

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WRIT PETITION No.40458 of 2018

ORDER: *(per the Hon'ble Sri Justice A. Rajasheker Reddy)*

Heard learned counsel for parties.

2. This Writ Petition is filed for following relief:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Habeas Corpus, directing the 3rd respondent to produce the detenu viz., Ahmed Bin Gumesh Al Jabri @ Ahmed Jabri now detained in Central Prison, Chanchalguda, Hyderabad, before this Hon'ble Court and order for his release after declaring the detention order passed by the 2nd respondent dt. 30.05.2018 vide Procs. S.B. (I) No.70/PD-2/HYD/2018 under sub section (2) of Section 3 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No.1 of 1986) as approved by the 1st respondent vide G.O.Rt.No.1492 General Administration (Spl. Law and Order) Department dated 30.07.2018, as being illegal, arbitrary, unilateral and unconstitutional and violative of Articles 21 and 22 of the Constitution of India and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.”

3. The case of petitioner is that detenu, Ahmed Bin Gurnesh Al Jabri @ Ahmed Jabri, is her husband and is in illegal judicial custody without any notice and kept in Central Prison, Chanchalguda; that later, supplied detention order bearing proceedings No.70/PD-2/HYD/2018 dated 30.05.2018 under Section 3(2) read with 2(g) of Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act'); that aforesaid detention order was initially approved by Government vide G.O.Rt.No.595 dated 27.03.2018 and that detention order was issued by referring to seven (7) incidents i.e., (i) Cr.No.190 of 2013 under Section 382 IPC; (ii) Cr.No.11/2014 under Section 382 IPC; (iii) Cr.No.51/2016 under Sections 435 and 506 IPC; (iv) Cr.No.67/2018 under Section 324 and 506 IPC; (v) Cr.No.448 of 2016 under Section 392 IPC; (vi) Cr.No.279 of 2017 under Section 324 IPC and (vii) Cr.No.112 of 2018 under Section 395 IPC.

4. Learned counsel for petitioner contends that there is no evidence to show that detenu is involved in any crime; that detention order is passed basing on grounds, which are having no nexus; that no material was placed before the detaining authority

nor supplied to the detenu; that detaining authority failed to verify the records placed before him and that there is no application of mind by detaining authority while passing impugned detention order.

5. Respondent No.2 filed a counter-affidavit, a perusal of which goes to show that entire material supplied to detenu was relied upon by detaining authority, as such, contention of learned counsel for petitioner that there is no application of mind by detaining authority particularly with regard to material evidence is not correct as same cannot be a ground for invalidating detention order; that truth or otherwise of allegations cannot be gone into while passing detention order; that detaining authority having referred to involvement of detenu in alleged crimes and material placed to that effect satisfied that activities of detenu are prejudicial in nature and detrimental to public order and unless he is prevented from doing so, he would likely to indulge in similar prejudicial activities; that detaining authority considered the effect of release orders in all the crimes and that detenu is making all efforts to move bail applications in regard to Crime Nos.67 and 112 of 2018 for release.

6. It is to be seen from impugned detention order that detaining authority considered the aspect of detenu's involvement

in alleged crimes and in the grounds of detention, he clearly stated the modus operandi adopted by detenu in committing the crimes and relied on the evidence so as to link detenu with alleged crimes, as such, it cannot be said that there is no material evidence before detaining authority to show that detenu is involved in the said crimes.

7. Learned counsel for petitioner produced a copy of bail order dated 05.07.2018 and stated that detenu was released on bail subject to conditions mentioned therein, as such, his continued detention by virtue of impugned detention order cannot be accepted.

8. From a perusal of aforesaid bail order, it is evident that detenu was granted bail subsequent to impugned detention order. Therefore, contention of learned counsel for petitioner to that effect cannot be sustained.

9. So far as serving of detention order on detenu is concerned, detention order was passed on 30.05.2018 and his mother, Smt. Ayesha Jabri, was served with detention intimation by Inspector of Police, Chandrayangutta Police Station, stating that her son, alleged detenu, was detained in Central Prison, Chanchalguda, on

31.05.2018, under acknowledgment, as evident from detention intimation dated 31.05.2018.

