

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

**THE HONOURABLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI**

WRIT PETITION NO: 4435 OF 2022

Between:

Wahid Khan Gaffar Khan, S/o. Gaffar Khan, aged 32 years, Occ; Tiles Mason, R/o.
Near Wahed Masjid, Ansar Nagar, Maharastra 444601.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary. General Administration (Spl. (Law and Order) Department, Secretariat, Hyderabad.
2. The Commissioner of Police and Addl District Magistrate (Executive), Warangal District.
3. The Superintendent, Central Prison Cherlapally, Medchal - Malkajgiri District.

...RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Habeas Corpus, directing 3rd Respondent to produce the detainee i.e. Aijaz Khan Gaffar Khan now detained in Central Prison Cherlapally, Medchal - Malkajgiri District before this Honorable Court and set-aside the impugned detention order passed by the 2nd Respondent vide C.No. 596/WRC/CSB-XI/2021, dt. 10/11/2021 and approved by the 1st Respondent as being illegal, arbitrary, improper, unilateral, unconstitutional and violative of Article 21 and 22 of the Constitution of India, and to forthwith release the Detenuue.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit me to amend the prayer in the main writ affidavit, by removing words "approved" and by adding words as "confirmation Order vide G.O.Rt. No. 277. dated 03-02-2022 passed" in its place, in the interest of justice

Counsel for the Petitioner : SRI PASHAM TRIVIKRAM REDDY

Counsel for the Respondents : AGP for HOME rep. ADVOCATE GENERAL

The Court made the following Order:

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI
WRIT PETITION No.4435 OF 2022**

ORDER: (Per Hon'ble Dr. Justice Shameem Akther)

Mr. Wahid Khan Gaffar Khan, the petitioner, has filed this Habeas Corpus petition on behalf of his brother, Aijaz Khan Gaffar Khan, the detenu, challenging the detention order vide C.No.596/WRC/CSB-XI/2021, dated 10.11.2021, passed by the respondent No.2-Commissioner of Police, Warangal, whereby, the detenu was detained under Section 3(2) of the Telangana Preventive Detention Act, 1986 (Act 1 of 1986), and the consequential confirmation order vide G.O.Rt.No.277, General Administration (Spl. (Law & Order)) Department, dated 03.02.2022, passed by the respondent No.1-Principal Secretary to Government, General Administration (Spl. (Law & Order)) Department, Government of Telangana.

2. Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Home representing the learned Advocate General appearing for the respondents and perused the record.

3. Learned counsel for the petitioner would submit that the impugned detention order was passed by relying on a recent solitary crime registered against the *detenu* viz., Crime No.102 of 2021 of Mamnoor Police Station, Warangal City, registered for the offence under Section 8(c) read with 20 (b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act'). The total quantity of ganja alleged to have been seized from the possession of the accused in the said crime is 47 Kgs. The *detenu* is A1 in the said crime. The respondent No.2 also passed detention orders against A2 to A4 in the said crime and the same were confirmed by the Government. Challenging the said orders, A2 to A4 filed W.P.Nos.4457, 4443 and 4440 of 2022 and this Court, after examining the contentions raised by both the sides, *vide* common order, dated 28.04.2022, allowed the said Writ Petitions by setting aside the detention orders as well as the confirmation orders passed against A2 to A4 and ultimately, prayed to set aside the impugned detention order and the consequential confirmation order passed against the *detenu*.

4. Learned Assistant Government Pleader for Home did not dispute the submission made by the learned counsel for the petitioner.

5. As seen from the material placed on record and the submissions made, it is clear that the detention orders passed against A2 to A4 in the said Crime No.102 of 2021 of Mamnoor Police Station, Warangal City, were already set aside by this Court vide common order, dated 28.04.2022, passed in W.P.Nos.4457, 4443 and 4440 of 2022. Moreover, the impugned detention order was passed without adhering to the requirements/mandate given under Section 3(2) of the Telangana Act 1 of 1986 and by relying only on one crime registered for the offence punishable under Section 8(c) read with 20 (b) (ii) of the NDPS Act, which do not add up to disturbing the public order and it is only a law and order problem. Under these circumstances and since the facts and circumstances of the present case are akin to the facts and circumstances in W.P.Nos.4457, 4443 and 4440 of 2022, the impugned orders are liable to be set aside.

6. In the result, the Writ Petition is allowed. The impugned detention order vide C.No.596/WRC/CSB-XI/2021, dated 10.11.2021, passed by the respondent No.2, and the consequential confirmation order vide G.O.Rt.No.277, General Administration (Spl. (Law & Order)) Department, dated

03.02.2022, passed by the respondent No.1, are hereby set aside. The respondents are directed to set the *detenu*, namely Aijaz Khan Gaffar Khan, S/o. Gaffar Khan, at liberty forthwith, if he is no longer required in any other criminal case.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

SD/-K.ONESMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, General Administration (Spl. (Law and Order) Department, Secretariat, State of Telangana at Hyderabad.
2. The Commissioner of Police and Addl District Magistrate (Executive), Warangal District.
3. The Superintendent, Central Prison Cherlapally, Medchal - Malkajgiri District.
4. Two CC to Advocate General, High Court for the State of Telangana at Hyderabad. (OUT)
5. Two CCs to the GP for Home, High Court for the State of Telangana [OUT]
6. One CC to SRI.PASHAM TRIVIKRAM REDDY, Advocate [OPUC]
7. Two CD Copies
8. One spare copy

MRC



HIGH COURT

DATED:06/06/2022

ORDER

WP.No.4435 of 2022



ALLOWING THE W.P
WITHOUT COSTS.

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MMA
18/8/2022