

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

+ WRIT PETITION No.6381 of 2026

% Dated: 02.07.2026

Between:

Smt.Sivakumar MeenakshiPetitioner

And

The State of Andhra Pradesh and others....Respondents

! Counsel for the petitioner : Sri V.Surendra Reddy

^ Counsel for the Respondents 1 to 3 and 5 to 7: Sri Kirthi Teja
Kondaveeti

Government Pleader

< GIST :

> HEAD NOTE :

? Cases referred:

(2024) 17 SCC 294

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA
WRIT PETITION No.6381 of 2026

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Smt.Sivakumar MeenakshiPetitioner

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DATE: 02.07.2026

Submitted for approval:

- | | |
|--|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals. | Yes/No |
| 3. Whether Their Lordship wishes
to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

SUBHENDU SAMANTA, J

APHC010119032026



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

[3562]

THURSDAY, THE 2nd DAY OF JULY 2026

PRESENT

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

WRIT PETITION NO: 6381/2026

Between:

1.SIVAKUMAR MENAKSHI, WIFE OF R.P.S.SIVAKUMAR,
AGED ABOUT 45 YEARS, R/O.H.NO.25-57 (DOOR NO.25-
1-1436), 1ST STREET, INDIRA GANDHI NAGAR,
PODALAKUR ROAD, OPP ZP HIGH SCHOLL, NELLORE
RURAL MANDAL, NELLORE CITY. SPSR NELLORE
DISTRICT-524004

...PETITIONER

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS CHIEF
SECRETARY, 1STBLOCK, 1STFLOOR, INTERIM
SECRETARIAT COMPLEX, VELAGAPUDI, GUNTUR
DISTRICT. 522238.
- 2.THE STATE OF ANDHRA PRADESH, REP. BY ITS
SECRETARY TO THE GOVERNMENT, (L AND O),
GENERAL ADMINISTRATION (SC.I) DEPARTMENT,
INTERIM SECRETARIAT COMPLEX, VELAGAPUDI ,
GUNTUR DISTRICT DISTRICT.522238.
- 3.THE DISTRICT COLLECTOR AND MAGISTRATE, SPSR
NELLORE DISTRICT, NELLORE CITY, AP.524001.
- 4.MR HIMANSHU SHUKLA, THE DISTRICT COLLECTOR

AND MAGISTRATE, SPSR NELLORE DISTRICT,
NELLORE CITY-524001.

5.THE SUPERINTENDENT OF POLICE, SPSR NELLORE
DISTRICT, NELLORE CITY, AP. 524001.

6.THE SUPERINTENDENT, CENTRAL PRISON,KADAPA,
YSR DISTRICT, AP. 516002.

7.THE STATION HOUSE OFFICER, , V TOWN POLICE
STATION OR VEDAYAPALEM POLICE STATION,
NELLORE CITY, SPSR NELLORE DISTRICT, AP 524004

...RESPONDENT(S):

Counsel for the Petitioner:

1.V SURENDRA REDDY

Counsel for the Respondent(S):

1.THE ADVOCATE GENERAL

The Court made the following:

Date of reserved for orders : -----
Date of pronouncement : 02-07-2026
Date of uploading : 13-07-2026

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT PETITION No.6381 of 2026

ORDER: *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri V.Surendra Reddy, learned counsel for the petitioner and Sri Kirthi Teja Kondaveeti, learned Government Pleader, attached to the office of the learned Additional Advocate General, appearing for the respondent Nos.1 to 3 and 5 to 7. The respondent No.4 is the District Collector and Magistrate, SPSR Nellore District, who has been impleaded by name.

2. The petitioner is the mother of the detenu, namely, Siva Kumar Krishna Sai @ Kittu, S/o Ramaswamy Periya Swamy Siva Kumar. In respect of the detenu, the District Collector and District Magistrate, SPSR Nellore District, passed the order of detention in Rc.C1(Mag/23/2026, dated 23.02.2026 under Section 3(1) and (2) of the Andhra Pradesh Prevention of Dangerous Activities of

Bootleggers, Dacoits, Drug offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (in short 'the Act, 1986') . The said order of detention was approved on 06.03.2026 vide G.O.RT.No.507, General Administration (SC-I) Department, the Advisory Board approved on 30.03.2026 and was confirmed by the State Government on 21.04.2026 vide G.O.RT.No.814.

