



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

[3558]

**TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY
AND
THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**

WRIT PETITION No.22031 of 2025

Between:

1.K SUBBALAKSHMI, W/O. M. KALYAN, AGED 25 YEARS, R/O.
ZAVILI STREET, PALAMANER, CHITTOOR, CHITTOOR
DISTRICT, ANDHRA PRADESH.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS
CHIEF SECRETARY, SECRETARIAT BUILDINGS,
AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT.

2.THE COLLECTOR & DISTRICT MAGISTRATE, CHITTOOR
DISTRICT.

3.THE SUPERINTENDENT OF POLICE, CHITTOOR DISTRICT.

4.THE SUPERINTENDENT, CENTRAL PRISON, KADAPA

...RESPONDENT(S):

Counsel for the Petitioner:

1.RAMAKRISHNA AKURATHI

Counsel for the Respondent(S):

1.ADDL ADVOCATE GENERAL

The Court made the following:

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY
AND**

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION No.22031 of 2025

ORDER: *(Per Hon'ble Sri Justice Cheekati Manavendranath Roy)*

Challenge in this writ petition is to the order dated 19.06.2025 passed by the 2nd respondent - Collector & District Magistrate, Chittoor District, against the husband of the petitioner, by name M. Kalyan, ordering for his preventive detention, which, in turn, was confirmed by the 1st respondent-State as per G.O.Rt.No.1474, General Administration (SC-I) Department, dated 06.08.2025.

2. Heard Mr. D. Purnachandra Reddy, learned counsel representing Mr. Ramakrishna Akurathi, learned counsel for the petitioner, and learned Government Pleader attached to the office of the learned Additional Advocate General appearing for the respondents.

3. The 3rd respondent – Superintendent of Police of Chittoor District, being the sponsoring authority under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act'), has submitted a report to the 2nd respondent – Collector & District Magistrate, Chittoor District, who is the detaining authority under the Act, stating that a person by name, M. Kalyan S/o. Gopi (hereinafter referred to as 'detenu') is a gangster and he has been playing a key role in committing violent activities of killing his rivals by maintaining a gang and creating terror in

the minds of general public because of his aggressive and highhanded nature and that he is an antisocial element, who has chosen the path of eliminating his rivals by committing crimes against them. It is stated in the report that about six crimes were registered against the detenu for various offences committed both under the provisions of the Indian Penal Code and Bharatiya Nyaya Sanhita and that one crime was registered for the offences punishable under the A.P. Excise Act. It is stated that the detenu has been repeatedly committing the said offences and that his acts are prejudicial to the maintenance of public order. Therefore, the sponsoring authority has recommended to pass an order of preventive detention against the detenu to prevent him from committing similar nature of offences. The 2nd respondent-Collector & District Magistrate, having considered the said report and the material placed before him, was of the view that the illegal acts committed by the detenu are posing threat to the maintenance of public order and it is essential to pass an order of preventive detention against him to prevent him from committing similar nature of offences in future. Therefore, he has passed an order of preventive detention dated 19.06.2025 against the detenu. It was considered and confirmed by the State as per G.O.Rt.No.1474, General Administration (SC-I) Department, dated 06.08.2025.

4. Aggrieved by the said order of preventive detention and the G.O. issued by the State confirming the said order, the petitioner, who is the wife of the detenu, has filed the present writ petition assailing the legal validity of the impugned orders of preventive detention.

5. The 2nd respondent filed counter-affidavit. Perused and considered the same.

6. The impugned order of preventive detention has been assailed mainly on two grounds – 1) that the detaining authority has taken irrelevant material relating to the offence alleged to have been committed by the detenu under the A.P. Excise Act also for the purpose of passing the order of preventive detention, while treating him as a 'Goonda' under the Act, as per the provisions of Section 3(1)(2) r/w Section 2(a) and 2(g) of the Act, and it is illegal and cannot be sustained and 2) that even though the detenu was in judicial custody as on the date of passing the impugned order of preventive detention in connection with Crime No.104 of 2025 of Palamaneru Urban Police Station, the possibility of his immediate release from the judicial custody is not considered for the purpose of passing the order of preventive detention.

7. Considering the facts and circumstances of the case, we are of the view that the second ground is not much relevant in the context to consider. Suffice to consider the first ground raised by the petitioner.

8. Admittedly, the 2nd respondent - detaining authority, while considering the detenu as a 'Goonda', as defined under the Act, on the ground that he has been repeatedly committing the offences punishable under the IPC and BNS, has passed the impugned order of preventive detention. If a person is found to have committed an offence punishable under the A.P. Excise Act, he cannot be termed as a 'Goonda' and he comes under the definition of 'Bootlegger'. However, while passing the impugned order of preventive detention against the detenu, treating him as a 'Goonda' for committing the offences under the IPC and BNS, the detaining authority has also taken into consideration the offence committed by him under the A.P. Excise Act relating to a bootlegging activity. It is well settled law that if

irrelevant material is taken into consideration for the purpose of passing an order of preventive detention, it renders the order invalid and unsustainable.

9. This Court, in W.P.No.19145 of 2023, while relying on the judgments rendered by the Division Bench of this Court in the case of ***S. Prasad Reddy v. Collector and District Magistrate, Anantapur***¹, and in the case of ***Thallapuneni Venkateswarlu v. Collector and District Magistrate, Cuddapah***², wherein it is held that the crime which does not satisfy the definition of 'Goonda' cannot be made basis for passing the order of preventive detention on the ground that the detenu is a Goonda under the Act, held that the order of preventive detention impugned therein is not valid and the same is liable to be set aside and has, accordingly, set aside the same, as per the order dated 04.10.2023.

10. In ***Khaja Bilal Ahmed v. State of Telangana***³, the Apex Court held that when irrelevant material is taken into consideration, the order of preventive detention cannot be sustained. It is clearly held in the said judgment that the satisfaction to be arrived at by the detaining authority must not be based on irrelevant and invalid grounds.

11. Therefore, as the detaining authority, in the instant case, has based his order on irrelevant material by taking into consideration the crime relating to the A.P. Excise Act also for the purpose of treating the detenu as a 'Goonda' for passing an order of preventive detention, the impugned order of preventive detention is not valid under law and it cannot be sustained.

¹ 2005 (3) ALT 487

² 2004 (5) ALT 250

³ (2020) 13 SCC 632

12. Resultantly, the writ petition is allowed, setting aside the impugned order of preventive detention dated 19.06.2025 passed by the 2nd respondent, which, in turn, was confirmed by the State by G.O.Rt.No.1474, General Administration (SC-I) Department, dated 06.08.2025. The detenu, by name M. Kalyan, shall be released forthwith and shall be set at liberty, if not required in any other case. There shall be no order as to costs.

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

JUSTICE CHEEKATI MANAVENDRANATH ROY

JUSTICE TUHIN KUMAR GEDELA

Date: 10.02.2026
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THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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