

APHC010252532026



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

WEDNESDAY, THE 22nd DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

WRIT PETITION NO: 13241 OF 2026

Between:

1. Devi G, W/o. Gnanamoorthy, Aged 35 years, Occupation Housewife, R/o 4/54, MGR Nagar, 5th cross street, Sittalapakkam, Tambaram, Kancheepuram, Tamilnadu.

...Petitioner

AND

1. The State of Andhra Pradesh, Represented by its Chief Secretary, General Administration (Law and Order) Dept, Secretariat, Velagapudi Village, Amaravathi, Andhra Pradesh. Pin 522237

2. The Collector and District Magistrate, Tirupati, tirupati District. Pin 517501

3. The Superintendent, Central Prison, Kadapa, YSR Kadapa District. Pin 516001

4. The Superintendent of Police, FAC Red Sanders Anti-Smuggling Task Force, Tirupati, Tirupati, District. Pin 517501

...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 a Writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce Gnanamoorthy G, S/o Gowindaswamy, aged about 38 years, presently detained in Central Prison, Kadapa, YSR Kadapa District before this Honourable court and he may be ordered to be released forthwith/set at liberty after declaring his detention vide REV02/444/2026-SA-C2, dated 05-03-2026 passed by the 2nd Respondent as confirmed in G.C.Rt.No.869, General Administration (SC-I) Department, dated 16-03-2026 passed by the 1st respondent after receiving the report of the advisory board dated 29-04-2026 as illegal, arbitrary, unconstitutional and void

Counsel for the Petitioner: S DUSHYANTH REDDY

Counsel for the Respondents: GP FOR HOME Counsel for the Respondents:GP FOR REVENUE Counsel for the Respondents:GP FOR GENERAL ADMINISTRATION

The Court made the following order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

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**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

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

Heard Sri S.Dushyanth Reddy, learned counsel appearing for the petitioner and Sri Keerthi Teja Kondaveeti, learned Government Pleader attached to the office of learned Additional Advocate General for respondents.

2. Perused the material on record.

3. This Writ Petition under Article 226 of the Constitution of India has been filed for release of the detainee namely Gnanamoorthy G, S/o.Gowindaswamy, aged about 38 years, presently detained in Central Prison, Kadapa, YSR District after setting aside the order of detention.

4. The detainee was detained pursuant to the order of detention, dated 05.03.2026 passed by the District Collector and District Magistrate, Tirupati under Section 3(1) & 3(2) r/w Section 2(g) of A.P Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (in short the Act, 1986). Order of detention was passed based on 5 criminal cases i.e, on five (5) grounds and the same was approved by the Government *vide* G.O.Rt.No.576 General Administration (SC-I) Department on 16.03.2026. The matter was referred to the Advisory Board on 25.03.2026 and report was

received by the 1st respondent on 09.04.2026 holding that “there is sufficient cause for the detention of the detainee”. Accordingly, the order of detention was confirmed by the 1st respondent for a period of twelve (12) months from the date of detention i.e., 07.03.2026 *vide* G.O.Rt.No.869 General Administration (SC-I) Department, dated 29.04.2026. Challenging the aforeasaid orders, the present Writ Petition has been filed.

5. Sri S.Dushyanth Reddy, learned counsel for the petitioner submits that the detainee submitted a representation on 08.04.2026 and the same was received by the 1st respondent on 13.04.2026. Thereafter, the 1st respondent requested the 2nd respondent-Collector to furnish the remarks and the remarks were furnished by the 2nd respondent *vide* Lr. REV02/444/2026-SA-C2 on 01.06.2026. After receipt of the remarks, the 1st respondent passed order *vide* G.O.Rt.No.1181 dated 16.06.2026 rejecting the representation of the detainee. The learned counsel for the petitioner submits that the representation which was received on 13.04.2026 by the 1st respondent has been decided finally on 16.06.2026 i.e., almost after two (2) months. He further submits that even the remarks were not timely sent by the 2nd respondent and it took almost 1 ½ month to submit remarks. The learned counsel submits that in the counter affidavit any explanation for the delay in consideration of the representation has not been explained but the dates are mentioned with regard to receipt of the representation, calling further remarks from the District Collector, sending of remarks for passing of the order relating to the representation. Consequently, the submission is that there has been

delay in considering the representation for which there is no explanation. Hence, the learned counsel submits that the order of detention is illegal.

6. Learned counsel further submits that out of five (5) cases, in four (4) cases, the detainee was released on bail, but in one case he was in custody. Learned counsel submits that the detaining authority has not recorded its satisfaction regarding the likelihood of the detainee being released on bail in the said crime. He further submits that the detaining authority has taken into consideration that the detainee was in judicial custody but has not recorded the satisfaction with respect to the likelihood of the detainee being released on bail. He placed reliance on the Judgment of the Apex Court in the case of ***Champion R.Sangma Vs. State of Meghalaya and others***¹.

7. Sri Keerthi Teja Kondaveeti, learned Government Pleader appearing for the respondents submits that so far as the delay in deciding the representation is concerned, relevant dates have been mentioned in the counter affidavit. He further submits that so far as the 2nd ground is concerned, from the reading of the order of detention all the triple requirements are satisfied. He submits that the order of detention is to be read in the light of those grounds inasmuch as the detaining authority has clearly recorded about case No.5 as follows:-

“ If his activities are not prevented, there is a strong possibility that he will again indulge in the illegal felling, theft and

¹ (2015) 16 SCC 253

smuggling of Red Sanders trees. His activities are a threat to both the forest wealth and the general public that are prejudicial to the maintenance of public order”

8. The learned Government Pleader submits that in view thereof there is no illegality in the order of detention and the detenue need not be released.

