APHC010665522025

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

WEDNESDAY, THE SIXTH 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: 34358/2025

Between:

1. UPPUTHOLLA VIJAYA, W/O SRINIVASA RAO AGED ABOUT 5O YEARS, OCC HOME MAKER R/O 12-2-196, 20TH WARD, MACHERIA TOWN MACHERLA, PALNADU DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP, REP. BY ITS CHIEF SECRETARY GENERAL ADMINISTRATION (SC-1) DEPARTMENT A.P. SECRETARIAT OFFICE, VELGAPUDI GUNTUR DISTRICT.
2. THE COLLECTOR DISTRICT MAGISTRATE, PALNADU DISTRICT.
3. THE SUPERINTENDENT OF POLICE, PALNADU DISTRCT.
4. THE SUPERINTENDENT OF POLICE, CENTRAL PRISON, RAJAMAHENDRAVARAM.

...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 topleased to issue a Writ of Habeas Corpus directing the Respondents herein to produce my son/detenue Upputholia Venkatesh@ Masi, S/o Srinivasa Rao, Aged about 30 years, Occ Driver, R/o Chennayya Complex, Macherla Town. Palnadu District before this Hon'ble Court and may be set at liberty/ordered to be released forthwith by declaring the order of

Detention passed by the 2nd Respondent Vide proceedings RC. No. 43/2025-C1, dated 31.07.2025 as confirmed by the respondent No.1 vide G.O.R.T. No. 1800, dated 29.09.2025 is illegal, arbitrary and colorable excise of powers and violative of Article 14 and 21 of the Constitution of India and to pass

Counsel for the Petitioner:

1. RAMALAKSHMANA REDDY SANEPALLI

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 31.07.2025 passed by the 2nd respondent-the Collector and District Magistrate, Palnadu District, against the detenu by name, Upputholla Venkatesh @ Masi, who is the son 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 mother of a person by name Upputholla Venkatesh @ Masi, aged about 30 years (hereinafter referred to as 'the detenu'). Three crimes were registered against the detenu under the provisions of the Indian Penal Code, 1860, (for short, 'the IPC'). As he has been frequently indulging in commission of the similar nature of crimes, the sponsoring authority made a request to the detaining authority to pass an order of preventive detention against him. As his acts are found to be prejudicial to the maintenance of public order, the detaining authority has considered the material placed before him and as he found that the repeated acts of the detenu in committing the similar nature of offences are prejudicial to the maintenance of public order, he has passed the impugned order of preventive detention against the detenu. Since then he has been in detention. The detaining authority has held in its order that three crimes relating to attempt to murder punishable under Section 307 of IPC were registered against him.

4. The said order of preventive detention is now challenged by the petitioner, who is the mother of the detenu, on the ground that only one crime was registered under Section 307 of IPC and other two crimes were registered under Section 324 of IPC and on the further ground that there is a gap of fourteen months between the act of committing the alleged last crime and the order of preventive detention and there is no live link between the last crime

said to have been committed by the detenu and the order of preventive detention and proximate nexus between the two incidents and on that ground the order of preventive detention is bad in law and thereby prayed to set-aside the same.

5. The 2nd respondent has filed his counter, opposing the petition. It is stated that about three crimes were registered against the petitioner and apart from the said three crimes, other eleven crimes were also registered against him under the provisions of the IPC and considering his conduct in repeatedly committing the offences, which are found to be prejudicial to the maintenance of public order that it necessitated to pass an order of preventive detention against him and thereby prayed to dismiss the writ petition.

6. Although, it is stated that other eleven crimes were registered against the detenu, they are not taken into consideration by the detaining authority while passing the order of preventive detention. Therefore, the registration of other eleven crimes, which are not made basis for passing the order of preventive detention, cannot be now taken into consideration. The detaining authority has taken into consideration only three crimes registered against the detenu for the purpose of passing an order of preventive detention. Although, he has stated that they are punishable under Section 307 of IPC for attempting to commit murder, only one crime is relating to 307 of IPC and other two crimes are relating to offences punishable under Section 324 of IPC for causing grievous hurt to the injured. The last crime among the said three crimes was allegedly committed on 25.05.2024 and thereafter, the order of preventive detention was passed on 31.07.2025. Thus, there is a gap of fourteen months from the date of commission of alleged last incident and the date of passing the order of preventive detention. Though, the learned Government Pleader appearing for the respondents submits that there is only a gap of ten months between the last incident that was committed and the order of preventive detention, admittedly, there is a considerable gap whether

it is fourteen months or ten months between the last incident and the order of preventive detention. It is settled law when there is a considerable gap between the last incident said to have been committed by the detenu and the order of preventive detention, the live link between the last incident and the subjective satisfaction of the detaining authority to pass an order of preventive detention would be missing, as there would be no proximate nexus between the last incident and the alleged prejudice said to have been caused to the maintenance of public order and it renders the order of preventive detention invalid. The legal position in this regard has been dealt with by the Apex Court in the case of ***Mohd. Sahabuddin v. District Magistrate, 24 Parganas***[1]. In the said case, the Apex Court has quashed the order of preventive detention on the sole ground that the order of preventive detention was passed nearly seven months after the criminal incident and subjective satisfaction has no proximate and rational nexus with the prejudicial Act. Considering the said law laid down by the Apex Court, a Co-ordinate Bench of this Court, in writ petition No.15853 of 2023, has taken the similar view and has set-aside the order of preventive detention, in view of the considerable gap that was found between the last incident said to have been committed by the detenu and the order of preventive detention. In the instant case also, there is a considerable gap between the last incident said to have committed by the detenu and the order of preventive detention. Therefore, it renders the order of preventive detention invalid.

7. Resultantly, the Writ Petition is allowed, setting aside the impugned order of preventive detention, passed by respondent No.2 dated 31.07.2025, against the detenu, by name Upputholla Venkatesh @ Masi, who is the son of the petitioner, which in turn was confirmed by the State *vide* G.O.Rt.No.1800, GAD (SC-I) Department, dated 29.09.2025. The detenu, by name Upputholla Venkatesh @ Masi, 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.

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[1] 1975 (4) SCC 114

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

JUSTICE TUHIN KUMAR GEDELA

Date: 06.05.2026
MDP