

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

MONDAY, THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO: 32794 OF 2022

Between:

Smt. B.Suguna, W/o Thirupathi, aged 35 years, Occ : Housewife, R/o Boinpet village
Manthani Mandal, Peddapalli District.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Revenue (Excise Department), Secretariat, Hyderabad.
2. The Tahsildar and Executive Magistrate, Manthani Mandal, Peddapalli District.
3. The Station House Officer, Manthani Proh. and Excise Station, Peddapalli District.
4. The Superintendent, District Jail, Karimnagar.

...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. C/03/2022 dt. 27-4-2022 directing to 3rd respondent to take the husband of the petitioner viz., Boggula Thirupathi 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, and consequently set aside the same.

I.A.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 pass orders directing the 2nd respondent to issue orders for release of the husband of the petitioner viz., Boggula Thirupathi who is presently lodged in District Jail, Karimnagar, by suspending the Warrant issued by the 2nd respondent in M.C.No. C/03/2022 dt., 27-4-2022, pending disposal of the main writ petition.

Counsel for the Petitioner : SRI.N.HARI PRASAD

Counsel for the Respondents : GP FOR REVENUE / G.P FOR PROH AND EXCISE

The Court made the following ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.32794 of 2022

ORDER:

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue and learned Government Pleader for Prohibition and Excise.

2. This writ petition is filed by the petitioner on behalf of her husband, who is a coolie by profession. On 04.04.2022 he was made to execute a bond of good behaviour for an amount of Rs.1,00,000/-.

3. While so, on 27.04.2022, a notice for forfeiture of bond of good behaviour was issued by respondent No.2 alleging that the husband of the petitioner committed breach of bond by involving in an offence under the provisions of the Prohibition and Excise Act, 1955. The basis of the said notice is letter addressed by the Prohibition and Excise Station, Peddapalli District.

4. From a reading of the impugned notice/warrant, it is seen that no prior opportunity was given to the husband of the petitioner to explain his stand before ordering forfeiture of the amount furnished by him earlier. That apart, the reason

assigned for forfeiture is alleged involvement of the husband of the petitioner in a crime.

5. Mere involvement in a crime would not itself constitute breach of bond furnished by the husband of the petitioner as it cannot be treated on par with conviction. Thus, on both counts, i.e., on facts and in law, the impugned notice/warrant dated 27.04.2022 is unsustainable.

6. Accordingly, the impugned notice/warrant is set aside and the writ petition is allowed. Respondent No.4 is directed to forthwith release the husband of the petitioner from the District Jail, Karimnagar.

7. However, it is made clear that this order would not preclude the authorities to proceed with the matter in future in accordance with law, if warrants.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

//TRUE COPY//

SD/-T.SRINIVAS
DEPUTY REGISTRAR


SECTION OFFICER

To

1. The Principal Secretary, Revenue (Excise Department), Secretariat, State of Telangana at Hyderabad.
2. The Tahsildar and Executive Magistrate, Manthani Mandal, Peddapalli District.
3. The Station House Officer, Manthani Proh. and Excise Station, Peddapalli District.
4. The Superintendent, District Jail, Karimnagar.
5. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CCs to GP FOR PROHIBITION AND EXCISE, High Court for the State of Telangana at Hyderabad. [OUT]
7. One CC to SRI.N.HARI PRASAD, Advocate [OPUC]
8. Two CC Copies

HIGH COURT

DATED:22/08/2022

ORDER

WP.No.32794 of 2022



ALLOWING THE W.P
WITHOUT COSTS.

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KMA
25/8/2022