

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**
*** THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR**
CHINTALAPUDI

WRIT PETITION NO: 29553/2025

% 14.07.2026

Chintapalli Satyavati

.....petitioner

And:

\$ The State of Andhra Pradesh & 3 others

.... respondents

!Counsel for the petitioner : Sri M.R.K. Chakravarthy

^Counsel for the respondent Nos.1 to 4 : Sri J. Krishna Praneeth

<Gist:

>Head Note:

? Cases referred:

1. (2015) 16 SCC 253
2. H.C.P. No.2486 of 2022, decided on 05.06.2023
3. AIR 1990 SC 487

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

WRIT PETITION NO: 29553/2025

Between:

Chintapalli Satyavati

..... PETITIONER

AND

The State of Andhra Pradesh & 3 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED :

DATE OF JUDGMENT PRONOUNCED : 14.07.2026

DATE OF JUDGMENT UPLOADED : 23.07.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

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|---|--------|
| 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 Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

**_____
RAVI NATH TILHARI,J**

**_____
PURUSHOTTAM KUMAR CHINTALAPUDI,J**

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI

WRIT PETITION NO: 29553/2025

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri V. Chetan Susheel, learned counsel representing Sri M.R.K. Chakravarthy, learned counsel for the petitioner, Sri J.Krishna Praneeth, learned Government Pleader attached to the office of the learned Additional Advocate General appearing for respondent Nos.1 to 4.

2. With respect to the detinue namely Chinthapalli Ramu, an order of detention dated 19.09.2025 was passed by the Collector and District Magistrate, East Godavari at Rajamahendravaram, under Sections 3(1) and 3(2) read with Section 2(b) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No.1 of 1986). The detention order was approved by the State Government *vide* G.O.Rt.No.1803, dated 01.10.2025, and was confirmed by G.O.Rt.No.2118, dated 12.11.2025, for a period of twelve months from the date of detention, i.e., 22.09.2025.

3. Learned counsel for the petitioner, while challenging the order of detention, raised two grounds.

(i) Under Section 3(3) of the Act, 1986, the order of detention is to be approved by the Government within twelve days. The order of detention was passed on 19.09.2025 but was approved vide G.O. Rt. No.1803, dated 01.10.2025. So, the order of approval was passed after the expiry of 12 days. So, the detinue is entitled to be released. He submits that the period of 12 days is to be counted by including the date of order of detention. He placed reliance in **Arun Prasanth v. State of Tamil Nadu**, H.C.P. No.2486 of 2022, decided on 05.06.2023.

(ii) The detainee was in judicial custody in the criminal cases in Ground Nos.4, 5, 6 and 7. He was granted bail in the criminal cases in Ground Nos.1, 2 and 3. The Detaining Authority has taken note of the fact that the detainee was in actual judicial custody but has not recorded any satisfaction on the points that there is real possibility of the detainee being released on bail and that on being so released he would in all probability indulge in prejudicial activity. The order of detention is therefore unsustainable. He has placed reliance upon **Champion R. Sangma v. State of Meghalaya**, (2015) 16 SCC 253.

4. In reply, learned Government Pleader advanced the following submissions:

i) That in counting the period of 12 days under Section 3(3) of the Act 1986, for approval to the order of detention, the date of the order of detention is to be excluded and excluding that date, the order of approval was passed within 12 days. He has placed reliance upon the judgment of the Hon'ble Supreme Court in **Jitender Tyagi v. Delhi Administration and another**¹. He submits that though the said case arose under the National Security Act, 1980 (Act No.65 of 1980), and not under the Act, 1986 but Section 3(4) of the National Security Act provides for the same requirement as in Section 3(3) of the Act 1986. Consequently, the law laid down in **Jitender Tyagi** (supra) is fully applicable to the present case.

ii) That the factum of the detainee being in judicial custody was taken into consideration by the Detaining Authority. However, with respect to the other two tests, he fairly submits that any consideration on those aspects is not evident from a reading of the detention order.

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

¹ AIR 1990 SC 487

6. In view of the submissions advanced, the points for consideration are as follows:

(A) Whether the period of 12 days (twelve) under Section 3(3) of Act 1986 for approval of the order of detention includes or excludes the date of detention order ?

(B) Whether the order of detention satisfies the triple test to take into account the criminal cases in which the detenue is in judicial custody for passing an order of detention? and

(C) In case of no satisfaction on the triple test in the order of detention the effect on the order of detention?

Consideration on Point A:

7. It would be appropriate to refer Section 3 of the Act, 1986, which reads as under:

“3. Power to make order detaining certain persons :- (1) The Government may, if satisfied with respect to any boot-legger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order it is necessary so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the Government are satisfied that it is necessary so to do, they may, by order in writing, direct that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section:

Provided that the period specified in the order made by the Government under this sub-section shall not in the first instance, exceed three months, but the Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.

