

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.43969 OF 2018

ORDER: (Per Hon'ble Sri Justice A.Rajasheker Reddy)

This Writ Petition is filed for issue of Habeas Corpus directing the respondents to release the petitioner's son viz., Rajarapu Pranay Rahul @ Rahul @ Madhu (for short 'the detenu') from detention after quashing the detention order passed by respondent No.2 vide SB(I) No.184/PD-6/HYD/2018, dated 17-11-2018 under Sub-section (2) of Section 3 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertilizer Offenders, Food Adulteration Offenders, Forest Offenders, Gaming Offenders, Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and While Collar or Financial Offenders Act 1986 (Act No.1 of 1986) (for short 'the Act of 1986').

2. The petitioner is the father of the detenu. Since the detenu was involved in several offences, the detaining authority i.e., 2nd respondent-Commissioner of Police, after having satisfied with the material placed before him, passed detention order on 17.11.2018 holding the detenu to be a 'While Collar Offender' noticing his

involvement in several criminal cases. Aggrieved by the same, the petitioner herein filed the present habeas corpus petition before this Court.

3. Counter affidavit is filed by the 2nd respondent denying the averments in the affidavit filed in support of the Writ Petition and justified the reasons for passing detention order against detenu.

4. We have heard Sri Challa Dhanamjaya, learned counsel for the petitioner and learned Government Pleader for Home appearing for respondents.

5. Learned counsel for the petitioner after taking us through the detention order dated 17.11.2018, submitted that the detaining authority has not made out a case for arriving at subjective satisfaction and that no material is placed before the detaining authority for passing preventive detention order against detenu. He further submitted that though the detenu was enlarged on conditional bails, without considering the said aspect, the detention order was passed, which is illegal. In support of his contention, he relied on the judgment of this Court in WP No.38082 of 2018, dated 18.02.2019. He further submitted that none of the offences alleged against detenu will come under the definition of Section 2(x) of the Act 1 of 1986.

6. On the other hand, learned Government Pleader for Home appearing for respondents while taking us through the grounds of detention, submitted that the detenu involved in six cases, out of

which, only three cases registered during the year 2018 were considered as grounds of his detention. He submitted that the cases registered against him would show that he is a habitual offender. He further submitted that he has been committing offences, which are creating fear and panic among the general public and that the detenu is acting in a manner prejudicial to the public order, as such, the 2nd respondent, considering the gravity and nature of offences committed by the detenu, rightly passed order of detention on 17.11.2018.

7. Before considering the rival contentions of both parties, it is relevant to refer the definition of 'White Collar Offender' as described in the Act of 1986.

“2 (x) “White collar offender” or “Financial Offender” means a person who commits or abets the commission of offences punishable under the Telangana Protection of Depositors of Financial Establishment Act, 1999 or under sections 406 to 409 or 417 to 420 or under Chapter XVIII of the Indian Penal Code, 1860].”

8. The Act of 1986 was enacted by the State in order to prevent certain persons from dangerous activities which are prejudicial to the maintenance of public order.

9. We have carefully considered all the relevant materials and considered rival contentions. With regard to the first submission that no case is made out for arriving at subjective satisfaction by the detaining authority for preventive detention of detenu by invoking the provisions of the Act of 1986, is contrary to the facts and equally untenable in view of the material placed before us. A perusal of the

impugned detention order dated 17.11.2018 passed by the 2nd respondent goes to show that the detainee is a habitually committing offences of cheating in an organized manner promising employment to the unemployed youth in State Bank of India, Railways and Income Tax Department in the limits of Hyderabad Police Commissionerate, as such he is a 'White Collar Offender' under Section 2(x) of the Act 1 of 1986. The detainee has committed six offences i.e., 1) Cr.No.324/2018 under Sections 406, 420 r/w 34 IPC of Kushaiguda Police Station of Rachakonda Police Commissionerate; 2) Cr.No.247/2018 under Section 420, 406 IPC of Sanath Nagar Police Station of Cyberabad Police Commissionerate; 3) Cr.No.113/2018 under Section 420 IPC of Abid Road Police Station of Hyderabad Police Commissionerate; 4) Cr.No.344/2018 under Sections 420, 406 IPC of SR Nagar Police Station; 5) Cr.No.442/2018 under Section 420, 406, 468 IPC of Banjara Hills Police Station and 6) Cr.No.174/2018 under Section 420, 406 IPC of Saidabad Police Station of Hyderabad Police Commissionerate were registered against the detainee, out of which, the last three cases were taken into consideration while passing the impugned detention order on the allegation that the detainee along with his associates were involved in cheating innocent unemployed youth on the pretext of providing them employment in SBI, Railways and Income Tax Departments and collected huge amounts, issued fake appointment letters to them and thus cheated them in an organized manner and shared the money collected from them. The detainee along with associates were arrested

on 22.05.2018 and his arrest was regularized in other cases thorough PT warrant. The detaining authority has considered each crime registered against detainee, his *modus operandi* and linked the evidence against him to the crimes, besides recovering material objects viz., laptop, cell phones, cash, gold ornaments, copies of fake appointment orders of State Bank of India, Income Tax Department from the possession of the detainee. The detainee in his confessional statement has admitted to have committed the offences and based on his confessional statement, material objects were recovered under the cover of confession-cum-panchanama. The detaining authority, basing on the cogent material placed before it by sponsoring authority and after taking into consideration the involvement of detainee in these offences, arrived at subjective satisfaction for passing order of detention. The order of 2nd respondent further shows that there is a compelling necessity to detain him in order to prevent him indulging in such activities in future which are prejudicial to the maintenance of public order. Therefore, the submissions of the learned counsel that there is no material before detaining authority to come to the subjective satisfaction that the detainee is a 'White Collar Offender' within the meaning of Section 2(x) of the Act, and that his activities are not prejudicially affecting the maintenance of public order, within the meaning of Section 2(a) of the Act, does not merit consideration.

