

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

WRIT PETITION NO: 11834/2026

% 06.08.2026

Konduri Naga Lakshmi

.....petitioner

And:

\$ The State of Andhra Pradesh & 3 others

.... respondents

!Counsel for the petitioner : Ms. Konduri Naga Lakshmi
(Party-in-Person)

^Counsel for the respondent Nos.1 to 4 : Sri Keerthi Teja Kondaveeti,
learned Government Pleader

<Gist:

>Head Note:

? Cases referred:

1. 2023 (3) ALT (CrI.)184 (SC)
2. 2016(2) ALD (CrI.) 310
3. 2020 SCC OnLine AP 1504 (DB)
4. (1992) 3 SCC 1
5. 2026 SCC OnLine AP 2162

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

WRIT PETITION NO: 11834/2026**Between:**

Konduri Naga Lakshmi

..... PETITIONER

AND

The State of Andhra Pradesh & 3 others

....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED : 06.08.2026**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

APHC010190082026



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

THURSDAY, THE 6th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

WRIT PETITION NO: 11834 OF 2026

Between:

1. Konduri Naga Lakshmi, D/o. Subbaraju, age 29 years, Occ Student, D.No. 16-159-1, Ramalayam, Sanath Nagar, near Linears India, Vijayawada (Rural) Kanuru, Krishna District-520007.

...Petitioner

AND

1. The State of Andhra Pradesh, Represented by its Chief Secretary, Secretariat Buildings, Amaravathi at Velagapudi, Guntur District.522238
2. The Collector AND District Magistrate, Krishna District.521002.
3. The Superintendent of Police, Krishna District, Machilipatnam.521001.
4. The Superintendent, Central Prison, Rajamahendravaram.533101

...Respondents

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 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 Konduri Manikanta @ Pandu @ KTM Pandu

who is now detained in Central Prison Rajamahendravaram before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention vide REV-MAGLOPDL (PRC)/1/2026-SA (MAGL-I)-KCO, dt 11.02.2026, passed by the 2nd respondent as illegal and un constitutional and pass

Counsel for the Petitioner: PARTY IN PERSON

Counsel for the Respondents: ADDL ADVOCATE GENERAL

The Court made the following order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

Writ Petition No.11834 of 2026

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

Heard Ms. Konduri Naga Lakshmi (Party-in-Person) and Sri Keerthi Teja Kondaveeti, learned Government Pleader attached to the office of learned Advocate General.

2. This Writ Petition for Habeas Corpus has been filed by the petitioner, the sister of the detinue, namely, Konduri Manikanta, details mentioned in Paras 1 & 2 of the affidavit, for his release, also challenging the order of preventive detention.

3. The order of preventive detention under Section 3 of the Andhra Pradesh Prevention of Dangerous Activities of Boot-Leggings, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986 (in short, 'Act, 1986') was passed by the District Collector on 11.02.2026, the same was approved on 19.02.2026 by the State and was later on, after the report of the Advisory Board, confirmed on 26.03.2026.

4. The petitioner submitted the representation and the same was also rejected with a delay of 145 days.

5. The order of preventive detention has been passed on three grounds, i.e., three crime numbers, as follows:

1.	Crime No.126/2025, under Section 109(1) read with 3 Nyaya Sanhita, 2023 of Penamaluru PS.
2.	Crime No.180/2025, under Section 8(c) read with 20(b)(ii) (C) of the NDPS Act, 1985 of Penamaluru PS.
3.	Crime No.725/2025, under Section 109(1) read with 3(5) of Bharatiya Nyaya Sanhita, 2023 of Penamaluru PS

6. The petitioner raised the submissions that Crime in ground No.1 ended in compromise. The FIR in the that case was quashed by this Court. Further, the detenu was granted bail on 14.07.2025 in CrI.P.No.4310 of 2025 (Ground No.2) and in CrI.M.P.No.989 of 2025 on 09.01.2026, (Ground No.3). Those bail orders were not considered by the detaining authority. There was also delay in consideration of the representation by the 1st respondent. So, the continued detention of the detenue would become illegal. No cause or explanation came forward for such delay in the counter-affidavit.

7. Learned Government Pleader submits that, so far as the ground No.1 is concerned, based on the compromise the FIR was quashed. This was taken into consideration by the detaining authority. It is so reflected from the order in Ground No.1. He submits that the order has been passed on consideration of the material on record, forwarded by the sponsoring authority. He submits that, though the criminal case under Ground No.1 was quashed by this Court, still that case could be considered for passing the order of detention. He

placed reliance in **Pesala Nookaraju v. Government of Andhra Pradesh and Others**¹.

8. Learned Government Pleader with respect to the non-consideration of the bail orders in Ground Nos.2 and 3, submits that, from the order, the consideration of the bail orders is not reflected, but that would not vitiate the order of preventive detention, placing reliance in **Muppidi Swapna v. State of Telangana & Others**².

