

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

**TUESDAY, THE SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 15809 OF 2016

Between:

Smt. Malyala Sujatha, w/o Malyala Sadanandam, aged about 34 years, occ:
Housewife & Kirana Business, R/o. 6083/A, Sai Nagar, Narsampet, Warangal
District.

...PETITIONER

AND

1. The State of Telangana,, rep. by its Principal Secretary, Home Department,
Secretariat, Hyderabad.
2. The Executive Magistrate and Tahsildar, Narsampet Mandal, Warangal
District.
3. The Station Hosue Officer,, Narsampet Proh. and Excise Station, Warangal
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 Mandamus, declaring the action of the 2nd respondent in
issuing the Warrant in M.C.No. 134/2016 dt. 22-4-2016 directing to 3rd respondent
to take the husband of the petitioner viz., Malyala Sadanandam into custody
alleging breach of conditions of bond executed on 5-12-2015 and non-payment of
the security amount of Rs. 1,00,000/- and to send him to prison until such bond
period expires is highly arbitrary, bad and illegal.

WPMP. NO: 19541 OF 2016

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 pass
orders directing the 2nd respondent to issue orders for release of the husband of
the petitioner viz., Malyala Sadanandam who is presently lodged in Central Prison,

Warangal, by suspending the Warrant issued by the 2nd respondent in M.C.No. 134/2016 dt. 22-4-2016, pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI BABUJI TENNETI

Counsel for Respondent No.1: GP FOR HOME

Counsel for Respondent No.2: GP FOR REVENUE

Counsel for Respondent No.3: GP FOR PROHIBITION & EXCISE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.15809 of 2016

ORDER:

This Writ Petition is filed for issuance of a *Writ of Mandamus* to declare the action of the 2nd respondent in issuing the warrant in M.C.No.134 of 2016 dt.22.04.2016 directing the 3rd respondent to take the husband of the petitioner, namely Malyala Sadanandam, into custody, alleging breach of conditions of bond executed on 05.12.2015 and non-payment of security amount of Rs.1,00,000/- and to send him to prison until such bond period expires, as highly arbitrary, bad and illegal and with consequential relief.

2. Heard learned counsel for the petitioner and learned Government Pleaders appearing for the respondents.

3. This Court, by interim order, dt.29.04.2016, passed in W.P.M.P.No.19541 of 2016, directed release of the petitioner's husband, pending disposal of the writ petition. Thus, the husband of the petitioner, who is said to have committed breach of bond, is a free citizen today.

4. Insofar as challenge to the impugned proceeding is concerned, learned counsel for the petitioner as well as learned Government Pleader appearing for the respondents would submit that the issue is

no longer *res integra*, in view of the order of this Court in W.P.No.9363 of 2016, dt.21.03.2016, wherein, this Court had held as under:

"The impugned notice reflects that after being bound over, the said Mateti Raju was implicated in COR No.57/2016 in relation to an offence under Section 7(A) read with Section 8(e) of the A.P. Prohibition Act, 1995. Owing to his alleged involvement in the said offence, the second respondent concluded that he committed breach of the bond furnished by him under Section 110 Cr.P.C.

This Court is of the opinion that mere arraignment in an offence cannot be taken to be a conviction whereby it could be said that the accused had committed a breach of the bond furnished by him for maintaining good behaviour.

Thus, on this count, the impugned notice dated 27.02.2016 is unsustainable and is therefore set aside. As a consequence, the detention of Mateti Raju owing to the failure to pay the amount of penalty would also be rendered illegal."

5. By the above said order, this Court observed that the invocation of bond without issuing a notice or without mentioning the alleged breach committed by the executant of the bond cannot be sustained and that the respondent authorities cannot seek to enforce such bond.
6. In the facts of the present case also, the respondents did not put the husband of the petitioner, who is the executant of the bond, of which, the alleged breach committed by him warranting action, on

notice. On the other hand, the 2nd respondent has straight away proceeded to issue the impugned proceeding along with Form 16, whereby the husband of the petitioner was detained and sent for judicial custody.

7. In view of the order of this Court passed in W.P.No.9363 of 2016 dt.21.03.2016, holding that the notice of breach of bond is required to be given, and for the reasons alike as were stated therein, the impugned proceeding issued by the 2nd respondent cannot be sustained and the same is liable to be set aside.

8. Accordingly, the Writ Petition is allowed and the impugned warrant in M.C.No.134 of 2016 dt.22.04.2016, issued by the 2nd respondent, is set aside.

9. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

SDI-MOHD.SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad.
2. The Executive Magistrate and Tahsildar, Narsampet Mandal, Warangal District.
3. The Station House Officer, Narsampet Proh. and Excise Station, Warangal District.
4. Two CCs to the GP for Home, High Court for the State of Telangana [OUT]
5. Two CCs to the GP for Revenue, High Court for the State of Telangana [OUT]
6. Two CCs to the GP for Prohibition & Excise, High Court for the State of Telangana [OUT]
7. One CC to SRI BABUJI TENNETI, Advocate [OPUC]
8. Two C.D. Copies.
9. One Spare Copy.

MRC
BS



HIGH COURT

DATED:06/09/2022



ORDER

WP.No.15809 of 2016

ALLOWING THE WRIT PETITION
WITHOUT COSTS

13
MBL
12/12/22