*(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as in his opinion, have a bearing on the matter, and **no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the Government.**”*

8. Section 3(3) of the Act 1986 thus provides that where an order of detention is made under Section 3, the officer mentioned in Section 3(2), shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve (12) days after the making thereof unless, in the meantime, it has been approved by the Government. So an order of detention has to be approved by the Government within 12 days. The point is from what date the period of twelve (12) days starts.

9. The language of Section 3(3) is very clear. The order shall not remain in force if it is not approved within the period of 12 days after the making of the order of detention. The expression "after the making thereof", indicates that the period of 12 days is to be counted after the passing of the order of detention. So, it is clear that the date of the order of detention is to be excluded.

10. In **Jitender Tyagi** (supra), the Hon'ble Supreme Court, considered Section 3(4) of the National Security Act, 1980, and held that sub-section (4) gave a clear indication as to the computation of the period of twelve days. The period of twelve days had to be calculated "after" the making of the order of detention. Paragraph Nos.4, 5, 7 and 8 in **Jitender Tyagi** (supra), are reproduced hereunder:

*“4. Under sub-section (4) of Section 3, “**no such order shall remain in force for more than twelve days after the making thereof unless, in the***

meantime, it has been approved by the State Government". The question that arises for our consideration relates to the computation of the period of twelve days. To be more explicit, the question is whether in computing the period of twelve days, the day on which the order of detention is passed should be included or not. It is submitted on behalf of the petitioner that the day on which the order of detention was passed should be included and the order approving the detention having been passed on 31-1-1989, that is, on the thirteenth day after the expiry of twelve days, it had ceased to be in force.

5. On the other hand, it is contended on behalf of the respondents that the day on which the detention order was passed should be excluded and, accordingly, the detention of the petitioner having been approved on 31-1-1989, it was quite within the period of twelve days. Further, it is the case of the respondents that the order of detention was, as a matter of fact, approved on 26-1-1989 and by the order dated 31-1-1989, the order of approval was communicated to the authorities concerned.

6. We may first consider the contention of the respondents that the order of detention was duly approved on 26-1-1989. A statement in that regard has been made in the counter-affidavit of the respondents. We are, however, unable to accept the same. We have already extracted above para 3 of the order of detention dated 31-1-1989 in which it has been categorically stated "the Administrator hereby approves the order of the Police Commissioner dated 19-1-1989 detaining Shri Jitender Tyagi...". After the said categorical statement in para 3, it is difficult to accept the contention of the respondents that the said order dated 31-1-1989 was made for the purpose of communicating the approval of the order of detention. In our view, there can be no doubt, whatsoever, that the order of detention was approved by the said order dated 31-1-1989.

7. Now, we may consider the question as to the computation of twelve days as referred to in sub-section (4) of Section 3. Sub-section (4), inter alia, provides that when an order is made by an officer mentioned in sub-section (3), he shall forthwith report the facts to the State Government. It is contended on behalf of the petitioner that under sub-section (4), the

officer has to act forthwith after the making of the order in reporting the fact to the State Government and this is sufficient indication that the day on which the order of detention is made should be included in computing the period of twelve days.

8. In our opinion, sub-section (4) has given a clear indication as to the computation of twelve days. The period of twelve days has to be calculated “after” the making of the order of detention. Thus, it is apparent that the period of twelve days comes after the making of the order of detention. It is true that in sub-section (4), the officer making the order of detention shall forthwith report the fact to the State Government, but the word “forthwith” will not be taken into consideration for the purpose of computing the period of twelve days inasmuch as there is a clear indication that the said period shall be computed after the order is made. In other words, sub-section (4) itself excludes the day on which the order is made. Computation of twelve days including the day on which the detention order is made will be ignoring the direction of the legislature, as given in sub-section (4) itself, that the said period of twelve days will commence after the making of the detention order. It is, however, submitted that when two interpretations are possible, that which ensures to the benefit of the detenu should be accepted. In our opinion, sub-section (4) admits of only one interpretation regarding the computation of twelve days and, accordingly, the question as to the adoption of the interpretation which ensures to the benefit of the detenu does not arise.”

11. We find that Section 3(3) of the Act, 1986, also uses the expression "after the making of the order" in the expression "no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government" as is used in section 3(4) of the National Security Act, 1980. In view of the law laid down in **Jitender Tyagi** (supra), we are of the view that under Section 3(3) of the Act, 1986, the same meaning is to be assigned to the expression "after the making

thereof". In other words, the date of the order of detention shall be excluded while computing period of twelve (12) days.

12. The case of **Arun Prasanth** (supra), upon which reliance has been placed by the learned counsel for the petitioner. The High Court of Madras drawing the inference from the case of **Enforcement Directorate, Government of India v. Kapil Wadhawan and another**, *vide* order dated 27.03.2023 in CrI.A.Nos.701-702 of 2020, held that under Section 8(1) of Act 14 of 1982, i.e., the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug-Offenders, Forest-Offenders, Goondas, Immoral Traffic Offenders, Sand-Offenders, Slum-Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982), the date of detention should be included in computing the period of 5 days from the date of detention under Section 8(1) of that Act.

