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

Writ Petition No.30861 of 2017

DATED:07-02-2018

Between:

M. Nallammal … Petitioner

And

The State of Andhra Pradesh
Rep. by its Chief Secretary
Secretariat Buildings, Amaravathi
at Velagapudi
Guntur District
and others … Respondents

COUNSEL FOR THE PEITITONER:
Mr. D. Purna Chandra Reddy

COUNSEL FOR THE RESPONDENTS: Mr. C.S. Surya Prakash Rao,
Special Government Pleader (AP)

THE COURT MADE THE FOLLOWING:

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

The detention of one Karapanna Gounder Mani, son of Late Karapanna Gounder and husband of the petitioner (hereinafter referred to as "the detenu"), under Section 3(1)(2) read with Section 2(a) and 2(g) of the Andhra Pradesh Prevention of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, is assailed in this writ petition.

2. Mr. D. Purna Chandra Reddy, learned counsel for the petitioner, submitted that though the detenu was in judicial custody as on the date of passing of the order of detention, respondent No.2, who passed the detention order, has not recorded the satisfaction that there is a likelihood of the detenu being released on bail and his repeating the offences disturbing the public order.

3. A perusal of the detention order shows that respondent No.2 stated that the petitioner was granted bail in Crime Nos.26 of 2016 of K.V.B. Puram Police Station; 55 of 2016 of Vijayapuram Police Station; 04 and 25 of 2017 of Gangavaram Police Station of Chittoor District, his activities in other cases disturb the public order and the same could not be controlled just by invoking the normal legal procedure.

4. In **N. Meera Rani v. Government of Tamil Nadu**[1], the Supreme Court has set aside the detention order on identical set of facts. Paragraph 23 of the judgment, which is relevant in the present context, is reproduced below:

> *"Applying the above settled principle to the facts of the present case we have no doubt that the detention order, in the present case, must be quashed for this reason alone. The detention order read with its annexure indicates the detaining authority's awareness of the fact of detenu's jail custody at the time of the making of the detention order. However, there is no indication therein that the detaining authority considered it likely that the detenu could be released on bail. In fact, the contents of the order, particularly, the above quoted para 18 show the satisfaction of the detaining authority that there was ample material to prove the detenu's complicity in the bank dacoity including sharing of the booty in spite of absence of his name in the FIR as one of the dacoits. On these facts, the order of detention passed in the present case on September 7, 1988 and its confirmation by the State Government on October 25, 1988 is clearly invalid since the same was made when the detenu was already in jail custody for the offence of bank dacoity with no prospect of his release. It does not satisfy the test indicated by the Constitution Bench in Rameshwar Shaw v. District Magistrate, Burdwan (AIR 1964 SC 334). We hold the detention order to be invalid for this reason alone and express no opinion on merits about the grounds of detention."*

5. The learned counsel for the petitioner submitted and the same was not disputed by the learned Special Government Pleader that though the detenu was granted bail in connection with three criminal cases, he has neither applied for, nor been granted bail in connection with Crime No.10 of 2017 of Chittoor – II Town Police Station, one of the crimes included in the grounds of detention.

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[1] (1989) 4 SCC 418

6. As respondent No.2 has not recorded his satisfaction that the detenu is likely to be released on bail, the impugned detention order, as confirmed by respondent No.1, vide G.O. Rt. No.1623, dt.25.07.2017, is set aside. The detenu is directed to be released from the detention forthwith, if he is not required in any other criminal case/cases.

7. The writ petition is accordingly allowed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

07-2-2018

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