APHC010332012026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

TUESDAY, THE 3rd DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 17519 OF 2026

Between:

1. MARRI HARI, S/o.Eshwar Reddy, Aged about 19 years, R/o.Ghandi Nagar, Perala, Chirala Mandal, Bapatla District

...Petitioner

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Principal Secretary, Revenue (Excise.II) Department Secretariat, Guntur District.

2. The Superintendent of Police, Bapatla, Bapatla District.

3. The Superintendent, Central Prison, Raj amahendravaram, East Godavari 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 topleased to issue a writ, order or direction more particularly one in the nature of writ of Habeas Corpus directing the Respondents to produce the mother of the Petitioner i.e., Smt.Marri @ Itta Parameswari W/o.Eshwar @ Eshwar Reddy, aged about 36 years, R/o.Ujilipeta, Perala, Chirala Mandal, now resident of Ghandi Nagar, Perala, Chirala Mandal, Bapatla District before this HonlDle Court and set her at liberty by setting aside the Impugned

Detention Order in G.O.RTNo.874, Revenue (Excise.II) Department,dated 27.05.2026 and consequential G.O.Rt.No.1191 Dated 10-07-2026 issued by the 1st Respondent by declaring that the said Detention orders as arbitrary, illegal and violation of Article 22 of the Constitution of India in the interest of justice. MAIN PRAYER WAS AMENDED AS PER C.O.DT.10/08/2026 VIDE I.A.NO.1 of 2026 in W.P.NO.17519 OF 2026.

IA NO: 1 OF 2026

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 may be pleased to permit the Petitioner to amend the prayer in W.P.No. 17519/2026 for inserting the words as It is therefore prayed that this Hon'ble Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Habeas Corpus directing the Respondents to produce the mother of the Petitioner i e Smt Marri Itta Parameswari W/o Eshwar Eshwar Reddy aged about 36 years R/o Ujilipeta Perala Chirala Mandal now resident of Ghandi Nagar Perala Chirala Mandal Bapatla District before this Hon'ble Court and set her at liberty by setting aside the Impugned Detention Order in G O RTNo 874 Revenue Excise II Department Respondent by declaring that the said Detention orders as arbitrary illegal and violation of Article 22 of the Constitution of India in the interest of justice dated 27052026 issued by the 1 S "and consequential G.O.Rt.No.1191, dated 10-07-2026 in the prayer portion after the words "Impugned Detention Order in G.O.RTNo.874, Revenue (Excise.II) Department, dated 27-05-2026" in the interest of justice. Instead of pleased to issue a writ order or direction more particularly one in the nature of writ of Habeas Corpus directing the Respondents to produce the mother of the Petitioner i e Smt Marri Itta Parameswari W/o Eshwar Eshwar Reddy aged about 36 years Rio Ujilipeta Perala Chirala Mandal now resident of Ghandi Nagar Perala Chirala Mandal Bapatla District before this Hon'ble Court and set her at liberty by setting aside the Impugned Detention Order in G O RTNo 874 Revenue Excise ll

Department Respondent by declaring that the said Detention orders as arbitrary illegal and violation of Article 22 of the Constitution of India in the interest of justice dated 27-05-2026 issued by the 1 S.

IA NO: 2 OF 2026

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 may be pleased to receive the bail orders as additional material papers in W.P.No.17519/2026 in the interest of justice.

Counsel for the Petitioner: P NAGENDRA REDDY

Counsel for the Respondents: ADDL ADVOCATE GENERAL

The Court made the following order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 17519 OF 2026

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri Veladi Sai Sri Harsha, learned counsel representing Sri P.Nagendra Reddy, learned counsel for the petitioner and Sri Kirthi Teja Kondaveeti, learned Government Pleader for the respondents.

2. The petitioner has filed this writ petition for writ of Habeas Corpus under Article 226 of Constitution of India also challenging the order of preventive detention of the detenu namely Marri @ Itta Parameswari.

3. With respect to the detenu an order of preventive detention G.O.Rt.No.874 Revenue (Excise.II) Department dated 27.05.2026 was passed by the Principal Secretary to Government under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PIT NDPS ACT, 1988). The same was confirmed vide G.O.Rt.No.1191 Revenue (EXCISE.II) Department dated 10.07.2026.

