

(2025) 10 TEL CK 1243
In the Telangana High Court
Case No : Writ Petition No.12443 Of 2025

Roshni Devi

APPELLANT

Vs

State of Telangana

RESPONDENT

Date of Decision : 28-10-2025

Acts Referred:

Constitution of India, 1950 — Article 21, 22, 47

Telangana Prevention of Dangerous Activities Act, 1986 — Section 3(2)

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 2, 8, 9, 10, 11

Citation : (2025) 10 TEL CK 1243

Hon'ble Judges : Moushumi Bhattacharya, J;Gadi Praveen Kumar, J

Bench : Division Bench

Advocate : Ch.Ravinder, Swaroop Oorilla

Final Decision : Dismissed

Judgement

Gadi Praveen Kumar, J

1. The petitioner seeks a Writ of Habeas Corpus for setting the detenu at liberty and for declaring the detention order vide proceedings No.B6/81/2025/DPEOH dated 10.03.2025 passed by the 2nd respondent, as approved by the 1st respondent vide G.O.Rt.No.358 dated 15.03.2025 and as confirmed by G.O.Rt.No.479 dated 15.04.2025 as illegal and to set aside the said orders.

2. The petitioner claims to be the daughter of the detenu viz.Smt.Aruna Bai @ Anguri Bai, who is now detained at Central Prison, Chanchalguda, Hyderabad. The impugned detention order has been passed under sub-Section (2) of Section 3 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers, Spurious Seed Offenders, Insecticides Offenders, Fertilizer Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986 (for short 'the Act') on the ground that the detenu was involved in

offences of peddling of Ganja, a narcotic drug in the limits of Hyderabad and thereby she is a drug offender.

3. The detenu was involved in (i) Crime No.243 of 2024 dated 16.09.2024, (ii) Crime No.270 of 2024 of Prohibition and Excise P.S., Dhoolpet dated 12.12.2024 and (iii) Crime No.42 of 2024 dated 17.12.2024 of Prohibition and Excise P.S., Narayanaguda under the provisions of The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

4. The brief facts leading to the impugned orders are as follows :

(i) With respect to Crime No.243 of 2024, on the allegation of 2.165 Kgs of dry ganja seized from one Mr.Mahender Singh and Sunitha Bai, who have informed the name of the detenu and that they have purchased the said ganja from the detenu. Basing on the said confessional statement, the detenu had been added as an accused in the above said crime.

(ii) With respect to Crime No.270 of 2024 of Prohibition and Excise P.S., Dhoolpet, the allegation is that on 12.02.2024, the police found the detenu with dry ganja of 1.53 kgs; and

(iii) With respect to Crime No.42 of 2024, on 17.12.2024 a crime was registered alleging that the police found dry ganja of 20.5 kgs from one Mr.Lakhan Singh, Inderesh Singh, Shubhan Singh and Aditya Singh, on whose confession that they have purchased ganja from the detenu, Crime No.42 of 2024 was registered.

Basing the above Crimes registered, the impugned detention orders are passed.

5. Sri Ch.Ravinder, learned counsel appearing for the petitioner submits that the impugned order could not have been passed under sub-Section (2) of Section 3 of the Act since legal proceedings have already been initiated under the NDPS Act against the detenu, which are pending investigation.

6. Learned counsel for the petitioner further submits that when a preventive detention order is passed and executed, the liberty of the citizen/detenu is taken away without her being subjected to any recourse under any law, and that the preventive detention law cannot be invoked in every case as a matter of course and alternative method to the punitive law. As the purpose of the Act is that the preventive detention can be invoked against a person if and only if her activities are affecting the public order.

7. It is contended that the every crime registered under the specific chapters of the Penal Code or any other Special Act cannot form the basis for arriving at subjective satisfaction and passing the detention orders against the individuals and touching their liberty under Article 21 of the Constitution of India as a matter of course.

8. Learned counsel for the petitioner further submits that the ordinary law of the land was already set into motion to deal with the activities of the detenu and that the satisfaction of the detaining authority that the recourse to normal law may

not have been effective deterrent, thus, the authority invoking the proceedings under sub-Section (2) of Section 3 of the Act is unfounded, unconstitutional and illegal.

