

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER  
AND  
THE HON'BLE SMT.JUSTICE JUVVADI SRIDEVI**

**WRIT PETITION Nos.10888 AND 10892 OF 2022**

**COMMON ORDER:** (Per Hon'ble Dr.SA,J)

Though the petitioners in these two Writ Petitions are different, the issue involved is same and therefore, both the Writ Petitions are being taken up together and disposed of by way of this common order.

2. W.P.No.10888 of 2022 is filed by Smt. Seema Pradan, who is the wife of the detenu, namely, Manoranjan Pradhan @ Manu and W.P.No.10892 of 2022 is filed by Smt.Jyoti Mandal, who is the wife of the detenu, namely, Susanta Mandal @ Susanth. The petitioners herein filed the present Habeas Corpus petitions challenging the separate detention orders vide No.22/PD-CELL/CCRB/RCKD/2022 and No.23/PD-CELL/CCRB/RCKD/2022 of even date, dated 16.02.2022, passed by the respondent No.2-Commissioner of Police, Rachakonda Commissionerate, whereby, the detenus were detained under Section 3(2) of the Telangana Preventive Detention Act, 1986 (Act 1 of 1986), and the consequential confirmation orders *vide* G.O.Rt.Nos.996 and 997 of even date dated 09.05.2022, respectively passed by the Chief

Secretary to Government, General Administration (Spl. (Law & Order)) Department, Government of Telangana.

3. Heard the learned counsel for the petitioners, learned Assistant Government Pleader for Home representing the learned Additional Advocate General appearing for the respondents in both the writ petitions and perused the record.

4. The case of the petitioners is that basing on a recent solitary crime registered against the *detenus* viz., Crime No.731 of 2021 of Saroornagar Police Station, the respondent No.2 passed the impugned detention orders of even date, dated 16.02.2022. According to respondent No.2, the *detenus* are 'Immoral Traffic Offenders', as they have been indulging in trafficking girls/women for the sake of prostitution business through their agents and running online prostitution through LOCANTO dating app and also running offline prostitution business in a rental portion at Plot No.31, Panjala Anil Kumar Colony, Saroornagar and allowing male customers in to their house for having their sexual pleasures and thus they have been engaging themselves in unlawful acts and indulging in the acts of organizing prostitution clandestinely by acting as leaders/members of criminal gang to make easy buck in a short period. The *detenus* procure customers through their known contacts in whatsapp and through social network services

and they used to call up male customers whenever new girls come to their prostitution den and thereby causing widespread health hazards and acting in a manner prejudicial to the maintenance of public order. Subsequently, the impugned detention orders were confirmed by the Government, vide G.O.Rt.Nos.996 and 997 of even date dated 09.05.2022.

5. Learned counsel for the petitioners would contend that the impugned detention orders have been passed in a mechanical manner and without application of mind. Already criminal law was set into motion against the *detenus*. The *detenus* were granted conditional bail by the Court concerned on 15.02.2022. Immediately, on the next day, i.e., on 16.02.2022, the impugned detention orders were passed apprehending that there is every possibility of the release of the *detenus* from jail after producing sureties and on such release, there is imminent possibility of their indulging in similar prejudicial activities again, unless they are prevented from doing so by appropriate orders of detention. The subjective satisfaction reached by the detaining authority is tainted and illegal. Further, the alleged crime does not add up to "disturbing the public order" and it is confined within the ambit and scope of the word "law and order". Since the offences alleged are under the Indian Penal Code and The Immoral Traffic (Prevention)

Act, 1956 (for short, 'PITA'), the *detenus* can certainly be tried and convicted under the penal code and the said special law. Thus, there was no need for the detaining authority to invoke the draconian preventive detention law against the *detenus*. Hence, the impugned orders tantamount to colourable exercise of power. The impugned orders are legally unsustainable and ultimately, prayed to allow the Writ Petitions, as prayed for.

6. On the other hand, the learned Assistant Government Pleader for Home appearing for the respondents supported the impugned orders and submitted that the *detenus* are 'Immoral Traffic Offenders'. They are indulging in trafficking girls/women for the sake of prostitution business through their agents and running online prostitution through LOCANTO dating app and also running offline prostitution business in their house and allowing male customers in to their house for having their sexual pleasures and thus they have been engaging themselves in unlawful acts and indulging in the acts of organizing prostitution clandestinely by acting as leaders/members of criminal gang to make easy buck in a short period and thereby acting in a manner prejudicial to the maintenance of public order and public health at large. Since the *detenus* got bail in the solitary crime relied upon by the detaining authority, the apprehension of the detaining authority that there is

every possibility of the *detenus* producing sureties and coming out from the jail and on such release, there is imminent possibility of their indulging in similar offences, is not misconceived. The crime allegedly committed by the *detenus* created panic and embarrassment in the locality. The criminal activities of the *detenus* not only endanger the family system but also create social unrest causing widespread health hazards to the general public. Therefore, the detaining authority was legally justified in passing the impugned detention orders. Further, the Advisory Board rendered its opinion that there is sufficient cause for detention of the *detenus* and on considering the same along with the entire material, the Government confirmed the impugned detention orders vide G.O.Rt.Nos.996 and 997 of even date dated 09.05.2022. All the mandatory requirements were strictly followed by the detaining authority while passing the impugned detention orders. The impugned orders are legally sustainable and ultimately, prayed to dismiss the Writ Petitions.

