APHC010710922025

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: 36400/2025

Between:

1. SYED GHOUSE,, S/O. M.S.A.KHADER, R/O. 20-5-11-1896, KOTHAPALLE, KORLAGUNTA, TIRUPATI URBAN, TIRUPATI DISTRICT

...PETITIONER

AND

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

...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 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 Syed Azeem, who is now detained in Central Prison, Kadapa, YSR Kadapa District before this Hon'ble Court and

he may be ordered to be released forthwith after declaring his detention vide Rc.C1/749/2025, dt. 13.11.2025, passed by the 2nd respondent which was approved by the 1st respondent vide G.O.Rt.No. 2196, dt.24.11.2025 General Administration (SC-I) Dept., as illegal and un constitutional

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to order amendment of the prayer in W.P.No.36400 of 2025 as “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 Syed Azeem who is now detained in Central Prison, YSR Kadapa District before this Hon’ble Court and he may be ordered to be released forthwith after declaring his detention vide proceedings RC.Cl/749/2025, dt. 13.11.2025 passed by the 2nd respondent which confirmed by the 1st respondent vide G.O.Rt.No.96 General Administration (SC- I) Department, dt. 19.01.2026 as illegal and un constitutional and pass such other order or orders which this Hon’ble Court may deem fit and proper in the cireumstances of the case” instead of “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 Syed Azeem, who is now detained in Central Prison, Kadapa, YSR Kadapa District before this Hon’ble Court and he may be ordered to be released forthwith after declaring his detention vide Rc.Cl/749/2025, dt. 13.11.2025, passed by the 2nd respondent which was approved by the 1st respondent vide G.O.Rt.No. 2196, dt.24.11.2025 General Administration (SC-I) Dept., as illegal and un constitutional 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)*

Challenging the legal validity of the order of preventive detention dated 13.11.2025 passed by the 2nd respondent-The Collector and District Magistrate, Tirupati District, against the detenu by name, Syed Azeem, who is the son of the petitioner, the instant writ petition has been filed.

2. Heard Mr. D.Purnachandra 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 father of a person by name Syed Azeem (hereinafter referred to as 'the detenu'). Four cases under various sections of law of Bharatiya Nyaya Sanhita, 2023 (for short, 'the BNS Act') and one case under the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short, 'the NDPS Act') were registered against the detenu. As he has been repeatedly committing the said offences, the sponsoring authority made a request to the detaining authority to pass an order of preventive detention against him for the purpose of preventing him from committing the similar nature of offences in future in the larger interest of maintenance of public order. The detaining authority, after considering the material placed by him relating to commission of the aforesaid offences by the detenu, has considered him as a "Goonda", as defined under Section 2(g) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, (for short, 'the Act') and passed an order of preventive detention against him in the interest of maintenance of public order, as his acts are found to be prejudicial to the maintenance of public order. The said order was considered by the State and the State has in turn confirmed the said order as per G.O.Rt.No.96 GAD (SC-I), Department, dated 19.01.2026. Since then, the detenu has been in custody.

4. The said order of preventive detention is now questioned by the petitioner, who is the father of the detenu, on the ground that when the detenu is considered to be a “Goonda” as defined under Section 2(g) of the Act, for the purpose of passing the preventive detention order, the detaining authority committed a grave error in taking into consideration the cases registered under the NDPS Act also, as a person who is found to have committed offences under NDPS Act, is to be considered and termed as a “Drug Offender” as defined under Section 2(f) of the Act and taking an irrelevant provision into consideration for the purpose of passing an order of preventive detention makes the said order invalid under law.

5. We find considerable force in the said contention of the petitioner. Admittedly, the detaining authority has passed the impugned order of preventive detention against the detenu, terming him as “Goonda”, as defined under Section 2(g) of the Act. Only a person who is found to have involved in commission of the offences punishable under the BNS Act alone can be considered as “Goonda” under the Act. If a person is found to have committed offences under the NDPS Act, he comes under the definition of 2(f) of the Act and he has to be termed as “Drug Offender”. The detaining authority did not consider him as a drug offender. He passed the order only on the basis of the cases registered against him under the BNS Act, terming him as “Goonda”. Therefore, while passing the impugned order of preventive detention, he has taken an irrelevant material and provision into consideration, relating to the offences punishable under the NDPS Act. It is settled law that if irrelevant material is taken into consideration for the purpose of passing an order of preventive detention, it renders the very order of preventive detention illegal. Therefore, on the sole ground, the order of preventive detention is bad in law and it is liable to be set-aside. The legal position in this regard is not *res integra* and the same has been well settled by this Court. In the case of

M.Hemalatha v. State of Andhra Pradesh and others[1], this Court has considered the legal position in this regard and held that when irrelevant material is taken into consideration for the purpose of passing the order of preventive detention, the said order cannot be sustained. While, arriving at the said conclusion, this Court earlier relied on the judgment of the Apex Court rendered in the case of ***Khaja Bilal Ahmed v. State of Telangana and others***[2].

6. Therefore, in view of the settled law, the impugned order of preventive detention in the present case cannot be sustained.

7. Resultantly, the Writ Petition is allowed, setting aside the impugned order of preventive detention, passed by respondent No.2 dated 13.11.2025, against the detenu, by name Syed Azeem, who is the son of the petitioner, which in turn was confirmed by the State *vide* G.O.Rt.No.96, GAD (SC-I), Department, dated 19.01.2026. The detenu, by name Syed Azeem, shall be released forthwith and 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: 04.05.2026
MDP

[1] W.P.No.21828 of 2025
[2] (2020) 13 SCC 632