9. Learned counsel for the petitioner further urges that the circumstances did not indicate that there was a threat to maintenance of public order, and since no final verdict was pronounced in the cases registered against the detenu, the detenu should be treated as innocent till the guilt is proved.

10. Learned counsel for the petitioner further submits that the 2nd respondent while passing the impugned order did not follow the mandatory procedure before invoking the provisions of sub-Section (2) of the Section 3 of the Act.

11. It is further contended that the 2nd respondent ought to have seen that the detenu is just aged about 48 years and she is a housewife, therefore invoking such a drastic provision against her will ruin her future, which cannot be compensated.

12. It is contended that in respect of the three crimes registered namely Crime No.243 of 2024, 270 of 2024 and 42 of 2024, the bails granted in favour of the detenu are conditional bails and even though, the detenu was granted bail, still she remained in the judicial custody.

13. Learned counsel for the petitioner vehemently contended that in the detention order, though there is a reference about the bails granted by the concerned Court, but there is no whisper about the conditions imposed while granting such bails and that the conditional bail was not considered by the detaining authority and not reflected in the order and as such, the order of detention is liable to set aside. In this regard, reliance is placed on the judgment of this Court in Vasanthu Sumalatha and others Vs. State of Andhra Pradesh Order dated 07.09.2021 passed in W.P.No.9538 of 2021.

14. Learned counsel for the petitioner further contends that if the conditional bail was taken into consideration, the detention order would not have been passed, since by virtue of said conditional bail, the detenu would be under surveillance of the concerned police station as she has to appear twice every week, including the condition that she shall not indulge in similar type of offences in future and if found, the bail granted to her automatically stands cancelled and would be taken into custody forthwith, and such, there is no possibility for the detenu to commit similar offences again.

15. Learned counsel further submits that the alleged three crimes registered against the detenu are based on the confessional statements of other accused, without there being any recovery of ganja from her nor was she found selling or transporting ganja, and in view of the same, the detention order ought not have to been passed against the detenu.

16. It is further contended that it is settled proposition of law that whenever

order of detention is passed, the Detaining Authority is bound to consider the cases where the offences are considered as ground for detention and he cannot take into consideration the past criminal history, otherwise the order of detention is bad in law as it vitiates the order of detention.

17. Learned counsel for the petitioner contends that the offences alleged against the detenu are all related to law and order issue and it can be dealt with under the provisions of the NDPS Act but should not be termed as prejudicial to the public order, and therefore, the order of detention is liable to be set aside.

18. Learned counsel for the petitioner relied upon the judgments in *Karan Twalwar Vs. Tamilnadu* (2024) SCCOnline SC 3803, *Deepak Bai Jagadish Chandra Patel Vs. State of Gujarat* (2019) 16 SCC 547, *Dharavath Laxmi Vs. The State of Telangana and others* Order dated 2133 of 2025 passed in W.P.No.2133 of 2025, *Nenavath Bujji Vs. State of Telangana* AIR 2024 SC 1610, *Suresh Budharmal Kalani Vs. State of Maharashtra* (1998) 7 SCC 337, *Ram Singh Vs. Central Bureau of Narcotics* (2011) 11 SCC 347, *M.Ahmed Kutty Vs. Union of India* (1990) 2 SCC 1 and *Ramphuri Vaishali Vs. State of Telangana* Order dated 17.10.2024 passed in W.P.No.21653 of 2024, and submits that except confessional statement of the prime accused, there is no independent material available against the detenu and that the detenu was neither present at the scene of offence nor anything was recovered from the alleged detenu, and therefore, the impugned detention order has been passed merely on one case where the alleged recovery is only 1.53 kgs, which is not a commercial quantity, but only intermediary quantity. Therefore, the authorities should not have passed Preventive Detention order, as it does not warrant.

19. Therefore, learned counsel for the petitioner finally contends that the authorities have passed the order of detention without considering the conditions of bail and have mechanically passed the impugned Detention Order and as such, same is liable to be set aside.

20. On the other hand, Sri Swaroop Oorilla, learned Special Government Pleader appearing on behalf of respondents submits that the alleged detenu Smt.Aruna Bai @ Anguri Bai, D/o.late Amar Singh, W/o.Ramesh Singh, under the impugned proceedings, is now detained at Special Prison for Women Chanchalguda, Hyderabad.