3. Initially, the petition was filed challenging the order of detention passed by the District Collector. During pendency of the petition, the order was confirmed by the State Government on 06.04.2026 and so, by way of amendment that order has also been challenged.

4. While challenging the aforesaid orders of detention and confirmation, learned counsel for the petitioner has raised two following submissions:

1) That the detenu was already in judicial custody in Crime No.12 of 2026 of Vedayapalem Police Station in Nellore Central Prison. Pursuant to the order of detention he was shifted from Nellore Central Prison to Kadapa Central Prison. For such shifting the necessary order from the concerned V Additional Judicial Magistrate of First Class, Nellore was not taken.

2) That immediately after the order of detention, his arrest pursuant to the order of detention could not be legally made. The reason submitted is that the Advisory Board's opinion was not received by that time. He submitted that the opinion of the Advisory Board is a pre-condition for the arrest or transfer from one jail to another, pursuant to an order of detention.

5. Learned counsel for the petitioner placed reliance in ***Nenavath Bujji and others v. State of Telangana and others***¹, to emphasize on the role and opinion of the Advisory Board.

6. Learned Government Pleader submitted that in shifting of the detenu from Central Prison, Nellore to Central Prison, Kadapa, the concerned Magistrate, who had remanded the detenu in Crime No.22 of 2026, was duly intimated. Such transfer was after following due process of law, on 25.02.2026. He also referred to the own averments of the petitioner in the petition, that in the said transfer "it appears informed the V Additional Judicial Magistrate of First Class, Nellore" as in para No.5.1 of the petition. So, in that

¹ (2024) 17 SCC 294

regard, there is no illegality and the submission advanced has no substance.

7. With respect to the second submission, learned Government Pleader submitted that the detention order was passed on 23.02.2026. The Advisory Board in its meeting dated 30.03.2026 opined and reported that “there is sufficient cause for the detention of the detenu”. The State Government passed the order of confirmation. He submits that there is no violation of Section 10 of the Act, 1986. Referring to para No.27 of the counter-affidavit, he submitted that, before the Advisory Board, the detenu was afforded an opportunity of hearing and was also heard through video conference. He submitted that the consideration by the Advisory Board is after the order of detention. The consideration by the Advisory Board is not a pre-condition for affecting the arrest pursuant to the order of detention.

8. Learned Government Pleader further submitted that the grounds of detention were communicated to the petitioner, but any representation against the order of detention was not submitted by the detenu.

9. We have considered the aforesaid submissions and perused the material on record.

10. So far as the first contention with respect to the shifting of the detenu from Central Prison, Nellore to Central Prison, Kadapa, is concerned, there is a specific submission in para No.14 of the counter-affidavit that after obtaining permission from the V Additional Judicial Magistrate of First Class, Nellore and after following the due procedure of law, the detenu was transferred to Central Prison, Kadapa, on 25.02.2026. There is no rejoinder affidavit filed so as to controvert the contents of para No.15 of the counter-affidavit. In the writ petition itself in para No.5.1, the petitioner has submitted that the order of detention was passed on 23.02.2026 and it appears informed the V Additional Judicial Magistrate of First Class, Nellore, in connection with the detention order and released from the remand and on 25.02.2026 sent to Kadapa Central Prison on 25.02.2026 after taking signatures from the petitioner in the Police Station. So, from the above averments, it is evident that the procedure was followed in shifting of the detenu from the Central Prison, Nellore to Central Prison, Kadapa.

11. So far as the second submission is concerned, the role of the Advisory Board is no doubt of importance. It is more imperative to put check on capricious exercise of powers when the detention orders are passed in a routine and mechanical manner, to ensure that the illegal detentions are nipped in the bud and the detenu is released forthwith. But for that it will have to be established that an order of detention was passed mechanically and in a routine manner, which cannot be merely presumed to be so. In the present case, it could not be pointed out that the order of preventive detention was passed by the detaining authority in a routine manner or mechanically. No ground of challenge has been pressed nor argued before us with respect to the order of detention nor of confirmation. The order of confirmation was passed after the advise of the Advisory Board.

