

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
SATURDAY, THE TWENTIETH DAY OF MAY,
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE MS JUSTICE B. S. BHANUMATHI
AND
THE HONOURABLE SRI JUSTICE A. V. RAVINDRA BABU



IA No. 1 OF 2023

IN

W.P No.13561 of 2023

Between:

Smt. Poliseti Venkata Lakshmi,
W/o. Poliseti Ramu, Aged: 35 Years,
R/o. H No. 9-13-326, YSR Colony, Gunupudi,
Bhimavaram, West Godavari Dist., - 534201.
Aadhaar Card No. 4885 4384 7861,
Mobile No:

...Petitioner

AND

1. The State of Andhra Pradesh,
Rep. by its Principal Secretary, Home Department,
Secretariat, Amaravati.
2. The Collector and District Magistrate,
West Godavari District, Bhimavaram
3. The Superintendant of Police,
West Godavari District, Bhimavaram.
4. The Station House Officer,
Bhimavaram I Town Police Station.
5. The Station House Officer,
Special Enforcement Bureau Police Station,
Bhimavaram.

...Respondents

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 direct the Respondents to temporarily release the detenu for a period of one(1) week on compassionate and humanitarian grounds enabling the detenu to attend the marriage ceremony of his daughter which is scheduled to be conducted on 21-05-2023 at around 11:00AM, Pending disposal of W.P.(SR)No.21070 of 2023.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Prudvi Raju

Mudunuri, Advocate for the Petitioner, GP for Home for the Respondents, the Court made the following

ORDER:

“The petition is filed by the petitioner to release the detenu for a period of one (01) week on compassionate and humanitarian grounds enabling the detenu to attend the marriage ceremony of his daughter which is scheduled to be conducted on 21.05.2023 at around 11.00 a.m., pending disposal of this Writ petition and pass such order or orders as deem fit and proper in the facts and circumstances of the case”.

The main contention of the petitioner is that, he has been illegally detained under the impugned order of detention dated 02.05.2023 without properly considering the material. In this regard, he further contended that the impugned order was passed basing on five crimes registered against the petitioner out of which trials were conducted in respect of two crimes and in both matters he was acquitted and the same was also recorded in the grounds of the detention order. It is further submitted that in Crime NO.4 of 2023, in order of bail was granted by the Special Court on 23.03.2023, yet the same was not considered by the detention authority and therefore the impugned order suffers from material irregularity and is liability to set aside.

Learned counsel further places reliance of the decision of this Division Bench of High Court in in K.Padhmavathi Vs State of Andhra Pradesh of 2022 SCC Online AP 2531 wherein, under similar circumstances, the court found fault in not considering the material aspect of granting bail, while taking a decision for issuing order of detention. Learned counsel further submitted that though the petitioner is ready to furnish his surety as ordered for his release of bail in Cr.No.04 of 2023, he could not be released due to detention order and therefore he is unable to attend his daughter's marriage scheduled to be held tomorrow i.e., 21.05.2023 and without his presence, it is difficult to perform the marriage of his daughter. Thus, the petitioner prayed to release him temporarily for a week with any condition(s).

The Learned Government Pleader representing respondents 1 to 5 opposed the petitioner, both main and interim, and he submitted that petitioner actively indulged in carrying ganja several times in a short period and because

of him, the youth are also spoiled and his release would be detrimental to the society. He further submitted that even on his temporary release, he may escape and therefore in the event of his temporary release also, the court may impose condition to place him under the surveillance of police or else it is difficult to secure his presence again. Further, he confirmed the fact that the marriage of the daughter of the petitioner is scheduled tomorrow. According to him, after passing of the detention order, by the detaining authority within 12 days, the Government has to confirm the order and later, the same has to be sent to the Advisory committee for proper orders and thus, he submitted that his current position could not be informed due to paucity of time.

After hearing both parties and perusing the record, we are of the considered view that the petitioner can be temporarily permitted to be released for two days, i.e., on 21.05.2023 and 22.05.2023 to attend the marriage ceremony of his daughter under the surveillance of one police constable subject to the compliance of conditions in the order dated 23.03.2023 in CrI.M.P.No.220 of 2023 on the file of Special Judge of NDPS Act, West Godavari District for release on bail in crime No.4 of 2023 of SEB, Bhimavaram Police station, and on further condition that the petitioner shall surrender himself on 23.05.2023 by 10 AM before the Superintendent, Central Prison, Rajahmundry."


COURT OFFICER

To,

1. The District Judge, West Godavari District at Eluru.
2. The Special Judge of NDPS Act-cum-I Additional District and Sessions Judge, West Godavari at Eluru.
3. The Superintendent, Central Prison, Rajahmundry, East Godavari District.
4. The Principal Secretary, State of Andhra Pradesh, Home, Department, Secretariat, Amaravati.
5. The Collector and District Magistrate, West Godavari District, Bhimavaram
6. The Superintendent of Police, West Godavari District, Bhimavaram.
7. The Station House Officer, Bhimavaram-I Town Police Station.
8. The Station House Officer, Special Enforcement Bureau Police Station, Bhimavaram. (Addressee nos.1 to 8 by SPEED POST- along with a copy of petition and affidavit)
9. One CC to Sri Prudvi Raju Mudunuri, Advocate [OPUC]
10. Two CCs to GP for Home, High Court of Andhra Pradesh [OUT]
11. Two spare copies

CVSS

HIGH COURT

BSB,J
&
AVRB,J

DATED:20/05/2023

ORDER
IA No. 1 OF 2023
IN
W.P No.13561 of 2023

DIRECTION