21. Learned Special Government Pleader submits that (i) in respect of Crime No.243 of 2024, a panchanama was conducted, wherein dry ganja of 2.165 kgs in a black polythene cover, Honda Activa black colour vehicle with Registration No.TS13EH5063 and two mobile phones were seized, (ii) in respect of panchanama conducted in Crime No.270 of 2024, one black colour polythene cover containing 1.53 Kgs of dry ganja and one Redmi mobile phone were seized, and (iii) in respect of Crime No.42 of 2024, the FIR was registered on 17.12.2024 by P.S. Dhoolpet for the offences under Section 8(c)r/w 20(b)(ii)(C) of the NDPS Act.

22. It is further contended that the Government of Telangana, Office of the Government Chemical Examiner for Prohibition and Excise, Hyderabad vide letter dated 22.02.2025 had given the adverse effects of Ganja/Marjuana (Cannabis Plant) that it is highly harmful and injurious to human health.

23. It is further contended that the Professor & HoD, Department of Forensic Medical, Osmania Medical College, Osmania General Hospital, Koti, Hyderabad submitted report with respect to the effect of consuming ganja on 20.12.2016, and on perusal the entire material placed before the Detaining Authority i.e. 2nd respondent, had come to the subjective satisfaction in order to invoke preventive detention against the detenu Smt.Aruna @ Anguri Bai.

24. Learned Special Government further places reliance on the judgments in *Pesala Nookaraju Vs. The Government of Andhra Pradesh and others* 2023 LiveLaw (SC) 678, *Dharavath Laxmi (supra)*, *Vijay Kumar, through his brother Naresh Kumar Vs. Union Territory of Jammu Kashmmir and others* 2023 SCC Online Jammu & Kashmi 835, *Bandaru Govardhan Vs. Government of India and others* Order dated 14.06.2024 passed in W.P.No.9406 of 2024, *Varthyavath Sevy Vs. State of Telangana and others* 2020 SCC Online TS 2926 and *Nenavath Bujji (supra)*.

25. Learned Special Government Pleader further submits that during the period 2016-2023, though the alleged detenu was released on bail, she did not mend her habitual nature of committing similar offences and recently, during the year 2024, the detenu has committed three more similar offences. The detenu is in judicial custody in Crime No.42 of 2024 and her bail application is pending consideration, and if the detenu is granted bail in the said case, after her release she would again resort to similar unlawful activities of peddling of ganja. Therefore, keeping in view her antecedents and considering the ill-effects of ganja on the public health and particularly the youth and students and its impact on the Society and having satisfied that the cases registered against her under the ordinary law have no deterrent effect in preventing her prejudicial activities and that the detenu is not amenable to ordinary law, unless she is detained by passing order of detention in the interest of public at large, the Detaining Authority has passed the detention order.

26. Learned Special Government Pleader further submits that the order of detention is passed strictly adhering to the provisions of the Act and the procedural safeguards outlined in Article 22 of the Constitution of India, and that the Advisory Board opined that there is sufficient cause for the detention of the detenu and the Government also issued orders confirming the detention order. He therefore contends that in order to prevent the detenu from acting in any manner prejudicial to the maintenance of public order, recourse to the normal law would involve considerable time and may not be effective, the detenu has to be prevented from indulging further activities prejudicial to public law in and around the Hyderabad City.

27. Learned Special Government Pleader also contended that it is settled proposition of law that there is no bar to pass an order of detention under Act 1 of 1986 merely because the detenu is in custody.

28. Learned Special Government Pleader relies upon the judgment by the Apex Court in Haradhan Saha and another Vs. The State of West Bengal and others 1975 SCR (1) 778, Sasti alias Satish Chowdhary v. State of West Bengal (1972) 3 SCC 826, Kamarunnissa Vs. Union of India and others (1991) 1 SCC 128, Tajinder Singh Vs. Union Territory of J&K and others 2023 SCC Online J&K 58, Naresh Kumar Goyal Vs. Union of India and others (2005) 8 SCC 276 and judgment of this Court in Dharavath Laxmi (supra).

