APHC010513412026

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

THURSDAY, THE 12th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 28337 OF 2026

Between:

1. CHICHU VISHNU PRIYA, W/o. C. Karthik, D/o. P. Venugopal, aged about 25 years, Occ House Wife, R/o. D. No. 1-163, KVB Puram Village, Tirupati District, Andhra Pradesh-517643.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Principal Secretary to Revenue (Excise-II) Department, A.P. Secretariat, Velagapudi, Guntur District, Andhra Pradesh 522238.

2. The Director General of Police, State of Andhra Pradesh, Vaddeswaram, Mangalagiri, Guntur District-522503.

3. The Superintendent of Police, Tirupati District, Tirupati 517501.

4. The District Collector, Tirupati District, Tirupati 517503.

5. The Inspector of Police, Srikalahasthi ll Town Police Station, Tirupati District 517644.

6. The Superintendent of Central Prison, Kadapa, YSR Kadapa District-516002.

...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 toissue an order or orders or direction or writ more particularly in the nature of Writ of Habeas Corpus, declaring that the detention order in C.No.66-D8/NDPS/TPT/2025, Dt. 16.08.2025 passed by the respondent No.3 and the consequential proceedings in G.O.Rt. No. 1423, Revenue (Excise-II) Department, dated 20.11.2025, issued by the Respondent No.1, when the detenu namely Paipooru Venugopal was directed to be detained as arbitrary, illegal apart from being violative of fundamental rights guaranteed to the detenu under Articles 14, 19, 21 and 22 (5) of the Constitution of India and consequentially set aside the same and release the detenu namely, Paipooru Venugopal, from the detention

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 suspend the proceedings in C.No.66 D8/NDPS/TPT/2025, Dt. 16.08.2025 issued by the respondent No.3 and consequential proceedings in G.O.Rt. No. 1423, Revenue (Excise-II) Department, dated 20.11.2025 issued by the Respondent No.1, when the detenu namely Paipooru Venugopal forthwith, pending disposal of the above Writ Petition

Counsel for the Petitioner: CHAMARTHY LEELA SRINNIVASA VARMA

Counsel for the Respondents: GP FOR HOME 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: 28337 OF 2026

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

Heard Sri Chamarthy Leela Srinivasa Varma, learned counsel for the petitioner and Sri Akula Venkata Sai Jagadeesh, learned Assistant Government Pleader appearing for the respondents.

2. The petitioner is the daughter of the detenu namely Paipooru Venugopal @ Paipoori Venugopal, S/o P. Mangaiah, presently detained in Central Prison, Kadapa. The petitioner has filed this writ petition for writ of Habeas Corpus under Article 226 of the Constitution of India challenging the order of preventive detention of the detenu.

3. With respect to the detenu, an order of preventive detention vide G.O.Rt.No.1423, Revenue (Excise.II) Department, dated 20.11.2025 was passed by the Principal Secretary to Government, Revenue (Excise-II) Department under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PIT NDPS Act, 1988). Pursuant thereto, the detenu was taken into custody/detention on 28.11.2025 for a period of one year. The order of preventive detention was confirmed vide 16.08.2025.

4. The preventive detention order was passed on the following two (02) grounds i.e., the criminal cases:

I. Cr.No.39/2023 under Section 20(b)(ii)(C) of NDPS Act, 1985 of Srikalahasti II Town Police Station, Tirupati District (dated 03.04.2023).

II. Cr.No.88/2023 under Section 20(b)(ii)(B) of NDPS Act, 1985 of Srikalahasti II Town Police Station, Tirupati District (dated 14.07.2023).

5. Learned counsel for the petitioner submits that due to an inadvertent mistake in the writ petition and the prayer clause, the date of the order of preventive detention is mentioned as 16.08.2025, which is the date of the proposal sent to the detaining authority. The correct date of the order of preventive detention is 20.11.2025.

6. Learned counsel for the petitioner further submits that in both the criminal cases, on which the order of preventive detention was passed are of the year 2023 (dated 03.04.2023 and 14.07.2023). The order of preventive detention was passed on 20.11.2025. There was no live and proximate link nor the necessity to detain after such a long period. That aspect has not been considered by the detaining authority in the correct perspective.

7. Learned Counsel further submits that the right to make the representation to the Central Government was not informed to the detenue, which is a fundamental right under Article 22(5) of the Constitution of India.

8. Learned Assistant Government Pleader submits that the detenu was taken into detention on 28.11.2025. The period of detention is one year from that date. He could not dispute that the both criminal cases are of the year 2023 with no intervening case registered thereafter, not that the detenu was not informed of his right to make a representation to the Central Government.

