APHC010099962026

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

THURSDAY, THE SEVENTH 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: 5504/2026

Between:

1. M. MAHALAKSHMI, W/O. M. SURESH @ MORAMSETTY SURESH, AGED 41 YEARS, OCC HOUSEHOLD, R/O D. NO. 1-195, DHARMAVARAMROAD, KOTHACHERUVU, ANANTAPUR DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT BUILDINGS, AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT 522237
2. THE COLLECTOR AND DISTRICT MAGISTRATE, SRI SATHYA SAI DISTRICT.515134
3. THE SUPERINTENDENT OF POLICE, SRI SATHYA SAI DISTRICT. 515134
4. THE SUPERINTENDENT, CENTRAL PRISON, KADAPA, YSR KADAPA DISTRICT. 516002

...RESPONDENT(S):

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 writ order or direction more particularly one in the nature of writ of Habeas Corpus under Article 226 of the constitution of India directing the 4th respondent to produce Moramsetty Suresh, who is now detained in

Central Prison, Kadapa, YSR Kadapa District before this Honble Court and he may be ordered to be released forthwith after declaring his detention vide D.Dis.MAGLI/E-29725, dt. 18.12.2025, passed by the 2nd respondent which was confirmed by the 1st respondent vide G.O.Rt.No.305, dt. 10.02.2026 General Administration (SC-I) Dept., as illegal and unconstitutional and pass

Counsel for the Petitioner:

1. D PURNACHANDRA REDDY

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL

The Court made the following:

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

The order of preventive detention dated 18.12.2025 passed by the 2nd respondent-the Collector and District Magistrate, Sri Sathya Sai District, against the detenu by name, Moramsetty Suresh, who is the husband of the petitioner, is under challenge in this writ petition.

2. Heard 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 wife of a person by name Moramsetty Suresh, (hereinafter referred to as 'the detenu'). In total, 22 crimes were registered against him under various Sections of law under Indian Penal Code, 1860, and Bharatiya Nyaya Sanhita, 2023. Therefore, as he has been repeatedly indulging himself in commission of the said offences and as his acts are found to be prejudicial to the maintenance of public order, the sponsoring authority made a request to the 2nd respondent-detaining authority to pass an order of preventive detention against him. The 2nd respondent-detaining authority has considered the material placed before him and he was of the opinion that an order of preventive detention is required to be passed against the detenu to prevent him from committing the said offences in the interest of maintenance of public order. Therefore, he has, by the impugned order, passed an order of preventive detention against the detenu. The said order was in turn considered and confirmed by the 1st respondent-State *vide* G.O.Rt.No.305, GAD (SC-I) Department, dated 10.02.2026.

4. The petitioner, who is the wife of the detenu, seeks to challenge the said order of preventive detention on the ground that in 11 cases out of 22 cases, the detenu was enlarged on bail. But, the sponsoring authority did not place the copies of the said bail orders before the detaining authority, to

consider the same and to apply his mind whether to pass an order of preventive detention against him or not. Failure to place the said orders of bail before the detaining authority vitiates the order of preventive detention and renders the order of preventive detention invalid. Therefore, on the said sole ground, the petitioner sought to set-aside the impugned order of preventive detention.

5. The 2nd respondent filed his counter, opposing the prayer of the petitioner. It is stated that the detenu has indulged in commission of 22 crimes and as he has been repeatedly committing the said crimes and as his acts are found to be prejudicial to the maintenance of public order that the order of preventive detention was passed against him in the interest of maintenance of public order. Therefore, it is prayed to dismiss the writ petition.

6. Admittedly, the petitioner was enlarged on bail in 11 crimes out of 22 crimes registered against him, prior to passing the order of preventive detention. It is settled law that when the detenu was enlarged on bail prior to passing the order of preventive detention, the said orders of bail are to be placed before the detaining authority to enable him to consider the same and to apply his mind, whether to pass an order of preventive detention or not. Failure to place the orders of bail before the detaining authority vitiates the order of preventive detention and renders the same invalid. The said legal position has been considered by this Court in several cases and has set-aside the order of preventive detention. In ***Rushikesh Tanaji Bhoite v. State of Maharashtra and others***[1], at para Nos.8 and 9, it is held as follows:

> **"***8. It would be, thus, seen that the order releasing the detenu on bail in the crime registered on 14.08.2010 and the order relaxing the bail condition were passed by the Judicial Magistrate, First Class, much before the issuance of the detention order dated 10.01.2011. However, the detention order or the grounds supplied to the detenu do not show that the detaining authority was aware of the bail order granted in favour of the detenu.*

[1] (2012) 2 SCC 72

> *9. In a case where detenu is released on bail and is enjoying his freedom under the order of the Court at the time of passing the order of detention, then such order of bail, in our opinion, must be placed before the detaining authority to enable him to reach at the proper satisfaction.*"

7. The same is the view taken by the Apex Court in the case of ***Abdul Sathar Ibrahim Manik v. Union of India and others***[2].

8. Following the law laid down in the aforesaid judgments, this Court, in W.P.No.15825 of 2025 also, has set-aside the order of preventive detention on the same ground.

9. Therefore, the Writ Petition is allowed, setting aside the impugned order of preventive detention, passed by respondent No.2 dated 18.12.2025, against the detenu, by name Moramsetty Suresh, who is the husband of the petitioner, which in turn was confirmed by the State *vide* G.O.Rt.No.305, GAD (SC-I) Department, dated 10.02.2026. The detenu, by name Moramsetty Suresh, shall be released forthwith and he 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 pending, if any, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

JUSTICE TUHIN KUMAR GEDELA

Date: 07.05.2026
MDP

[2] (1992) 1 SCC 1