APHC010472272026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3624]**
(Special Original Jurisdiction)

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 25712/2026

Between:

1. BEERAKA SITADEVI,, W/O. RAMAKRISHNA, AGED 61 YEARS,R/O. 28-9-12, BODA VANI STREET, JAMPETA, RAJAHMUNDRY, EAST GODAVARI DISTRICT, ANDHRA PRADESH.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE (EXCISE. II) DEPARTMENT, SECRETARIAT, VELAGAPUDI VILLAGE, AMARAVATHI, ANDHRA PRADESH. PIN. 522237
2. THE SUPERINTENDENT, CENTRAL PRISON, KADAPA, YSR KADAPA DISTRICT. PIN. 516001
3. THE SUPERINTENDENT OF POLICE, NELLORE, SPS NELLORE DISTRICT. PIN. 524001

...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 toissue a Writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce Beeraka Prakash @ Surya Prakash, S/o. Ramakrishna, aged about 51 years, presently detained in Central Prison, Kadapa, YSR Kadapa District before this Honorable court and he may be ordered to be released forthwith/set at liberty after declaring his detention vide G. 0. Rt. No. 143, dated 30-01-2026 passed by the 1st

Respondent as confirmed in G.O. Rt. No. 440, Revenue (Excise. II) Department , dated 18-03-2026 passed by the 1st respondent after receiving the report of the advisory board dated 24-02-2026 as illegal, arbitrary, unconstitutional and void

Counsel for the Petitioner:

1. S DUSHYANTH REDDY

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL

The Court made the following:

ORDER: :-*(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri S.Dushyanth Reddy, learned for the petitioner and Sri Akula Venkata Sai Jagadeesh, learned Assistant Government Pleader attached to the office of the learned Additional Advocate General, appearing for the respondents.

2. The petitioner, who is mother of the detenu, has filed the writ petition under Article 226 of the Constitution of India, challenging the order of preventive detention and seeking a writ of *Habeas Corpus* for the release of the detenu.

3. An order of preventive detention was passed against the detenu by the State *vide* ***G.O.Rt.No.143***, Revenue (Excise.II) Department, dated ***30.01.2026***, under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short, "the PIT NDPS Act"). The detention order was passed based on ***four (04)*** criminal cases pending against the detenu. List of those cases is as under : -

Sl. No	Cr.No., Sec of law & Name of the Police Station	Ganja Seized (in Kg's)	Stage of the case
(1)	(2)	(3)	(4)
1.	Cr.No.139/2015, u/s 8(c) r/w 20(b)(1) NDPSA Santhapet P.S., SPS Nellore District.	135.8 Kgs	Pending Trial
2.	Cr.No.273/2022, u/s 8(c) r/w 20(b)(ii)(c), 25 NDPSA of Jeelugumalli P.S., Eluru District.	161.2 Kgs	Pending Trial
3.	Cr.No.174/2023, u/s 8(c) r/w 20(b)(ii)(c), 25 NDPSA of Eluru SEB Station, Eluru District.	196 Kgs	Under Investigation

4.	Cr.No.151/2025, u/s 121(1), 121(2), 109(1) BNS, 8(c) r/w 20(b)(ii)(c) NDPSA Balajinagar P.S., SPS Nellore District.	22 Kgs	Under Investigation

4. After the receipt of a report from the Advisory Board dated 24.02.2026, the detention order was confirmed by the State *vide* ***G.O.Rt.No.440,*** Revenue (Excise.II) Department, dated ***18.03.2026****,* for a period of twelve months from the date of detention i.e., 02.02.2026.

5. Learned counsel for the petitioner has advanced his submission that insofar as Triple Test (ground No.5(b)) is concerned, the detention order was passed while detenu was in judicial custody and the said fact was itself noticed by the detaining authority in the order of detention. The detaining authority has not stated how he came to subjective satisfaction of likelihood of detenu coming out and indulging in similar activities. The detaining authority was required to consider the applicability of the triple test before arriving at the requisite subjective satisfaction for passing the order of preventive detention on the basis of the said criminal cases. He placed reliance in **Champion R. Sangma v. State of Meghalaya and Another**[1].

6. Learned Assistant Government Pleader, while referring to the order of detention, could not dispute that the detenu was in judicial custody. He also could not point out any consideration by the detaining authority as to whether there was a real possibility of the detenu being released on bail and, if released, whether he was likely to indulge in similar prejudicial activities.

[1] (2015) 16 SCC 253

7. We have considered the aforesaid submissions advanced by the learned counsel for the parties and perused the material on record.