10. So far as contention of petitioner that there is no nexus between crimes registered against detenu and grounds, basing on which, detention order was passed, and alleged detenu would not come under Section 2(g) of the Act is concerned, it is to be seen that considering the involvement of detenu in three crimes i.e., Crime Nos.279 of 2017; 112 and 67 of 2018, detaining authority with a view to prevent detenu from acting in a prejudicial manner so as to maintain public order as his activities are causing large scale panic and insecurity in the minds of general public and having satisfied that cases registered against him under ordinary law would not have any desired effect in curbing his prejudicial activities, passed impugned detention order with a view to prevent detenu from further indulging in such activities.

11. In **Collector & District Magistrate v. Sangala Kondamma**¹, as relied upon by learned Government Pleader, Apex Court held as follows:

“We notice from the preamble and statements and objects of the Act that it aims to prevent a person from indulging in certain illegal activities enumerated therein by his preventive detention.

¹ 2005(3) SCC 666

For the said purpose, the detaining authority must be satisfied that the proposed detenu is likely to indulge in such illegal activities in future also. This is a satisfaction that could be reasonably arrived at by the detaining authority only by examining the material that is produced by the authority proposing his detention. In such a process, a detaining authority may not always take into consideration a stray or solitary incident which may not give rise to a reasonable apprehension or satisfaction as to such future act of the proposed detenu. Therefore, it is necessary for the authority proposing the detention of a person under the Act to produce such material which shows the continuous previous illegal activities of the proposed detenu which would satisfy the detaining authority of the need for detaining such a person. In other words, the material produced by the authority proposing the detention should form a chain of incidents last of which will have to be proximate to the date of proposed detention while other acts must be proximate to each other. Thus, if the facts placed before the detaining authority are proximate to each other and the last of the fact mentioned in proximate to the order of detention, then the early incidents cannot be treated as stale and detention order cannot be set aside. In the instant case, it is seen that between the period from 10.1.2001 and 25.10.2002 the detenu was involved in five incidents of bootlegging which are reasonably proximate to each other and the last of the incidents being proximate to the order of detention, we think the High Court was not justified in treating the two incidents of 17.1.2000 and 10.1.2001 as stale by taking them in isolation. In our opinion, the Court should have considered the proximity of the incidents between themselves which indicates the possibility of the proposed detenu continuing to indulge in the illegal activities which requires his preventive detention. In the present case, as

noticed above, the five incidents recorded in the order of detention being proximate enough to each other shows the continuity of the acts of the detenu. In such a fact situation, we think the High Court erred in coming to the conclusion that two of the five grounds being not proximate to the order of detention and the order of detention was based on stale grounds. While it can be stated that the incidents of 17.1.2000 and 10.1.2001 could not by themselves have been sufficient grounds to detain the detenu but would certainly become a relevant material along with other three grounds dated 3.2.2002, 6.10.2002 and 25.10.2002 to come to the conclusion that there is a need for detaining the detenu to prevent him from indulging in similar activities in the future.”

12. So far as the contention of learned counsel for petitioner that documents are not supplied in vernacular language is concerned, no reply affidavit is filed rebutting the averments made in counter-affidavit that documents are supplied, as such, said contention has no legs to stand. In so far as contention of learned counsel for petitioner that detenu is not convicted nor final reports were filed in any of cases referred to in detention order is concerned, non-filing of final report nor conviction in criminal case would not disentitle the detaining authority in passing detention order against detenu. It is to be noted that subjective satisfaction arrived at by detaining authority cannot be interfered with by this Court while exercising power under

Article 226 of Constitution of India (See **Subramanian v. State of Tamilnadu**²).

13. In view of aforesaid facts and circumstances, this Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 01.04.2019

A. RAJASHEKER REDDY, J

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² 2012(4) SCC 699