one year and to pay a fine of Rs.1,000/- in default SI for three months vide CC No.608/2016, dated 27.12.2016 on the file of Hon'ble XIX MM Cyberabad, Kukatpally at Miyapur.

5. You moved a bail petition in Cr.No.121/2016, u/s 356, 382 IPC of Malkajgiri PS before the Hon'ble X MM at L.B.Nagar, Cyberabad on 07.10.2016 and the Hon'ble Magistrate granted bail to you vide CrI.M.P.No.1695/2016, dated 07.10.2016. But, you continue to be in judicial custody as you have not furnished sureties.
6. You moved a bail petition in Cr.No.168/2016, u/s 356, 382 IPC of Kusaiguda PS before the Hon'ble XX MM at Malkajgiri, Cyberabad on 07.10.2016 and the same is pending for orders. Hence, you continue to be in judicial custody.
7. You moved a bail petition in Cr.No.147/2016, u/s 356, 392 IPC of Chaitanyapuri PS before the Hon'ble XI MM at L.B. Nagar, Cyberabad on 03.10.2016 and the Hon'ble Magistrate granted bail to you vide CC No.586/2016, dated 06.10.2016. But, you continue to be in judicial custody as you have not furnished sureties.
8. You moved a bail petition in Cr.No.148/2016, u/s 356, 392 IPC of Chaitanyapuri PS before the Hon'ble XI MM at L.B.Nagar, Cyberabad on 03.10.2016 and the Hon'ble Magistrate granted bail to you vide CC.No.587/2016, dated 06.10.2016. But, you continued to be in judicial custody as you have not furnished sureties.

We further note, in Cr.No.96 of 2016 and Cr.No.219 of 2016, the detainee was convicted and sentenced to undergo R.I., for a period of one year and to pay a fine of Rs.1,000/- in default to undergo S.I., for three months vide C.C.No.1006 of 2016 and C.C.No.60 of 2016 respectively on 27.12.2016 on the file of the XIX M.M., Cyberabad, Kukatpally at Miyapur.

It is pertinent to mention that, while arriving at the satisfaction, it is stated that the detainee has moved bail applications in 8 cases and he may also move bail applications in the remaining three cases and there is every likelihood of his release from judicial custody soon; on his release from judicial custody, there is every likelihood of his indulging in similar prejudicial activities which are detrimental to public order unless he is prevented from doing so by an appropriate order of detention.

We have no hesitation in holding that the detaining authority has lost sight of the fact that the detenue was already convicted in Cr.Nos.96 and 219 of 2016 and there was no occasion for him to move bail applications in the said cases which already ended in conviction after trial. The detaining authority kept in mind that 11 cases are pending for trial against the detenue and in 8 cases, he is released on bail and he may file bail applications in the remaining three cases. However, it is to be seen that the detenue has already been convicted and sentenced to undergo imprisonment after trial vide order dated 27.12.2016. Thereafter, the detention order dated 06.01.2017 has been passed against the detenue.

Accordingly, we have no hesitation in saying that the detention order dated 06.01.2017 has been passed without application of mind and without going through the material on record.

The writ petition is allowed. The impugned detention order dated 06.01.2017 passed by the 1st respondent and the further confirmation order issued in G.O.Rt.No.150, dated 17.03.2017, are hereby quashed.

Consequently, the Superintendent, Central Prison, Chanchalguda, Hyderabad, is directed to release the detenue forthwith, if he is not required in any other criminal case.

SURESH KUMAR KAIT, J

M.S.K. JAISWAL, J

January 03, 2018
MRR