10. It is well settled law that the court does not interfere with the subjective satisfaction reached by the detaining authority except in

exceptional and extremely limited grounds. The court cannot substitute its own opinion for that of the detaining authority when the grounds of detention are precise, pertinent, proximate and relevant, that sufficiency of grounds is not for the court but for the detaining authority for the formation of subjective satisfaction that the detention of a person with a view to preventing him from acting in any manner prejudicial to public order is required and that such satisfaction is subjective and not objective. The object of the law of preventive detention is not punitive but only preventive and further that the action of the executive in detaining a person being only precautionary, normally, the matter has necessarily to be left to the discretion of the executive authority. It is not practicable to lay down objective rules of conduct in an exhaustive manner. The satisfaction of the detaining authority, therefore, is considered to be of primary importance with certain latitude in the exercise of its discretion. (See **Subramanian v. State of Tamil Nadu**¹)

11. It is next contended by the learned counsel for the petitioner that though the detenue was granted conditional bails, the same was not considered by the detaining authority while passing the impugned detention order, as such, the same is liable to be set aside. In the detention order, it is specifically stated that detenue was released on conditional bails in all the cases except in two case vide Cr.Nos.113/2018 of Abid Road Police Station and Cr.No.324/2018 of

¹ (2012) 4 Supreme Court Cases 699

Kushaiguda Police Station, for which, bails were granted without any condition. Therefore, it is apprehended that the accused may violate bail conditions and there is an imminent possibility of his indulging in similar prejudicial activities which are detrimental to public order, unless he is prevented from indulging in such activities, by an appropriate order of detention. In this case, the detaining authority while passing the order of detention is aware of the bail conditions and the same is reflected in the detention order, as such, the judgment relied on by the learned counsel for the petitioner in WP No.38082 of 2018 is not applicable to the facts and circumstances of this case.

12. In **Haradhan Saha v. The State of West Bengal**², the Hon'ble Supreme Court held as follows:

“The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. The, basis of detention is the satisfaction of the executive of a reasonable probability of the likelihood of the detenu acting in a manner similar to his past acts and preventing him by detention from doing the same. A criminal conviction on the other hand is for an act already done which can only be possible by a trial and legal evidence. There is no parallel between prosecution in a Court of law and a detention order under the Act. One is a punitive action and the other is a preventive act. In one, case a person is punished to prove his guilt and the standard is proof beyond reasonable doubt whereas in preventive detention a man is prevented from doing something which it is necessary for reasons mentioned in [section 3](#) of the Act to prevent.”

In view of above facts and circumstances, we are not inclined to interfere with the order of detention passed by the 2nd respondent, by exercising power of judicial review under Article 226 of the Constitution of India.

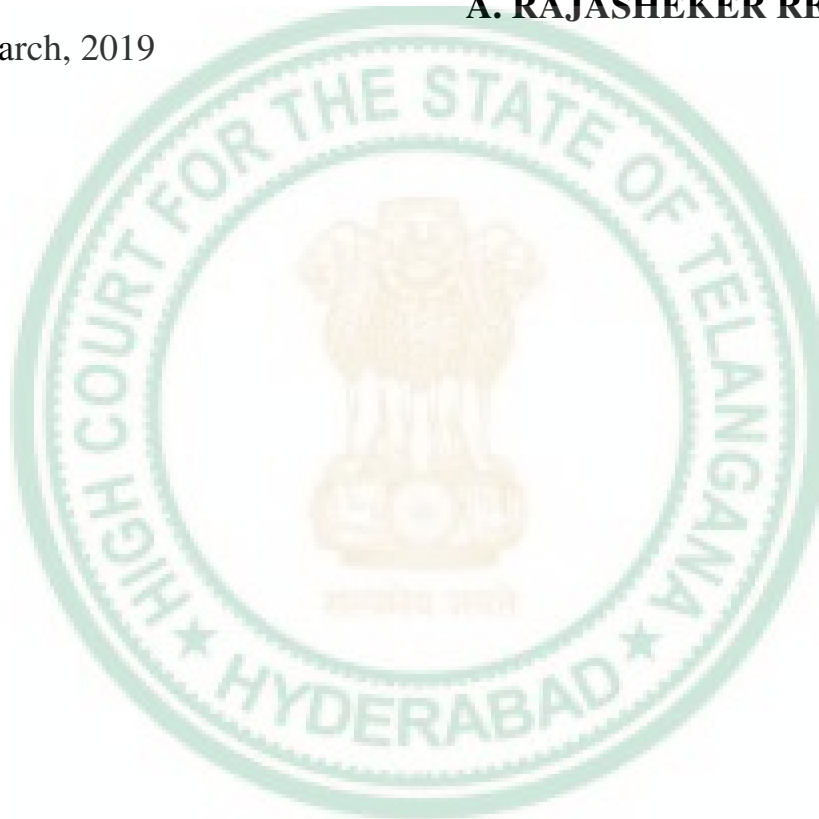
² (1975) 3 SCC 198

Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

25th March, 2019
kvs



**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

P.D Judgment for Lordship's kind perusal

WRIT PETITION No.43969 OF 2018

(per Hon'ble Sri Justice A.Rajasheker Reddy)

Date: 25th March, 2019

kvs