4. The preventive detention order was passed on the following grounds i.e., the criminal cases, 5 in number:

i) Cr.No.328/2022 under Section 8(C), R/w 20(b) of The Narcotic Drugs and Psychotropic Substances Act, 1985 of Chirala I Town Police Station

ii) Cr.No.93/2023 under Section 8(C), R/w 20(b) of The Narcotic Drugs and Psychotropic Substances Act, 1985 of Chirala I Town Police Station

iii) Cr.No.304/2022 under Section 20(b) r/w 8(c) of The Narcotic Drugs and Psychotropic Substances Act, 1985 of Chirala II Town Police Station.

iv) Cr.No.73/2023 under Section Section 8(C), R/w 20(b) of The Narcotic Drugs and Psychotropic Substances Act, 1985 of Chirala II Town Police Station.

v) Cr.No.91/2023 under Section 20(b) r/w 8(c) of The Narcotic Drugs and Psychotropic Substances Act, 1985 of Chirala II Town Police Station.

5. Learned counsel for the petitioner submits that the detenu was released on bail in all criminal cases. The said bail orders were not considered by the detaining authority. So, the order of preventive detention, and its confirmation, suffers from non-consideration of the

relevant material. The satisfaction of the detaining authority is vitiated and the order cannot be sustained.

6. The learned Assistant Government Pleader submits that the bail orders were not placed before the detaining authority. He referred to the counter affidavit and contended that the bail orders were not considered by the detaining authority.

7. We have considered the aforesaid submissions and perused the material on record.

8. The law is well settled with respect of the consideration of the bail orders that those are relevant material and must be considered to arrive at subjective satisfaction.

9. In ***Rushikesh Tanaji Bhoite v. State of Maharashtra*** [1] the Hon'ble Apex Court held that the order of detention passed without considering the bail orders i.e., consideration, ignoring the material/relevant material could not be sustained. Para Nos.8 to 12 in Rushikesh Tanaji Bhoite (supra) read as under:

> **"8.** It would be, thus, seen that the order releasing the detenu on bail in the crime registered on 14-8-2010 and the order relaxing the bail condition were passed by the Judicial Magistrate, First Class, Dharangaon much before the issuance of the detention order dated 10-1-2011. However, the detention order or the grounds supplied to the detenu do not show that the detaining

[1] (2012) 2 SCC 72

authority was aware of the bail order granted in favour of the detenu on 15-8-2010.

9. In a case where the detenu is released on bail and is enjoying his freedom under the order of the court at the time of passing the order of detention, then such order of bail, in our opinion, must be placed before the detaining authority to enable him to reach at the proper satisfaction.

10. In the present case, since the order of bail dated 15-8-2010 was neither placed before the detaining authority at the time of passing the order of detention nor the detaining authority was aware of the order of bail, in our view, the detention order is rendered invalid. We cannot attempt to assess in what manner and to what extent consideration of the order granting bail to the detenu would have effected the satisfaction of the detaining authority but suffice it to say that non-placing and non-consideration of the material as vital as the bail order has vitiated the subjective decision of the detaining authority.

11. A three-Judge Bench of this Court in *Rekha* v. *State of T.N.* [(2011) 5 SCC 244 : (2011) 2 SCC (Cri) 596] decided recently held as under: (SCC p. 254, para 25)

> "*25*. In this connection, it may be noted that there is nothing on the record to indicate whether the detaining authority was aware of the fact that the bail application of the accused was pending on the date when the detention order was passed on 8-4-2010. On the other hand, in Para 4 of the grounds of detention it is mentioned that 'Thiru. Ramakrishnan is in remand in Crime No. 132 of 2010 and he has not moved any bail application so far'. Thus, the detaining authority was not even aware whether a bail application of the accused was pending when he passed the detention order, rather the detaining authority passed the detention order under the impression that no bail application of the accused was pending but in similar cases bail had been granted by the courts. We have already stated above that no details of the alleged similar cases has been given. Hence, the detention order in question cannot be sustained."

> **12.** In *Rekha* [(2011) 5 SCC 244 : (2011) 2 SCC (Cri) 596] , the detention order was held to be bad as the detaining authority was not aware of the fact that the bail application of the detenu was pending on the date when the detention order was passed. In the present case, the detenu was already released on bail but the detaining authority was not aware of the fact of grant of bail to the detenu."