29. Learned Special Government Pleader further submitted that the detenu is a drug offender as defined under Section 2(f) of the Act, and contraband seized from the accused is ganja. As per the Chemical Analysis report, the activities of the detenu are prejudicial to the maintenance of Public Order in view of legal fiction under Section 2(a) and its Explanation, when read in conjunction with Section 2(b) of the Act and that 'Public Order' would also mean a danger to public health.

30. With respect to the contentions raised by the learned counsel for the petitioner, the learned Special Government Pleader would submit that in respect of first time, 2.165 kgs of ganja was seized, in the second crime, 1.53 kgs of ganja was seized and in the third crime, 20.5 kgs of ganja was seized, over all, the business of selling of ganja by detenu is increasing day by day, and due to her illicit drug trade and her anti-social activities, the citizens of the area, especially, the youth are getting addicted to drugs, which is spreading unrest in the Society and destroying the family. The impugned order is passed to prevent the detenu from committing serious criminal offences disturbing the public order.

31. It was also contended that the Detaining Authority has also taken note of the possibility of the detenu securing bail, but considering the past history of the detenu for the purpose of assessing the criminal conduct and mindset of the detenu, and after arriving at his subjective satisfaction, the order of detention is passed.

32. It is further contended that the detenu is a Drug-Offender as defined in Clause (f) of Section 2 of the Act, that her illegal activities in peddling of ganja, a narcotic drug, has endangered the lives of innocent people, especially youth, causing irreparable damage to their body organs, including the central nervous system, thereby crippling the mental and physical health of those addicted to drugs i.e. ganja. It is also contended that peddling of narcotic drugs is instrumental in causing death or in inflicting life-threatening condition to number of innocent lives, who are vulnerable and it causes deleterious effects, deadly impact and hazard to the Society, and that the detenu cannot contend that the normal law is sufficient to deal with the type of offences and punishments contemplated under the NDPS Act and the same cannot preclude the detaining

authority to exercise powers under Act 1 of 1986.

33. It is also contended that the power of preventive detention is qualitatively different from punitive detention, it is a precautionary power and need not relate to an offence and that it does not overlap.

34. It is further contended that if the quantity recovered from the detenu is put into circulation, it would have enough impact and create havoc in the youth, as very small quantity of ganja can impact health and mental faculties of a person.

35. In reply to the contentions raised by the learned counsel for the petitioners, learned Special Government Pleader submitted that procedure has been adopted and the same has been stated in the order of detention that the detenu shall be taken into custody and lodged in the Special Prison for Women, Chanchalguda, Hyderabad until further orders from the Government.

36. Learned Special Government Pleader further submits that under Section 10 of the Act, the Government within three weeks from the date of detention of a person under the order, shall place the case before the Advisory Board of Preventive Detentions, constituted under Section 9 of the Act comprising of Chairman and two other Members and that the said Board shall submit its report to the Government within seven weeks from the date of detention order under Section 11(1) of the Act. The Advisory Board reviewed the case on 07.04.2025 i.e., within the statutory period, through video Conference at Greenlands Guest House, Begumpet, Hyderabad by hearing the detenu, the daughter of the detenu (the petitioner herein) and son of detenu Mr.Naveen Singh, the Investigating Officer and opined that there is sufficient cause for the detention of detenu, and after due consideration of the said report, the Government issued orders vide G.O.Rt.No.479 dated 15.04.2025 confirming the order of detention directing that the detenu shall be continued to be detained for a period of 12 months from the date of her detention i.e. 11.03.2025.

37. Learned Special Government Pleader thus contends that the mandatory provisions under the Act and the safeguards as envisaged under Article 22 of the Constitution of India were strictly followed and as such, there is no illegality or violation of any provisions of the Act in the impugned detention order warranting interference by this Court.

38. We have given our earnest consideration to the contentions raised on either side and also material placed on record.

39. The impugned detention order is passed against the detenu is based on three crimes registered against her, which falls within the meaning of 'drug offender' as defined under Section 2(f) of the Act.

40. The explanation to section 2(a) of the 1986 Act contemplates that 'public order' shall be deemed to have been adversely affected or is likely to be adversely affected inter alia, if any of the activities of any of the persons classified as offenders in this provision, directly or indirectly cause or are

calculated to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave widespread danger to life or public health. In the present case also, the detenu is repeatedly involving in the offences of selling and distributing ganja, which adversely affect the public order more particularly in respect of downtrodden people and youth in the Society.