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

10. So far as the consideration of the representation by the State is concerned, there is no dispute with regard to the dates of submission of the representation, calling for the remarks from the District Collector, furnishing of the remarks by the District Collector and passing of the order. The dates have been mentioned in the counter affidavit. We find that there is a long gap between the aforesaid dates. There is a long gap of more than 2 months in passing the order on the representation and in the counter affidavit there is no explanation for the said delay in passing the order on the representation of the petitioner. Even after receipt of the remarks almost 15 days time was taken in deciding the representation.

11. It is well settled that the detenue has a fundamental right to make the representation against his detention order and has a right for its consideration as expeditiously as possible with a sense of urgency without an avoidable delay. Though there is no hard and fast rule with respect to the time

and delay which depends upon the facts and circumstances of each case. In case of delayed disposal of representation the delay must be explained and such explanation must stand the test of reasonableness to the satisfaction of the Court. We find from the counter affidavit that any such explanation has not been given. In the absence of any such explanation for the delay, it can certainly be presumed that there was no sufficient reason for delayed disposal of the representation.

12. So far as the 2nd submission is concerned, on that also the law is well settled. If the detainee is in the judicial custody in a criminal case, the order of detention can validly be passed taking into account that criminal case, but that is subject to the satisfaction of the triple requirements as laid down in ***Champion R.Sangma Vs. State of Meghalaya and others***, in which the Hon'ble Apex Court held as follows:-

“ 9. Coming to the ground on which we intend to allow this appeal, we may point out that even if the appellant is in jail in connection with some criminal case(s) there is no prohibition in law to pass the detention order. Law on this aspect is well settled and stands crystalized by plethora of judgments of this Court. However, a reading of those very judgments also clarifies that there are certain aspects which have to be borne in mind by the detaining authority and satisfaction on those aspects is to be arrived at while passing the detention order.

10. There are three such factors which were re-stated in ***Kamarunnissa vs. Union of India & Anr.*** Reported in 1991 (1) SCC 128 (pa.13).

“13. From the catena of decisions referred to above it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition, to question it before a higher court. What this Court stated in the case of Ramesh Yadav was that ordinarily a detention order should not be passed merely to pre-empt or circumvent enlargement on bail in cases which are essentially criminal in nature and can be dealt with under the ordinary law. It seems to us well settled that even in a case where a person is in custody, if the facts and circumstances of the case so demand, resort can be had to the law of preventive detention. This seems to be quite clear from the case law discussed above and there is no need to refer to the High Court decisions to which our attention was drawn since they do not hold otherwise. We, therefore, find it difficult to accept the contention of the counsel for the petitioners that there was no valid and compelling reason for passing the impugned orders of detention because the detenus were in custody.”

11. The aforesaid dicta is reiterated in subsequent judgments as well. Some of which are as under:

- (i) 2006 (2) SCC 664 titled: [T.V.Sravanan Alias S.A.R.Prasana Venkatachaariar Chaturvedi vs. State](#) through Secretary and Anr.
- (ii) 2008 (9) SCC 89 titled: [K.K.Saravana Babu vs. State of Tamil Nadu & Anr.](#)
- (iii) 2012 (7) SCC 181 titled: [Huidrom Konungjao Singh vs. State of Manipur and Ors](#)”.

13. The question is whether the triple tests are satisfied in the present impugned detention order or not?

14. The contention of the learned counsel for the petitioner is that it is not satisfied. He submits that the authority has not recorded its satisfaction regarding the likelihood of the detenue being released on bail. The contention

of the learned Government Pleader is that such satisfaction can be inferred from the entire reading of the order and that part of the order which we have reproduced in para-7. From reading of the impugned order we are not convinced with the submissions advanced by the learned Government Pleader. The order recorded *“to evade his presence in the clutches of the law, he filed a bail application in OR.No.70/2025-26 Badvel Forest Range, Kadapa vide CrI.MP.No.213 of 2026, dated 12.01.2026”* which is nowhere to the triple test. The detaining authority has recorded that “if his activities are not prevented, there is a strong possibility that he will again indulge in the illegal felling, theft and smuggling of Red Sanders trees. His activities are a threat to both the forest wealth and the general public that are prejudicial to the maintenance of public order”. The likelihood of grant of bail has not been considered and no satisfaction has been recorded in the eyes of law on the fulfillment of the triple tests.

15. We are of the view that the order of detention cannot be sustained and deserves to be set aside.

16. For the aforesaid reasons, this Writ Petition is allowed, setting aside the impugned order of detention, dated 05.03.2026 passed against the detainee and the order of confirmation by the State vide G.O.Rt.No.869 General Administration(SC-1) Department, dated 29.04.2026. The detainee by name Gnanamoorthy G, S/o.Gowindaswamy, shall be set at liberty immediately, if he is not required in any other case.

17. There shall be no order as to costs.

As a sequel, interlocutory applications pending if any, shall stand closed.

RAVI NATH TILHARI, J

PURUSHOTTAM KUMAR CHINTALAPUDI, J

Date: 22.07.2026

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

&

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

WRIT PETITION NO: 13241 OF 2026

Dated. 22.07.2026

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