10. In ***Buddiga Dhana Lakshmi v. State of Andhra Pradesh***[2], on consideration of various pronouncements this Court held that the bail order and the conditions of the bail are relevant material to be considered to arrive at the subjective satisfaction if the order of detention is yet to be passed. There was no consideration of the bail orders in the order of detention. The order of detention was set aside. Para Nos.14 to 16 in ***Buddiga Dhana Lakshmi*** (supra) read as under:

> "14. In ***Ponnada Geetha (supra),*** a Coordinate Bench of this Court has held that when the detenu was already released on bail in a crime and when it was made basis for passing the order of preventive detention and when such order of bail was not placed before the detention authority, it vitiates the order of preventive detention. Paragraph Nos.(9) to (12) of ***Ponnada Geetha (supra)*** read as under:
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> > *"9. However, as per the settled law, the very fact that the order of bail granted to the detenu in Crime No.219 of 2024 of Gopalapatnam Police Station for the offence under NDPS Act, was not placed before the detaining authority, while passing the impugned order of detention, by itself, is sufficient to hold that it vitiates the impugned order of detention. The legal position in this regard is fairly well settled.*

[2] W.P.No.33545 of 2025 APHC decided on 22.06.2026

10. *The Division Bench of the common High Court for the State of Telangana and the State of Andhra Pradesh had an occasion to elaborately deal with the said legal position in the case of* ***Vasanthu Sumalatha v. State of Andhra Pradesh(***2016) 1 ALT 738 (DB)*. At paragraph 44 of the said judgment, it is held as follows:*

> *"44. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinizing the validity of an order of preventive detention, which is based on the very same charge which is to be tried by the criminal court. (Vijay Narain Singh v. State of Bihar [(1984) 3 SCC 14]; Jotha Viswanadh v. Chief Secretary, Govt. of A.P. [Judgment in W.P.No.10018 of 2012, dated 29.06.2012 (APHC) (DB)]. Where the detenu is released on bail, and is enjoying his freedom under the order of the court, the order of bail must be placed before the detaining authority, when the order of detention is passed, to enable him to reach a proper satisfaction. (Rushikesh Tanaji Bhoite v. State of Maharashtra [(2012) 2 SCC 72]. If the detaining authority was unaware of the order of bail, the detention order is rendered invalid as the Court cannot attempt to assess in what manner, and to what extent, consideration of the order granting bail to the detenu would have effected the satisfaction of the detaining authority in passing the order of preventive detention (Rushikesh Tanaji Bhoite (42 supra); Rekha (5 supra); Jotha Viswanadh (44 supra)."*

11. *At paragraph 42 of the said judgment, it is also held by the Division Bench of the common High Court that it is incumbent that all vital materials are placed before the detaining authority to enable him to arrive at the subjective satisfaction as to the necessity for passing an order of detention, as decided in* ***M. Ahamedkutty v. Union of India ((1990) 2 SCC 1*** *and* ***State of U.P. v. Kamal Kishore Saini(1988 (1) SCC 287)****. Therefore, it is held that the bail order is a vital material for consideration and if it is not considered, the satisfaction of the detaining authority would be impaired.*

> ***12.*** *Thus, it is obvious from the analogy and the legal position decided in the aforesaid judgment of the Division Bench of the common High Court, which is binding on this Court, that when the detenu was already released on bail in a crime and when it was made basis for passing the order of preventive detention and when the said order of bail was not placed before the detaining authority, it vitiates the impugned order of preventive detention. Therefore, in view of the law enunciated in the above judgment, as the order of bail is admittedly not placed before the 2nd respondent when he has passed the impugned order of preventive detention, the impugned order of preventive detention is vitiated and, therefore, cannot be sustained."*
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> 15. The aforesaid is the settled position in law. The bail order and the conditions of bail are relevant material to be considered to arrive at the satisfaction if the order of detention is yet to be passed.
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> 16. Admittedly, there is no consideration of all the bail orders in the order of detention though in five cases the bail was granted prior to passing of the order of detention and even in the order of approval and confirmation by the State there is no consideration whereas by that time in all seven cases bail (s) had been granted."

11. In the present case, for the reasons of non-consideration of the bail orders, the order of preventive detention dated 27.05.2026 as also the confirmation order dated 10.07.2026 cannot be sustained.

12. The writ petition is allowed. The order of preventive detention dated 27.05.2026 and the order of confirmation dated 10.07.2026 are set aside.

13. The Detenu shall be set at liberty immediately, if she is not in detention in any other pending case.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

ALAPATI GIRIDHAR,J

Dated: 03.11.2026
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 17519 OF 2026

Dated: 03.11.2026
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