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

10. The law is well settled that there must be a live and proximate link between the prejudicial activities and the purpose of detention, so as to establish a rational nexus between the two. In ***Mohd. Sahabuddin v. Distt. Magistrate, 24 Parganas***[1] and ***Rajinder Arora v. Union of India***[2] referring to ***T.A. Abdul Rahman v. State of Kerala***[3], the Hon'ble Apex Court held that there should be proximity of time between the prejudicial activities and the purpose of detention, and when there is undue and

[1] **(1975) 4 SCC 114**
[2] **(2006) 4 SCC 796**
[3] **(1989) 4 SCC 741**

long delay between the prejudicial activities and the passing of the detention order without any intervening prejudicial activity, the live-link is snapped and the subjective satisfaction stands vitiated.

11. In the present case, both criminal cases relate to the year 2023, and no fresh crime was registered against the detenu thereafter prior to the passing of the detention order on 20.11.2025. The detaining authority has also not recorded the requisite satisfaction with respect to the existence of a live and proximate link and the necessity to detain the detenu after such a long period.

12. In ***Pangi Mangamma v. The State of Andhra Pradesh and others*****, vide order dated 10.10.2026, passed in W.P.No.439 of 2026**, a Coordinate Bench of this Court, on consideration of the judgments of the Hon'ble Apex Court in ***Kamleshkumar Ishwardas Patel v. Union of India***[4], and **Alfiya. A v. State of Kerala**[5], held that under the PIT NDPS Act, 1988, where the detention order has been made by an officer specially empowered by the State Government, the detenu has a fundamental right under Article 22(5) of the Constitution of India to make a representation to the Central Government as well, and that right must be informed to him. Paragraph Nos.24 to 26 in ***Pangi Mangamma*** (supra) read as under:

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[4] (1995) 4 SCC 51

[5] SLP (Crl.) No.8439 of 2026, decided on 28.07.2026

“24. So far as the contention with respect to the representation is concerned that, the detenu was not informed of his right to make the representation to the Central Government, under PIT NDPS Act, in ***Kamleshkumar Ishwardas patel (supra)****, the Hon’ble Apex Court held as under:*

‘14. Article 22(5) must, therefore, be construed to mean that the person detained has a right to make a representation against the order of detention which can be made not only to the Advisory Board but also to the detaining authority, i.e., the authority that has made the order of detention or the order for continuance of such detention, which is competent to give immediate relief by revoking the said order as well as to any other authority which is competent under law to revoke the order for detention and thereby give relief to the person detained. The right to make a representation carries within it a corresponding obligation on the authority making the order of detention to inform the person detained of his right to make a representation against the order of detention to the authorities who are required to consider such a representation.

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18. Section 3 of the PIT NDPS Act is on the same lines as Section 3 of the COFEPOSA Act. There is slight difference in sub-section (1) but sub-sections (2) and (3) are identical. Section 12 of the PIT NDPS Act makes provision for revocation of detention orders and is in the same terms as Section 11 of the COFEPOSA Act.

19. The provisions in the COFEPOSA Act and PIT NDPS Act differ from those contained in the National Security Act, 1980 as well as earlier preventive detention laws, namely, the Preventive Detention Act, 1950 and the Maintenance of Internal Security Act, 1971 in some respects. Under sub-section (3) of Section 3 of the National Security Act, power has been conferred on the District Magistrate as well as the Commissioner of Police to make an order of detention, and sub-section (4) of Section 3 prescribes that the officer shall forthwith report the fact of making the order to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and that no such order shall remain in force for more than twelve days

after the making thereof unless, in the meantime, it has been approved by the State Government. In Section 8(1) of the National Security Act it is prescribed that the authority making the order shall afford the person detained the earliest opportunity of making a representation against the order to the appropriate Government. Similar provisions were contained in the Preventive Detention Act, 1950 and the Maintenance of Internal Security Act, 1971. The COFEPOSA Act and the PIT NDPS Act do not provide for approval by the appropriate Government of the orders passed by the officer specially empowered to pass such an order under Section 3. The said Acts also do not lay down that the authority making the order shall afford an opportunity to make a representation to the appropriate Government.

* * * * *

21. In view of Section 21 of the General Clauses Act the authority which has made the order of detention would be competent to revoke the said order. Section 11 of the COFEPOSA Act and Section 12 of the PIT NDPS Act provide for revocation of such an order by authorities other than the authority which has made the order. Under clause (a) of sub-section (1) of both these sections an order made by an officer specially empowered by the State Government can be revoked by the State Government as well as by the Central Government and under clause (b) of sub-section (1) an order made by an officer specially empowered by the Central Government or an order made by the State Government can be revoked by the Central Government. This means that the Central Government has the power to revoke orders made by —

(i) the State Government;

(ii) an officer specially empowered by the State Government; and

(iii) an officer specially empowered by the Central Government.

