

**THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

WRIT PETITION NO.39122 OF 2017

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present Writ Petition, the petitioner has challenged the order dated 04.04.2017, passed by the first respondent, in Ref.No.C1/61/M/2017, which was confirmed by the first respondent vide G.O.Rt.No.813, General Administration (Law & Order) Department, dated 12.04.2017, whereunder the petitioner has been detained.

2. Learned counsel for the petitioner submitted that in the grounds of detention, the detaining authority specifically stated that the detenu is a dreaded-notorious red sander wood thief and smuggler, and he has involved in ten different red sanders cases and arrested directly at the scene of offence in Crime No.316 of 2016 of Mydukur U/G Police Station; that thereafter, the detenu was produced before the Courts concerned through PT warrants in three cases i.e, (i) Crime No.1 of 2015 of Vontimitta Police Station, (ii) Crime No.102 of 2016 of Sidhout Police Station and (iii) Crime No.91 of 2016 of Lakkireddipalli Police Station and that the detenu did not change his attitude and continued smuggling of pristine red sander wood and did not show any respect for Forest and Wildlife Laws/Acts, which is prejudicial to the maintenance of 'public order'. The learned counsel further submitted that order under preventive detention

under Section 3(2) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-offenders, Goondas, Immoral Traffic Offenders and Land Gabbers Act, 1986 (Act No.1 of 1986) can be passed if the activities of the detenu are prejudicial to the maintenance of 'public order' as defined under Section 2(a) of the Act. He further submitted that the impugned order of detention is contrary to the provisions of the Act and passed without considering the material on record in proper perspective.

3. On the other hand, learned Government Pleader appearing on behalf of the State, fairly admitted that the detenu was arrested on 13.11.2016 in Crime No.316 of 2016 and remained in jail throughout. He submitted that at the time of passing the detention order, the detenu was ordered to be released in Crime No.316 of 2016, however, continued to be in judicial custody in other nine cases. He further submitted that based on the proposals submitted by the sponsoring authority, the detaining authority after recording his satisfaction with regard to the activities of the detenu, which are dangerous to the forest wealth and prejudicial to the maintenance of public order, by invoking the provisions of the Act, passed the impugned order of detention under Section 3(2) of the Act. With these submissions, he sought to dismiss the writ petition.

4. Learned counsel for the petitioner brought to our notice the similar issue in W.P.No.19245 of 2017, wherein the

detention order dated 19.04.2017 was set aside by this Court, vide order dated 15.11.2017. It is pertinent to mention that the petitioner in W.P.No.19245 of 2017 is one of the co-accused in Crime No.316 of 2016.

5. It is not in dispute that the detenu was arrested on 13.11.2016 and, thereafter, nine cases were imposed upon the detenu based on his confession statement. It is also not in dispute that thereafter only, in one case in Crime No.316 of 2016, the detenu was granted bail. With regard to other nine cases, the detenu neither moved any bail application nor was ordered to be released by the Court. Therefore, there was no occasion before the detaining authority to pass the detention order against the detenu. In addition to the above, it is specifically stated in the grounds of detention that the detenu did not change his attitude and continued smuggling of pristine red sander wood and did not show any respect for Forest and Wildlife Laws/Acts, which is prejudicial to the maintenance of 'public order'. It is not the case of the respondents that the detenu was coming out on bail and has been involving in similar activities. In view of the fact that the detenu was arrested on 13.11.2016 and remained in jail throughout, there was no question of his committing offences thereafter. It seems that the detaining authority, without going into the documents placed before it and, without application of mind, has passed the impugned detention order.

6. In view of the above, the Writ Petition is allowed. The impugned detention order dated 04.04.2017, passed by the first respondent in Ref.C1/61/M/2017, is set aside. Consequently, the Superintendent, Central Prison, Kadapa, YSR Kadapa District is directed to release the detenu forthwith, if not required in any other case. No costs. Miscellaneous petitions pending, if any, shall stand closed.

SURESH KUMAR KAIT, J

Date: 02-01-2018
TJMR

T.AMARNATH GOUD, J