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

10. With respect to the ground No.1, there is no dispute that the parties to the dispute compromised and the FIR in the said case was quashed by this Court in Criminal Petition No.2653 of 2025.

11. Para 4 of the judgment in Criminal Petition No.2653 of 2025, dated 11.03.2025 reads as under:

“4. Recording the submissions of the 2nd respondent, I.A. Nos.3 and 4 of 2025 are allowed and the F.I.R. No.126 of 2025 of Penamaluru Police Station, Krishna District, registered against the petitioners for the offence under Sections 109(1) read with 3(5) of the Bharatiya Nyaya Sanhita 2023, is hereby quashed.”

12. A perusal of the order of preventive detention, shows that, in Ground No.1, what was mentioned was that the Criminal Case No.126 of 2025 of Penamaluru Police Station, Krishna District, was compromised in Criminal

¹ 2023 (3) ALT (CrI.)184 (SC)

² 2016(2) ALD (CrI.) 310

Petition No.2653 of 2025, whereas the order of preventive detention does also not show the consideration of the order passed by this Court quashing the FIR. Once the FIR was quashed, the crime number under the quashed FIR could not be considered for the purposes of order of preventive detention.

13. In **Dasa Kavitha vs. State of A.P.**³, the order of preventive detention was passed based on many criminal cases. Out of those, in four cases, the detenue had already been acquitted, and in six cases, the proceedings/FIRs were quashed. One case was under the provisions of Section 110-E of Cr.P.C., which had got no relation with either of the Chapters i.e., Chapters XIV, XVII and XXII of the Penal Code, 1860. In one case conviction order was passed which was of the year 2016. Thereafter only one case remained regarding which statement had been made in the Writ Petition that the petitioner had filed Criminal Petition for quashment of the proceedings. It was observed that even if one case was treated as alive case, the detenue could not be termed as a habitual offender. The order of preventive detention was set aside. We refer para 20 of the judgment, to emphasis and draw inference that the cases, in which the proceedings/FIRs were quashed, could not be taken into consideration, for passing the order of preventive detention. In **Dass Kavitha** (supra), those six cases in which the proceedings/FIRs were quashed, along with others were kept aside, in effect and substance.

14. Para 20 of **Dass Kavitha** (supra) reads as under:

³ 2020 SCC OnLine AP 1504 (DB)

“20. Besides aforesaid grounds, the order of detention is liable to be set- aside on the ground that though the respondent No.2, in its order dated 27.07.2020, has passed detention order of the detenu, he, in its order itself, has communicated that grounds for detention shall be communicated to him. This itself reflects non application of mind by respondent No.2 in relation to the so called grounds which were proposed to be communicated to the detenu. In normal course, it is required that detention order must reflect detailed reason for passing the detention order. Since preventive detention provision is invoked by way of infringing fundamental right of a citizen, guaranteed under Articles 21 and 22 of the RK,J & JUD,J Constitution of India, in mechanical manner such steps on the part of the Government are not permissible. Even the grounds which have been brought on record shows that in four (4) cases the petitioner was already acquitted, in six (6) cases the proceedings/FIRs were quashed, one (1) case was under the provisions of 110-E of Cr.P.C., which has got no relation with either of the Chapters i.e., Chapters XIV, XVII and XXII of the Indian Penal Code, in one (1) case conviction order was passed is a case of the year 2016, thereafter only one case remained regarding which statement has been made in the Writ Petition that petitioner has filed Criminal Petition for quashment of the proceedings. If one case is treated as alive case, certainly the detenu cannot be termed as habitual offender.”

15. In **Shree Chamundi Mopeds Ltd vs. Church of South India Trust Association CSI Cinod Secretariat, Madras**⁴, it was held that the order of quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed. Para No.10 of **Shree Chamundi Mopeds Ltd** (supra) reads as under:

⁴ (1992) 3 SCC 1

“10..... While considering the effect of an interim order staying the operation of the order under challenge, a distinction has to be made between quashing of an order and stay of operation of an order. Quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed. The stay of operation of an order does not, however, lead to such a result. It only means that the order which has been stayed would not be operative from the date of the passing of the stay order and it does not mean that the said order has been wiped out from existence. This means that if an order passed by the Appellate Authority is quashed and the matter is remanded, the result would be that the appeal which had been disposed of by the said order of the Appellate Authority would be restored and it can be said to be pending before the Appellate Authority after the quashing of the order of the Appellate Authority.”

16. In view of **Shree Chamundi Mopeds Ltd.** (supra), it can be said that on the quashing of the FIR, the position is restored prior to the lodgment of the FIR. In other words there was no such criminal case as registered in the FIR. So, the case in crime in FIR was not liable to be taken into account.

