

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice A.Rajasheker Reddy

W.P. No.9625 of 2019

Date: 30-04-2019

Between:

S. Rangaiah

...Petitioner

and

The Superintendent
Central Prison, Chenchalguda,
Hyderabad and another

...Respondents

Counsel for the petitioner: Mr. P. Shashi Kiran

Counsel for the respondents: AGP for Home

The Court made the following:

Order: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The petitioner, Mr. S. Rangaiah, filed this Habeas Corpus petition with regard to the illegal detention of his son, namely Surappagari Sampath Kumar, by the Superintendent, Central Prison, Chenchalguda, Hyderabad, the respondent No.1.

Briefly the facts of the case are that, according to the petitioner, his son, Surappagari Sampath Kumar (hereinafter referred as 'the *detenu*'), was falsely implicated in three criminal cases, registered as FIR No.63 of 2019 (originally registered as FIR No.42 of 2019) on 16-03-2019, FIR No.65 of 2019 on 20-03-2019, and FIR No.46 of 2019 on 09-03-2019. While the first two FIRs were registered by the Central Crime Station, Hyderabad, the last FIR was registered by the Chaderghat Police Station. All these FIRs relate to the offences under Sections 170, 419, 420, 406 and 471 IPC.

Admittedly, the *detenu* was remanded to the judicial custody on 11-03-2019. During the course of his detention, he had filed bail applications in all the three criminal cases.

The bail applications were duly allowed by the concerned trial court by orders dated 22-04-2019 and 23-04-2019. The bail orders were duly served upon the respondents on the same day. However, despite service of the release orders, the petitioner claims that his son, the *detenu*, is being illegally detained by the respondents. Hence, this Habeas Corpus petition before this Court.

Mr. P. Shashi Kiran, the learned counsel for the petitioner, has reiterated the facts mentioned hereinabove, and has vehemently argued that the detention of the *detenu* in the Central Prison is an illegal one.

However, the learned Government Pleader submits that the *detenu* is also wanted in another criminal case, namely FIR.No.41 of 2019 registered at P.S. Crime Branch, New Delhi, for the offences under Sections 420, 406, 506 and 120B of IPC. Already a warrant of arrest has been issued by the Delhi Police. Since the learned trial court at New Delhi had directed that the *detenu* be produced before it on 08-05-2019, he cannot be released till then. It is imperative to detain the *detenu* in the Central Prison at Hyderabad.

Hence, his detention in the Central Prison is not an illegal one, but is in accordance with law.

Heard the learned counsel for the parties.

The position being taken by the learned Government Pleader is clearly unjustified. For, even if there is a warrant of arrest against the *detenu*, the same needs to be executed upon him, once he is set at liberty by the Central Prison at Hyderabad. The *detenu* cannot be detained till 08-05-2019, without first setting him at liberty, and without execution of the arrest warrant. To detain him till 08-05-2019, despite the release order issued by the learned trial court, would certainly tantamount to illegal detention of the *detenu*. Therefore, the State is directed to first release the *detenu* from the Central Prison, and immediately thereafter, to execute the warrant of arrest issued by the Court at Delhi, if need be.

Hence, this Court directs that the *detenu*, Mr. Surappagari Sampath Kumar, S/o. S. Rangaiah, should be released forthwith from the Central Prison, Chanchalguda, Hyderabad.

However, it is hereby clarified that the investigating agency shall be free to take its lawful and legal steps against the *detenu* strictly in accordance with law.

The writ petition is, accordingly, allowed.

As a sequel, miscellaneous petitions, pending if any, stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(A.Rajasheker Reddy, J)

Dt: 30th April, 2019

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