12. In ***Nenavath Bujji***(*supra*), the Hon'ble apex Court held as under:

“(iv) Role of the Advisory Board:

51. At this stage, it is also apposite to mention that in such scenarios as discussed above, where orders of preventive detention are being passed by the detaining authority in a routine and mechanical manner, the role and duty of the Advisory Board(s) becomes all the more imperative to put a check on such capricious exercise of

powers and ensure that a bright-line is drawn whereby such illegal detentions are nipped in the bud and the detenu released forthwith.

52. Advisory Board(s) under preventive detention legislations, are not a superficial creation but one of the primary constitutional safeguards available to the detenu against an order of detention. Article 22(4) mandates that, any law pertaining to preventive detention must provide for constitution of an Advisory Board consisting of persons who have been or qualified to be appointed as Judges of the High Court. It further vests the Advisory Board with the pivotal role of reviewing an order of detention within three months by forming an opinion as to whether there is a sufficient cause for such detention or not, after consideration of all the material on record including representation if any, of the detenu.

53. In Telangana also, under the 1986 Act, Section 9 gives expression to this constitutional requirement, and provides for the constitution and composition of an Advisory Board for the purposes of the Act, the relevant provision reads as under:

“9. Constitution of Advisory Boards.—(1) The Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of a Chairman and two other members, who are, or have been Judges or are qualified to be appointed as Judges of a High Court.”

54. Section 10 of the 1986 Act provides for the reference and review of an order of detention passed under the Act by the Advisory Board. It states that any order of detention that has been made under the Act shall be placed before an Advisory Board thereunder within three weeks from the date of its passing, along with the grounds on which such an order was made, the representation of the detenu if any, and the report of the officer empowered under the Act. The relevant provision reads as under:

“10. Reference to Advisory Boards.—In every case where a detention order has been made under this Act, the Government shall within three weeks from the date of

detention of a person under the order, place before the Advisory Board constituted by them under Section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in the case where the order has been made by an officer, also the report by such officer under sub-section (3) of Section 3.”

55. Section 11 of the 1986 Act delineates the function to be discharged and the procedure to be adopted by the Advisory Board. It inter alia states that the Advisory Board must form an opinion and specify as to whether there is sufficient cause warranting the detention of the detenu. The Advisory Board has to form this opinion by considering all the materials placed before it in terms of Section 10 of the 1986 Act. Section 11 further empowers the Advisory Board to call for any other information or to hear the detenu, wherever necessary so as to ascertain the sufficiency of cause for preventive detention. The relevant provision reads as under:

“11. Procedure of Advisory Boards.—(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) The proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.”

56. Section 12 of the 1986 Act provides that where the Advisory Board in its report is of the opinion that sufficient cause exists warranting detention, the Government may confirm the detention i.e. it gives the appropriate Government the discretion to either confirm or revoke the order of detention. But where the Advisory Board in its report is of the opinion that no sufficient cause exists for the detention of the detenu, the same is binding on the Government, and the detenu is forthwith required to be released. The relevant provision reads as under:

“12. Action upon report of Advisory Board.—(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period specified in Section 13 as they think fit.

(2) In any case, where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the person to be released forthwith.”

57. What can be discerned from a bare perusal of the abovementioned provisions is that the Advisory Board performs the most vital duty of independently reviewing the detention order, after considering all the materials placed before it, or any other material which it deems necessary. When reviewing the detention order along with the relevant materials, the Advisory Board must form an opinion as to the sufficiency of the cause for warranting detention. An order of detention passed under the 1986 Act can only be confirmed if the Advisory Board is of the opinion that there exists sufficient cause for the detention of the detenu.