7. In view of the submissions made by both the sides, the point that arises for determination in these Writ Petitions is:

*"Whether the impugned detention orders vide No.22/PD-CELL/CCRB/RCKD/2022 and No.23/PD-CELL/CCRB/RCKD/2022 of even date dated 16.02.2022, passed by the respondent No.2, and the consequential confirmation orders vide G.O.Rt.Nos.996 and 997 of even date dated 09.05.2022, respectively passed by the Chief Secretary to*

*Government, General Administration (Spl. (Law & Order))  
Department, Government of Telangana, are liable to be set  
aside?"*

**POINT:**

8. In catena of cases, the Hon'ble Supreme Court had clearly opined that there is a vast difference between "law and order" and "public order". The offences committed against a particular individual fall within the ambit of "law and order" and when the public at large is adversely affected by the criminal activities of a person, such activities of that person are said to disturb the public order. Moreover, individual cases can be dealt with by the criminal justice system. Therefore, there is no need for the detaining authority to invoke the draconian preventive detention laws against an individual. Hence, according to the Hon'ble Apex Court, the detaining authority should be wary of invoking the immense power under the Act.

9. In **Ram Manohar Lohia v. State of Bihar**<sup>1</sup>, the Hon'ble Supreme Court has, in fact, deprecated the invoking of the preventive law in order to tackle a law and order problem. It was observed that every breach of public peace and every violation of law may create a 'law and order' problem, but does not necessarily create a problem of 'public order'. The distinction has to be borne

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<sup>1</sup> AIR 1966 SC 740

in mind in view of what has been stated in the grounds of detention.

10. In **Kanu Biswas v. State of West Bengal**<sup>2</sup>, the Hon'ble Apex Court, while discussing the meaning of word 'public order,' held that the question whether a man has only committed a breach of 'law and order' or has acted in a manner likely to cause a disturbance of the 'public order', is a question of degree and extent of the reach of the act upon the Society.

11. In the present cases, the detaining authority, basing on a solitary crime indicated above, had passed the impugned detention orders of even date dated 16.02.2022. We shall present it in a tabular form the date of occurrence, the date of registration of FIR, the offence complained of and its nature, such as bailable/non-bailable or cognizable/non-cognizable.

| Crime No.                 | Date of Occurrence | Date of registration of FIR | Offences   | Nature  |
|---------------------------|--------------------|-----------------------------|--|---|
| 731/2021 of Saroonagar PS | 06.12.2021         | 06.12.2021                  | Section 370A(2) r/w 34 of IPC and 3, 4 & 5 of PITA | Section 370A(2) of IPC:<br>Cognizable/<br>Non Bailable<br>Sections 3, 4 & 5 of PITA :<br>Cognizable |

12. As seen from the material placed on record, the solitary crime relied upon by the detaining authority for preventively

<sup>2</sup> (1972) 3 SCC 831

detaining the *detenus* relate to immoral trafficking. Further, the *detenus* were arrested in connection with the said crime on 08.12.2021. Subsequently, they moved bail petitions in the said crime and they were granted conditional bail by the Court concerned, vide order, dated 15.02.2022. Immediately on the next day, i.e., on 16.02.2022, the impugned detention orders were passed apprehending that there is every possibility of the release of the *detenus* from jail after producing sureties and on such release, there is imminent possibility of their indulging in similar prejudicial activities again, unless they are prevented from doing so by appropriate orders of detention, which is highly misplaced. It is the bounden duty of the Police to inform the learned Public Prosecutor about the conduct of the *detenus* and to hand over the entire case record available against the *detenus*. The police are supposed to be vigilant in collecting the whole data against the *detenus* and furnish the same to the Public Prosecutor/Additional Public Prosecutor to defeat the bail application/s of the *detenus*. Even assuming that the bail conditions are violated by the *detenus* and they are involved in further crimes, nothing prevents the prosecution to apprise the same to the concerned Court and seek cancellation of bail. By virtue of the conditions imposed in the bail order, the *detenus* would be under surveillance of the Court and



the police. Moreover, criminal law was already set into motion against the *detenus*. Since the *detenus* have committed offences punishable under the Indian Penal Code and PITA, the said crime can be effectively dealt with under the provisions of the Penal Code and the special law and there was no need for the detaining authority to invoke draconian preventive detention laws.

13. It is appropriate to refer the decision rendered by the Honourable Supreme Court in ***Vijay Narain Singh v. State of Bihar***<sup>3</sup>, wherein it was held that a single act or omission cannot be characterized as a habitual act because, the idea of 'habit' involves an element of persistence and a tendency to commit or repeat similar offences, which is patently not present in the instant case. Thus, the offence committed by the detenus in the solitary crime relied by the detaining authority does not fall within the ambit of the words "public order" or "disturbance of public order". Instead, it falls within the scope of the words "law and order". Hence, there was no need for the detaining authority to pass the impugned detention orders. The detaining authority cannot be permitted to subvert, supplant or substitute the punitive law of land, by ready resort to preventive detention.

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<sup>3</sup> (1984) 3 SCC 14

14. For the foregoing reasons, the impugned orders are legally unsustainable and are liable to be set aside.

15. In the result, both the Writ Petitions are allowed. The impugned detention orders *vide* No.22/PD-CELL/CCRB/RCKD/2022 and No.23/PD-CELL/CCRB/RCKD/2022 of even date dated 16.02.2022, passed by the respondent No.2, and the consequential confirmation orders *vide* G.O.Rt.Nos.996 and 997 of even date dated 09.05.2022, respectively passed by the Chief Secretary to Government, General Administration (Spl. (Law & Order)) Department, Government of Telangana, are hereby set aside. The respondents are directed to set the *detenus*, namely, Manoranjan Pradhan @ Manu, S/o Gouranga Pradhan and Susanta Mandal @ Susanth, S/o Haripradha Mondal, at liberty forthwith, if they are no longer required in any other criminal case.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

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**Dr. SHAMEEM AKTHER, J**

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**JUVVADI SRIDEVI, J**

Date: 29.06.2022  
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