

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

Writ Petition No.41404 of 2017

DATED:07-03-2018

Between:

Yerram Shoba Rani ... Petitioner

And

The State of Telangana
Rep. by its Principal Secretary
to Government (Poll)
General Administration (Law & Order)
Department
Secretariat, Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. K. Rajasekhar

COUNSEL FOR THE RESPONDENTS: G.P. for Home (TS)

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 directing respondent No.3 to produce one Yerram Rajeshwara Rao (for short, "the alleged detenu") after setting aside Proceedings No.C3/3785/2017, dt.24-08-2017, as confirmed vide G.O. Rt. No.2321, dt.08.11.2017.

2. A perusal of the impugned detention order shows that four crimes have been registered against the detenu. Out of these, Crime Nos.158 of 2017, 159 of 2017 and 160 of 2017 were registered on the same day, i.e., on 02.05.2017 with a gap of 10 to 15 minutes between them. The fourth and the last crime, being Crime No.254 of 2017 was registered on 06.7.2017. The detenu was granted bail in the said crime and was released on bail on 15.07.2017, though no such bail was granted in the other three crimes referred to above. Be that as it may, about five weeks after his release on bail, the detenu has surrendered himself before the Judicial Magistrate of First Class, Kalwakurthy, on 21.08.2017 and continued to be in judicial custody. Thereafter, the impugned detention order has been passed on 24.08.2017. In the said order, respondent No.2 *inter alia* stated as under:

"You have been coming out on Bail and repeating the offence knowingly supplying black jaggery for ID manufacturing. It is brought to my notice that you have moved the Bail petition and I have apprehension that on coming out on Bail you would resort to your past habits of supplying black jaggery for ID manufacturing which is potentially harmful for human health and thus disturbs the public order."

3. The learned counsel for the detenu submitted that the above reproduced detention order suffers from total non-application of mind, in that, after the detenu was released on bail on 15.07.2017, he has not committed any offence and that therefore the statement that the detenu has been coming out on bail and repeating the offence knowingly supplying black jaggery, is far from the truth. The learned Government Pleader for Home (TS) has not disputed the fact that the only time when the detenu was released on bail was on 15.07.2017 and that before he surrendered himself before the Judicial Magistrate of First Class, Kalwakurthy on 21.08.2017, no further crime was committed. In the light of this undisputed fact, the impugned detention order suffers from serious non-application of mind and therefore the same is not sustainable.

4. For the aforementioned reasons, the impugned detention order, as confirmed vide G.O. Rt. No.2321, dt.08.11.2017, is set aside. The detenu is directed to be released from the detention forthwith, if he is not required in any other case.

5. The writ petition is accordingly allowed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

07-3-2018

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