APHC010016302026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3558]
(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 1459/2026

Between:

1. MOONA NAGUR KHAJA, S/O. ADHAM SAHEB, AGED ABOUT 62 YEARS, OCCUPATION: BUSINESS, R/O KODURU MAIN, KODURU -1, THOTAPALLI GUDURU, NELLORE, ANDHRA PRADESH - 524 002.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, REVENUE (EXCISE) DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT - 522 503.
2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, HOME DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT - 522 503.
3. THE COMMISSIONER OF POLICE AND ADDITIONAL DISTRICT MAGISTRATE, SRI POTTI SRIRAMULU NELLORE DISTRICT. 524001
4. THE STATION HOUSE OFFICER, PALLIPADU DIBBA, PIDATHAPOLURU CROSS ROAD, GENCO ROAD, MUTHUKUR MANDAL, SRI POTTI SRIRAMULU NELLORE DISTRICT. 524314.

5. THE SUPERINTENDENT, CENTRAL PRISON, KADAPA. 516002.

...RESPONDENT(S):

Counsel for the Petitioner:

1. VENKAT CHALASANI

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.1459 of 2026

O R D E R: *(Per Hon'ble Sri Justice Cheekati Manavendranath Roy)*

Challenging the legal validity of the order of preventive detention dated 26.12.2025 passed by the detaining authority against a person by name Moona @ Muna Saddam Hussain, which, in turn, was confirmed by the State as per G.O.Rt.No.264, General Administration (SC-I) Department, dated 09.02.2026, the instant writ petition has been filed by the father of the detenu.

2. Heard Mr. K.S. Murthy, learned Senior Counsel assisted by Mr. Chalasani Venkat, 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 petitioner is the father of a person by name Moona @ Muna Saddam Hussain (hereinafter referred to as 'detenu'). Three crimes were registered against the detenu for the offences punishable under Bharatiya Nyaya Sanhita. Two crimes were registered in T.P. Gudur Police Station and one crime was registered in Muthukur Police Station. Considering the fact that the detenu has been repeatedly indulging in commission of the said offences and alleging that his acts are prejudicial to the maintenance of public order, the sponsoring authority has made a request to the District Collector, who is the detaining authority, to pass an order of preventive detention against the detenu. The detaining authority has considered the material placed

before him, including the orders of bail granted to the detenu, and he found that the detenu has been repeatedly committing the said offences even after grant of bail to him and his acts are prejudicial to the maintenance of public order and the detaining authority was of the opinion that an order of preventive detention is required to be passed against him. Accordingly, he has passed the impugned order of preventive detention against the detenu. The said order was considered and confirmed by the State as per G.O.Rt.No.264 dated 09.02.2026.

4. The petitioner, who is the father of the detenu, has now challenged the said order of preventive detention on the ground that the detaining authority has not given any reasons as to how the acts of the detenu are found to be prejudicial to the maintenance of public order and the impugned order has been mechanically passed ordering for his preventive detention, which has the effect of curtailing his personal liberty. Therefore, he has prayed to set aside the impugned order and to set the detenu at liberty.

5. The 4th respondent - sponsoring authority has filed his counter denying the allegations made in the writ petition. It is pleaded that as the detenu has been repeatedly committing the offences even after grant of bail that the detaining authority, after considering the material placed before him including the orders of bail, was of the opinion that an order of preventive detention is required to be passed against him and accordingly, he has passed the impugned order of preventive detention, which, in turn, was confirmed by the State as per G.O.Rt.No.264 dated 09.02.2026. Therefore, it is pleaded that the impugned order of preventive detention is perfectly valid in law and it

does not suffer from any infirmity and, therefore, prayed for dismissal of the writ petition.

6. A perusal of the material on record shows that three crimes were registered against the detenu, viz., (1) Crime No.119 of 2024 in Muthukur Police Station registered for the offences punishable under Sections 310(2) & 61(2) of BNS, (2) Crime No.208 of 2025 in TP Gudur Police Station registered for the offences punishable under Sections 126(2), 308(5), 115(2) & 351(2) r/w 3(5) of BNS and Sections 3(1)(r)(s), 3(2)(v) of SC & ST (Prevention of Atrocities Act, 2015 and (3) Crime No.191 of 2025 in TP Gudur Police Station registered for the offences punishable under Sections 329(3) and 351(2) r/w 3(5) of BNS. Bail was granted to him in one of the said crimes and in another crime, protection was given to him by this Court in a quash petition directing the police not to take any coercive steps against him and in the remaining crime, notice under Section 35(3) of BNSS was given to him. After considering the material placed before him, the detaining authority has passed the impugned order of preventive detention holding that his acts in committing the said offences are prejudicial to the maintenance of public order.