22. Similarly, the State Government has the power to revoke an order made by an officer specially empowered by the State Government. In other words, an order made by the officer specially empowered by the State Government can be revoked by the State Government as well as by the Central Government, an order made by the State Government can be revoked by the Central

Government and an order made by the officer specially empowered by the Central Government can be revoked by the Central Government. The conferment of this power on the Central Government and the State Government does not, however, detract from the power that is available to the authority that has made the order of detention to revoke it. The power of revocation that is conferred on the Central Government and the State Government under clauses (a) and (b) of sub-section (1) of Section 11 of the COFEPOSA Act and Section 12 of the PIT NDPS Act is in addition to the power of revocation that is available to the authority that has made the order of detention. This is ensured by the words "without prejudice to the provisions of Section 21 of the General Clauses Act, 1897 (10 of 1897)" in sub-section (1) of both the provisions.

23. If the power of revocation is to be treated as the criterion for ascertaining the authority to whom representation can be made, then the representation against an order of detention made by an officer specially empowered by the State Government can be made to the officer who has made the order as well as to the State Government and the Central Government who are competent to revoke the order. ***Similarly, the representation against an order made by the State Government can be made to the State Government as well as to the Central Government and the representation against an order made by an officer specially empowered by the Central Government can be made to the officer who has made the order as well as to the Central Government.***

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38. Having regard to the provisions of Article 22(5) of the Constitution and the provisions of the COFEPOSA Act and the PIT NDPS Act the question posed is thus answered: Where the detention order has been made under Section 3 of the COFEPOSA Act and the PIT NDPS Act by an officer specially empowered for that purpose either by the Central Government or the State Government the person detained has a right to make a representation to the said officer and the said officer is obliged to consider the said representation and the failure on his part to do so results in denial of the right conferred on the person detained to

make a representation against the order of detention. This right of the detenu is in addition to his right to make the representation to the State Government and the Central Government where the detention order has been made by an officer specially authorised by a State Government and to the Central Government where the detention order has been made by an officer specially empowered by the Central Government, and to have the same duly considered. This right to make a representation necessarily implies that the person detained must be informed of his right to make a representation to the authority that has made the order of detention at the time when he is served with the grounds of detention so as to enable him to make such a representation and the failure to do so results in denial of the right of the person detained to make a representation.'

25. So, in the case of ***Kamleshkumar Ishwardas patel*** *(supra), the Hon'ble Apex Court clearly held that* ***under PITNDPS Act, the detenu has a right to make representation to the Central Government as well, where the detention order has been made by an officer specially authorised by a State Government****. In the present case, the order of preventive detention was passed by an officer specially empowered by the State Government. Consequently, the detenu must have been informed of his right to make the representation to the Central Government as well, which was not done.*

26. In ***Alfiya.A v. State of Kerala****, the Hon'ble Supreme Court while considering the right of detenu to make representation and its consideration observed and* ***held that the fact that the detenu addressed one of his representations to the detaining authority cannot cure the failure to inform him of that constitutional right to make representation to the detaining authority****. Para-18 in* ***Alfiya.A*** *(supra) reads as under:*

'18. In the present case, the order of detention was made by the Detaining Authority in exercise of the power conferred upon an officer specially empowered under Section 3(1) of the PITNDPS Act. The detenu was informed that he could make representations to the State Government, the Advisory Board and the Central Government. He was not separately informed that he was entitled to make a representation to the officer who had made the order of

detention in exercise of the specially conferred statutory power. The omission is evident from the detention order itself. The fact that the detenu nevertheless addressed one of his representations to the Detaining Authority cannot cure the failure to inform him of that constitutional right. The obligation was upon the authority to communicate the right and could not depend upon whether the detenu independently became aware of it.'"

13. In the present case, as is reflected from paragraph No.10 of the order of preventive detention dated 20.11.2025, the detenu was informed only of his right to make representation before the Detaining Authority and to the Advisory Board. He was not informed of his right to make a representation to the Central Government.

14. Therefore, since, there is absence of a live and proximate link between the criminal cases and the order of preventive detention passed, and as the detenu was not informed of his right to make a representation to the Central Government, violating Article 22(5) of the Constitution of India, the detention of the detenu cannot be sustained. the order is vitiated and deserves to be set-aside

15. The writ petition is allowed. The order of preventive detention dated 20.11.2025 and the order of confirmation dated 16.08.2025 are set aside.

16. The detenu shall be set at liberty immediately, if he 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.

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RAVI NATH TILHARI,J

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ALAPATI GIRIDHAR,J

Dated: 12.11.2026
SRT

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 28337 OF 2026

Dated: 12.11.2026
SRT