13. In **Kapil Wadhawan** (supra), the question was as to whether the date of remand was to be included or excluded for computing 60/90 days qua Section 167(2) Cr.P.C. default bail. The Hon'ble Supreme Court held that the date of remand was to be included for computing 60/90 days. The Madras High Court, in view thereof, held that the date of detention should be included in the period of 5 days within which the grounds for detention were to be communicated.

14. The aforesaid judgment is on a different point. In **Arun Prasanth** (supra), the Madras High Court was not considering Section 3(3) of the Act, 1986. Consequently, **Arun Prasanth** (supra) is on the different aspect and is of no help to the petitioner.

15. In the present case, the order of detention was passed on 19.09.2025. When counted from 20.09.2025, the order of approval is within the period of 12 days under Section 3(3) of the Act, 1986. The order of approval was therefore passed within 12 days. The contention of the petitioner's counsel that the detinue is entitled to be released under Section 3(3) as the order of approval was passed after 12 days cannot be accepted and is rejected.

Consideration on Points B & C:

16. The detainee was in judicial custody in criminal cases under ground Nos.4, 5, 6 & 7. These cases could no doubt be taken into consideration for passing detention order but subject to satisfying the triple tests as laid down in **Champion R. Sangma v. State of Meghalaya**, in which the Hon'ble Supreme Court has held as under in Paragraph Nos.9, 10 and 11:

*“9. Coming to the ground on which we intend to allow this appeal, we may point out that even **if the appellant is in jail in connection with some criminal case(s) there is no prohibition in law to pass the detention order.** Law on this aspect is well settled and stands crystallised by a plethora of judgments of this Court. However, a reading of those very judgments also clarifies that **there are certain aspects which have to be borne in mind by the detaining authority and satisfaction on those aspects is to be arrived at while passing the detention order.***

10. There are three such factors which were restated in Kamarunnissa v. Union of India [Kamarunnissa v. Union of India, (1991) 1 SCC 128 : 1991 SCC (Cri) 88] : (SCC pp. 140-41, para 13)

*“13. From the catena of decisions referred to above it seems clear to us that even in the case of a person in custody a detention order can validly be passed **(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. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition, to question it before a higher court. What this Court stated in Ramesh Yadav [Ramesh Yadav v. District Magistrate, Etah, (1985) 4*

SCC 232 : 1985 SCC (Cri) 514] was that ordinarily a detention order should not be passed merely to pre-empt or circumvent enlargement on bail in cases which are essentially criminal in nature and can be dealt with under the ordinary law. It seems to us well settled that even in a case where a person is in custody, if the facts and circumstances of the case so demand, resort can be had to the law of preventive detention. This seems to be quite clear from the case law discussed above and there is no need to refer to the High Court decisions to which our attention was drawn since they do not hold otherwise. We, therefore, find it difficult to accept the contention of the counsel for the petitioners that there was no valid and compelling reason for passing the impugned orders of detention because the detenus were in custody.”

11. The aforesaid dicta is reiterated in subsequent judgments as well. Some of which are as under:

- (i) T.V. Sravanan v. State [T.V. Sravanan v. State, (2006) 2 SCC 664 : (2006) 1 SCC (Cri) 593] ,*
- (ii) K.K. Saravana Babu v. State of T.N. [K.K. Saravana Babu v. State of T.N., (2008) 9 SCC 89 : (2008) 3 SCC (Cri) 679] ,*
- (iii) Huidrom Konungjao Singh v. State of Manipur [Huidrom Konungjao Singh v. State of Manipur, (2012) 7 SCC 181 : (2013) 1 SCC (Cri) 956] .”*

17. The law is thus well settled that in cases where the detinue is in judicial custody, those cases can be taken into consideration for the purpose of passing an order of detention, but the Detaining Authority has to record its satisfaction on the triple test which is as follows:

- (1) If the authority passing the order is aware of the fact that the detinue is actually in custody;
- (2) If the detaining authority has reason to believe on the basis of reliable material placed before him

(a) that there is a real possibility of the detainee being released on bail, and

(b) that on being so released the detainee would in all probability indulge in prejudicial activity; and

(3) If it is felt essential to detain him to prevent him from so doing.

18. If the authority passes an order after recording his satisfaction on the aforesaid aspects, such an order cannot be struck down. On the ground that the detaining authority took into consideration those criminal cases in which the detainee was in judicial custody.

19. The first of the triple test i.e. “the authority being aware of the actual custody of the detainee” is satisfied. That satisfaction has been recorded. However, nothing could be pointed out from the impugned detention order by the learned Government Pleader to show that the satisfaction of the detaining authority in the other two tests has also been recorded. We are satisfied that the triple test, as laid down in **Champion R. Sangma** (supra), is not satisfied in the order of detention. The order of detention as confirmed therefore cannot be sustained.

20. The writ petition is allowed. The order of detention dated 19.09.2025 and the order of confirmation dated 12.11.2025 are set aside. The detainee shall be set at liberty forthwith, if he is not required in connection with any other case. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J