7. The validity of the said order of preventive detention is now challenged mainly on the ground that merely registering three crimes against the detenu for the offences punishable under BNS by itself cannot be a valid ground to hold that his acts are prejudicial to the maintenance of public order and the detaining authority has also not given any valid reasons as to how the said acts of the detenu in committing the said offences would amount to causing prejudice to the maintenance of public order.

8. In support of the said contention, learned Senior Counsel appearing for the petitioner relied on the judgment of the Apex Court rendered in the case of ***Ameena Begum v. State of Telangana***[1].

9. In paragraphs 34 to 38 of the said judgment, the Apex Court dealt with the difference between the maintenance of "law and order" and "public order" and held that every breach of peace does not lead to public disorder for the purpose of passing an order of preventive detention. Paras 37 and 38 of the said judgment are apposite to consider and refer here for better appreciation of the legal position in the case on hand and they read thus:

> *"37. We may refer to the decision of the Constitution Bench of this Court in* ***Ram Manohar Lohia vs. State of Bihar****, where the difference between "law and order" and "public order" was lucidly expressed by Hon'ble M. Hidayatullah, J. (as the Chief Justice then was) in the following words:*
>
> > *"54. …. Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are. …*
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> > *55. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting*

[1] (2023) 9 SCC 587 : 2023 SCC OnLine SC 1106

> *"security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State." (emphasis supplied)*

38. For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquility affects the public order and the question to be asked, as articulated by Hon'ble M. Hidayatullah, C.J. in Arun Ghosh v. State of West Bengal, is this:

> *"3. …Does it [the offending act] lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquility of the society undisturbed?"*

10. In para 37, the Apex Court has referred to its earlier decision rendered by the Constitution Bench in the case of ***Ram Manohar Lohia v. State of Bihar [1965 SCC OnLine SC 9],*** where the difference between "law and order" and "public order" has been lucidly expressed by the Apex Court. It is held that the public order, if disturbed, must lead to public disorder and every breach of peace does not lead to public disorder. An illustration was also given stating that when two drunkards quarrel and fight, there is a disorder but not public disorder.

11. Further, in para 38 of the said judgment, it is held that for an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public,

evoking feelings of fear, panic or insecurity and not every case of a general disturbance to public tranquility affects the public order and that the question to be asked is – 'Does the offending act lead to disturbance of the current life of the community so as to amount to a disturbance of the public order or does it affect merely an individual leaving the tranquility of the society undisturbed?'.

12. Thus, if the case on hand is tested on the anvil of the law laid down in the aforesaid judgment of the Apex Court, the question that requires to be considered is whether mere registration of aforesaid three crimes against the detenu amounts to causing prejudice to the maintenance of public order and the answer would be an emphatic no. There is no material, as can be seen from the impugned order of preventive detention, that the acts committed by the detenu got the impact on the broader community or the general public, evoking feelings of fear, panic or insecurity. No such reasons are also assigned by the detaining authority in the impugned order of preventive detention. Merely saying that registration of three cases amounts to causing prejudice to the maintenance of public order cannot be accepted, without there being any valid basis for arriving at such conclusion. From the material placed before us, we are not satisfied that the acts of the detenu got an impact of disturbing the maintenance of public order, leave alone the maintenance of law and order, which is not the concern in the present case.

13. Therefore, in view of the law enunciated in the above cited judgment of the Apex Court, we are of the considered opinion that the impugned order of preventive detention passed against the detenu is not sustainable in law.

14. Resultantly, the writ petition is allowed, setting aside the impugned order of preventive detention dated 26.12.2025 passed against the detenu, which, in turn, was confirmed by the State by G.O.Rt.No.264, General Administration (SC-I) Department, dated 09.02.2026. The detenu, by name Moona @ Muna Saddam Hussain, 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: 04.05.2026
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THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

AND

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION No.1459 of 2026

Dt: 04.05.2026

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