8. Considering the submissions advanced and after going through the contents of the order of detention as well as the order of confirmation, we are of the view that the applicability of the triple test has not been satisfied. Though one of the tests, namely, that the detenu was lodged in jail, has been mentioned, there is no consideration as to whether there was a real possibility of the detenu being released on bail. Such consideration is conspicuously absent in the impugned order.

9. In ***Champion R. Sangma*** (supra), the Honorable Apex Court held in paragraph Nos.9 to 13 as under :

> *"**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 crystallised by a 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.*
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> ***10.** There are three such factors which were restated in Kamarunnissa v. Union of India [Kamarunnissa v. Union of India, (1991) 1 SCC 128 : 1991 SCC (Cri) 88] : (SCC pp. 140-41, para 13)*
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> > *"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 Ramesh Yadav [Ramesh Yadav v. District Magistrate, Etah, (1985) 4 SCC 232 : 1985 SCC (Cri) 514] 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) T.V. Sravanan v. State [T.V. Sravanan v. State, (2006) 2 SCC 664 : (2006) 1 SCC (Cri) 593] ,

(ii) K.K. Saravana Babu v. State of T.N. [K.K. Saravana Babu v. State of T.N., (2008) 9 SCC 89 : (2008) 3 SCC (Cri) 679] ,

(iii) Huidrom Konungjao Singh v. State of Manipur [Huidrom Konungjao Singh v. State of Manipur, (2012) 7 SCC 181 : (2013) 1 SCC (Cri) 956] .

12. *In the present case, as already pointed out above, the appellant was under incarceration as he is implicated in as many as 8 cases. In fact till date he is in jail and has not been granted bail.*

13. *In view of the above, it was for the respondents to satisfy the Court as to whether the triple requirements, as postulated above,*

stand satisfied in the present case. We find that the respondents have miserably failed to fulfill this requirement."

10. The triple test requires the detaining authority to consider and arrive at its satisfaction on the following aspects: (i) whether the detenu was already in custody; (ii) whether there was a real possibility of his being released on bail, based on reliable material placed before the authority; (iii) whether, upon such release, he would, in all probability, indulge in prejudicial activities; and (iv) whether it was essential to detain him to prevent him from doing so.

11. Applying the said principle to the facts of the present case, we are of the considered view that the triple test laid down in ***Champion R. Sangma*** (supra) has not been considered by the detaining authority in its proper perspective. The mere reference to the fact that the detenu was in jail does not amount to consideration of the triple test. There is no consideration as to whether there was a real possibility of the detenu being released on bail and, if so, whether such release would result in his indulging in activities prejudicial to the maintenance of public order.

12. Such non-consideration of a vital and relevant circumstance vitiates the subjective satisfaction recorded by the detaining authority. It also indicates that the detaining authority has proceeded mechanically.

13. Additionally, the preventive detention order has been passed taking into account the old criminal cases of the years 2015, 2022 and 2023 but without recording any satisfaction about the link being a live and casual connection for preventive detention in relation to those cases.

14. Recently in ***Ponna Roja v. The State of Andhra Pradesh***[2], a Co-ordinate Bench of this Court, while considering the validity of an order of preventive detention, held that there must be a live and proximate causal connection between the incidents relied upon by the detaining authority and the necessity to detain the detenu with a view to achieving the object of preventive detention. The Co-ordinate Bench further observed that, in the absence of such causal connection, the satisfaction recorded by the detaining authority cannot be regarded as subjective satisfaction based on relevant considerations.

15. The aforesaid principle squarely applies to the facts of the present case.

16. Thus, applying the principle laid down by the Co-ordinate Bench in ***Ponna Roja*** (supra), we are of the view that the satisfaction recorded by the detaining authority is not a subjective satisfaction based on relevant and legally permissible considerations. The non-consideration of the triple test, coupled with the absence of a live and proximate causal connection between the long old incidents and the necessity for preventive detention, vitiates the order of detention.

[2] W.P.No.5684 of 2026 APHC decided on 14.07.2026

17. Consequently, the order of preventive detention cannot be sustained. The continued detention of the detenu pursuant to those orders, is illegal, and he is entitled to be released, if he is not in detention in any other pending criminal case.

18. The writ petition is ***allowed***. The order of preventive detention dated 30.01.2026 and the order of confirmation dated 18.03.2026 are set aside. The detenu shall be set at liberty immediately, if he is not in detention in any other pending case. The detaining authority however shall be at liberty to pass fresh order but in accordance with law. In case any order of detention is passed afresh, the period of detention shall not exceed in total the statutory period, including the period already served under the impugned detention order. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

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RAVI NATH TILHARI, J

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ALAPATI GIRIDHAR, J

Date: 07.10.2026

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

(ALLOWED)

WRIT PETITION NO: 25712/2026

Date: 07.10.2026

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