58. The Framers of the Constitution being in seisin of the draconian nature of an order of preventive detention and

its adverse impact on individual liberty. have specifically put in place safeguards within Article 22 through the creation of an Advisory Board, to ensure that any order of preventive detention is only confirmed upon the evaluation and scrutiny of an independent authority which determines and finds that such an order for detention is necessary.

59. The legislature in its wisdom has thought it fit to entrust the Advisory Board and no one else, not even the Government, with the performance of this crucial and critical function which ultimately culminates into either the confirmation or revocation of a detention order. The Advisory Board set up under any preventive detention law in order to form its opinion is required to:

(i) consider the material placed before it; (ii) to call for further information, if deemed necessary; (iii) to hear the detenu, if he desires to be heard and; (iv) to submit a report in writing as to whether there is sufficient cause for "such detention" or whether the detention is justified.

61. As stated by us above, preventive detention being a draconian measure, any order of detention as a result of a capricious or routine exercise of powers must be nipped in the bud. It must be struck down at the first available threshold and as such, it should be the Advisory Board that must take into consideration all aspects not just the subjective satisfaction of the detaining authorities but whether such satisfaction justifies detention of the detenu. The Advisory Board must consider whether the detention is necessary not just in the eye of the detaining authority but also in the eye of the law.

62. The requirement of having persons who have been or are qualified to be High Court Judges in the Advisory Board is not an empty formality, it is there to ensure that, an order of detention is put to robust scrutiny and examined as it would have been by any ordinary court of law. Otherwise, the purpose of independent scrutiny could very well have been served by having any independent persons, and there would have been no need to have High Court Judges or their equivalent. Thus, it is imperative that whenever an order of detention is placed before an Advisory Board, it duly considers

each and every aspect, not just those confined to the satisfaction of the detaining authority but the overall legality as per the law that has been laid down by this Court.

63. An Advisory Board whilst dispensing its function of ascertaining the existence of a “sufficient cause” for detention, cannot keep itself unconcerned or oblivious to the developments that have taken place by a plethora of decisions of this Court delineating the criterion required to be fulfilled for passing an order of detention. The “independent scrutiny” as envisaged by Article 22 includes ascertaining whether the detention order would withstand the scrutiny of a court of law.”

13. There is no dispute of such legal proposition as settled in the case of ***Nenavathi Bujji(supra)***.

14. The submission of the learned counsel for the petitioner is that pursuant to the order of the detaining authority, the arrest cannot be made immediately and it should be only after the opinion of the Advisory Board. For such submission, neither any provision has been placed before us nor any authority of law. The only judgment cited is ***Nenavathi Bujji(supra)***, from which also any such proposition of law could not be shown, that the order of the Advisory Board is a pre-condition for arrest pursuant to the order of detention.

15. Section 10 of the Act, 1986 provides for reference to Advisory Board and Section 11 for the procedure of the Advisory

Boards. Section 12 provides action of the Advisory Board and according to this Section in any case where the Advisory Board has reported that there is in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period specified in Section 13 as they think fit. Sub-section (2) provides in any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the person to be released forthwith. Section 13 provides for the maximum period of twelve (12) months from the date of detention. None of the provisions make the report of the Advisory Board, a condition precedent for making arrest of the detenu with respect to whom the order of detention has been passed or to be detained pursuant to the order of detention. The report of the Advisory Board, is must for the State Government to consider the confirmation of the order of detention, or to release depending on the report of the Advisory Board.

16. The detenu was granted an opportunity to file the representation against the order of detention. However, any representation was not filed. Before the Advisory Board, the detenu was heard through virtual mode.

17. No other argument was advanced.

18. We do not find any illegality in the impugned orders of detention and confirmation.

19. The Writ Petition is dismissed.

20. However, the detenu is at liberty to file representation as may be permissible under law if he so chooses and if so advised.

21. As a sequel, interlocutory applications pending if any, shall stand closed.

RAVI NATH TILHARI, J

SUBHENDU SAMANTA, J

Date: 02.07.2026

Note:

L.R. Copy to be marked.

B/o.

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Whether the order is:

Speaking		Reasoned	☒
Reportable	☒	Non-reportable	

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

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