41. The Report of the Government Chemical Examiner clearly substantiates that the contraband seized from the accused is 'Ganja' and as to how the activities of the detenu are prejudicial to the maintenance of Public Order and Public Health. The Detaining Authority having satisfied that the activities of the detenu are creating a serious threat to the Society. These activities not just affect the health of the younger generation, but also creates law and order problems. Thereby acting in the interest of public order and public health at large in Society and having felt that, launching of prosecution against the detenu in normal law would not have desired effect in preventing the detenu in any manner from prejudicial to maintaining the public order and public health.

42. In Haradhan Saha (supra), it was held that an order of preventive detention may be made with or without prosecution and in anticipation thereof or after discharge or even acquittal and that the pendency of prosecution is no bar to an order of preventive detention. In Sasti (supra) the Court held that it is always open to the Detaining Authority to pass an order of detention if the grounds of detention are germane to the object for which a detention order can legally be made. The fact that the particular act of the detenu, which provides the reason for the making of the detention order, constitutes an offence under The Indian Penal Code, 1860, would not prevent the detaining authority from passing the order for detention instead of proceeding against him in a Court of law.

43. Preventive detention is often described as a "jurisdiction of suspicion". The primary object of preventive detention is not to punish a person for having done something but to intercept the person before the commission of an offence. It is not a penalty for past activities of an individual but is intended to pre-empt him/her from indulging in future activities which are prohibited in law was held in State of Maharashtra v. Bhaurao Punjabrao Gawande (2008) 3 SCC 613. Grant of bail would not have a bearing on the impugned detention order was held in Vijay Kumar Vs. Union of India 1998(2) SCC 57.

44. On perusal of various decisions placed by the learned counsel for the petitioner, this Court finds that the reasons given by the Detaining Authority are justified. However, each case must be decided on its particular facts and circumstances. The present case facts are completely different from those cases which have been referred by the learned counsel for the petitioner. We are therefore inclined to hold that the cases cited by the learned Special Government Pleader are more aligned to the facts of the present case on hand.

45. On perusal of the material placed on record, the repeated and well-planned actions of the detenu are sufficient to raise the presumption of threat and alarm

amongst the general public regarding their health, which is the primary criteria for maintaining the peace, law and order in the Society.

46. Public health and safety forms an essential part of the constitutional vision under Articles 21 and 47 of the Constitution of India. The wealth of a nation ultimately depends upon the health and well-being of its citizens. Any activity that endangers public health and safety, particularly through the spread of narcotic substances, strikes at the very root of societal stability. While the petitioner, being the daughter of the detenu, has approached this Court out of concern for her mother, it must be borne in mind that the conduct of a parent engaged in illegal activities not only affects the family's welfare but also has a widespread impact on the community and society at large.

47. The Court deems it appropriate to afford the detenu, who is a habitual offender involved in selling ganja, an opportunity to reform herself during the period of preventive detention, considering that her conduct has been detrimental to public order and societal well-being. Such an approach ensures that the period of detention serves not merely as a measure of restraint, but also as a means to facilitate her moral and social reformation.

48. Relying upon the judgment passed by this Court in similar facts and circumstances in W.P.No.9893 of 2025 dated 15.10.2025 as well as settled proposition of law, this Court is not inclined to interfere with the subjective satisfaction of the Detaining Authority unless the findings are vitiated by arbitrariness or the absence of evidence or any form of perceived or actual bias. Even in the case on hand, the evidence is clearly detailed on the grounds of detention and the same does not suffer from any irregularity warranting interference by this Court.

49. We therefore do not find any reason to differ from the subjective satisfaction of the Detaining Authority as expressed in the Grounds of Detention dated 10.03.2025 or approval order dated 15.03.2025 and confirmation order dated 15.04.2025, whereby the detenu was directed to be detained for a period 12 (Twelve) months from the date of detention i.e. 11.03.2025.

50. We accordingly do not find any scope for interference in the impugned order of detention i.e. order dated 10.03.2025 and consequential orders.

51. W.P.No.12443 of 2025, along with all connected applications, is dismissed. There shall be no order as to costs.