APHC010702722025

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: 36041/2025

Between:

1. SHAIK IQBAL BASHA, S/O SALEHA, AGED ABOUT 27 YEARS, R/O: 9TH STREET, VENGALARAO NAGAR, NELLORE.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS CHIEF SECRETARY, GENERAL ADMINISTRATION (SC-1) DEPT., SECRETARIAT, VELAGAPUDI VILLAGE, AMARAVATHI, ANDHRA PRADESH. PIN: 522238.
2. THE COLLECTOR & DISTRICT MAGISTRATE, NELLORE DISTRICT. PIN: 524001.
3. THE SUPERINTENDENT OF POLICE, NELLORE. PIN: 524001.
4. THE SUPERINTENDENT, CENTRAL PRISON, KADAPA, YSR KADAPA DISTRICT. PIN: 516001.

...RESPONDENT(S):

Counsel for the Petitioner:

1. S DUSHYANTH REDDY

Counsel for the Respondent(S):

1. THE 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.36041 of 2025

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

The legal validity of the order of preventive detention dated 16.07.2025 passed against a person by name Shaik Yasir, which, in turn, was confirmed by the State as per G.O.Rt.No.1615, General Administration (SC-I) Department, dated 03.09.2025, is under challenge in this writ petition.

2. Heard Mr. S. Dushyanth Reddy, 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 brother of a person by name Shaik Yasir (hereinafter referred to as 'detenu'). Six crimes were registered against the detenu for various offences punishable under IPC and BNS. Considering the fact that he has been repeatedly indulging in commission of the said offences, the sponsoring authority was of the view that his acts are causing prejudice to the maintenance of public order. Therefore, he made a request to the detaining authority to pass an order of preventive detention against the detenu. After considering the material placed before him, including the order of bail passed in one crime, the detaining authority was also of the opinion that an order of preventive detention is required to be passed against the detenu to prevent him from committing the similar nature of offences, as his acts

are causing prejudice to the maintenance of public order. Therefore, he has passed the impugned order of preventive detention dated 16.07.2025 against the detenu. The said order, in turn, was confirmed by the State as per G.O.Rt.No.1615, General Administration (SC-I) Department, dated 03.09.2025 and since then, the detenu has been in custody.

4. The petitioner, who is the brother of the detenu, seeks to challenge the impugned order of preventive detention on the ground that the impugned order failed to satisfy the triple test as laid down by the Apex Court in the case of ***Champion R. Sangma v. State of Meghalaya***[1] and there is no basis for the detaining authority to hold that after the detenu is released on bail that he would continue to commit similar nature of offences, causing prejudice to the maintenance of public order. Therefore, it is prayed to set aside the impugned order of preventive detention and set the detenu at liberty.

5. The 2nd respondent - Collector & District Magistrate, who was the detaining authority, filed counter denying the material allegations made in the writ petition. It is pleaded that as six crimes were registered against the detenu and as he has been indulging in commission of the said offences repeatedly, which is causing detriment to the maintenance of public order, an order of preventive detention is passed against him. It is stated that as the detaining authority was of the opinion that even after the detenu is released on bail, there is likelihood of his committing the similar nature of offences, the said order of preventive detention is passed. Therefore, it is prayed for dismissal of the writ petition.

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[1] (2015) 16 SCC 253

6. The Apex Court, in the case of ***Champion R. Sangma*** *(*1 supra*)*, laid down a triple test and every order of preventive detention has to pass the said triple test. They are –

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.

7. After considering the said judgment in ***Champion R. Sangma's*** case and the triple test laid down therein, this Court, in the case of ***Lakshmi v. Government of Andhra Pradesh***[2], held that mere saying by the detaining authority that after the detenu is released on bail that there is every likelihood of his committing similar nature of offences by itself is not sufficient and the detaining authority must have some basis to arrive at the said conclusion.

8. In the above cited judgment of this Court in the case of ***Lakshmi*** (2 supra), para 13 is relevant to consider and it reads thus:

> *"13. Almost, a similar order that was passed in the present writ petitions, was also passed in the case that was decided by the Division Bench in* ***Cheemparthi Parvin v. State of Andhra Pradesh****. In the order that was challenged in the said case also, it is held that having examined the facts and circumstances of the case and the material produced before the detaining authority that he is satisfied that there is every likelihood*

[2] 2023 SCC OnLine AP 3085

of detenue being released on bail and committing the similar offences in future. What is the material that is placed and how the said material indicated that the detenue would be released on bail and that thereafter there is likelihood of detenue committing the similar nature of offences was not discussed in the order of the detaining authority in the said case before the Division Bench and even in the present batch of cases. A careful perusal of the impugned orders clearly show that except stating in a vague manner that the material was placed and he is satisfied from the said material that there is likelihood of the detenue being released on bail and that he would repeat the commission of the same offences, what is that material and how it indicates that they would be released on bail and that they would repeat the commission of the said offences, is not discussed by the detaining authority, so as to ascertain whether he is really satisfied with the said material to arrive at the said conclusion or not. Therefore, the impugned orders of the detaining authority are devoid of valid reasons to record his satisfaction that the detenues are likely to be released on bail or that there is likelihood of committing the similar crimes by them in future. Such an order sans reasons for recording such satisfaction cannot be upheld and accepted as valid."

9. If the order of preventive detention impugned in the instant case is tested on the anvil of the law laid down in the aforesaid judgments of the Apex Court and this Court, the impugned order fails to satisfy the triple test that is laid down by the Apex Court, which is invariably required to be satisfied to uphold the order of preventive detention. In the instant case also, except simply saying that after the detenu is released on bail, there is likelihood of his committing the similar nature of offences, there is no basis for the detaining authority to arrive at the

said conclusion, as no reasons are assigned to that effect in the impugned order of preventive detention.

10. Therefore, the impugned order of preventive detention is not valid under law and it is liable to be set aside.

11. Resultantly, the writ petition is allowed, setting aside the impugned order of preventive detention dated 16.07.2025 passed by the 2nd respondent, which, in turn, was confirmed by the State by G.O.Rt.No.1615, General Administration (SC-I) Department, dated 03.09.2025. The detenu, by name Shaik Yasir, 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

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Dt: 04.05.2026

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