17. So, once the FIR was quashed, the matter should have been considered keeping in view the effect of such quashment of the FIR. The detaining authority did not consider the effect of such quashment. The authority also did not consider the fact that the FIR was quashed, but mentioned that there was compromise. The detaining authority therefore failed to consider the entire relevant material rather ignored the relevant material. The satisfaction so recorded is therefore no satisfaction in the eye of law for passing an order of preventive detention.

18. The learned Government Pleader submits that the consideration in the last two lines, shows that the material was before the detaining authority. Even if it be so, we do not find consideration or the reference of the order of the Court quashing the FIR, in the order of preventive detention, which reflects non application of mind to the relevant facts and circumstances. The subjective satisfaction is not based on consideration of the complete relevant material on record. It is vitiated by non consideration of the relevant factors.

19. In **Pesala Nookaraju (supra)**, it was held that the power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention, may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is no bar to an order of preventive detention. An order of preventive detention is also not a bar to prosecution.

20. There is no dispute on the above stated legal position, as in **Pesala Nookaraju (supra)**. If there is an order of acquittal or even discharge, the order of preventive detention can be passed, taking into consideration that criminal case, so also it can be passed with or without prosecution and in

anticipation, but, the Criminal case under ground No.1 is not a case of discharge or acquittal. It is a case in which the FIR has been quashed. Once the FIR has been quashed, such crime case could not be considered nor made the ground for passing the order of preventive detention.

21. The subjective satisfaction of the detaining authority in passing the order of preventive detention was thus not arrived at legally and so, the preventive detention order cannot be sustained on ground No.1.

22. Further, in the criminal case Nos.180 of 2025 & 725 of 2025, under Ground Nos.2 and 3 of the preventive detention order respectively, the bail orders were not considered. The detenu was granted bail in both those criminal cases prior to the order of detention.

23. Learned Government Pleader placed reliance in **Muppidi Swapna (supra)** to contend that the non-consideration of the conditional bail orders would not vitiate the detention order. In the said case, several criminal cases were registered against the detenu in succession. It was held that, that clearly showed that the conditions of bail did not deter the detenu from repeating his illegal activities. Para 25 of **Swapna (supra)** upon which reliance has been placed reads as under:

“25. The learned counsel for the detenu argued with lot of emphasis that some of the bail orders are conditional and therefore the nature of the conditions was very much relevant for respondent No. 2 to consider whether they were sufficient to prevent the detenu from fleeing from justice and that non-consideration of the conditional bail orders has

vitiating the detention order. We are afraid, we cannot accept this submission because irrespective of whether the bail orders contained conditions or not, respondent No. 2 has arrived at the subjective satisfaction that in spite of his arrest in connection with the criminal cases, the detenu is repeating his activities after being released on bail. This necessarily means that the detaining authority was not only aware of the fact that the detenu was released on bail in all the cases, but also the fact that the ordinary laws set in motion have proved inefficacious. Even the learned counsel for the detenu has not placed before the Court the bail orders which purportedly contained conditions. In any event, the facts of the case, reveal that irrespective of the alleged conditions of bail, the detenu continued his alleged illegal activities which is manifest from the fact that as many as seven criminal cases were registered against him in succession, clearly showing that the alleged conditions of bail did not deter the detenu from repeating his alleged illegal activities.”

24s. In **M. Ahamed Kutty v. Union of India**⁵, it has been held by the Hon'ble Apex Court that the bail orders and the consideration thereof is a must. In the absence thereof, it cannot be said that there is subjective satisfaction with regard to the relevant material.

25. Recently, in **Buddiga Dhana Lakshmi v. State of A.P.**⁶ a Coordinate Bench of this Court set aside the preventive detention order and released the detenu observing that while passing the Order of Preventive Detention, the Detaining Authority has not considered the bail orders passed in favour of the detenu in other criminal cases. Paragraphs 14 & 15 of **Buddiga Dhana Lakshmi** (supra) are reproduced as under:

⁵ (1990) 2 SCC 1

⁶ 2026 SCC OnLine AP 2162

“14. In Ponnada Geetha (supra), a coordinate Bench of this Court has held that when the detenu was already released on bail in a crime and when it was made basis for passing the order of preventive detention and when such order of bail was not placed before the detention authority, it vitiates the order of preventive detention. Paragraph Nos. (9) to (12) of Ponnada Geetha (supra) read as under:

“However, as per the settled law, the very fact that the order of bail granted to the detenu in Crime No. 219 of 2024 of Gopalapatnam Police Station for the offence under NDPS Act, was not placed before the detaining authority, while passing the impugned order of detention, by itself, is sufficient to hold that it vitiates the impugned order of detention. The legal position in this regard is fairly well settled.

10. The Division Bench of the common High Court for the State of Telangana and the State of Andhra Pradesh had an occasion to elaborately deal with the said legal position in the case of Vasanthu Sumalatha v. State of Andhra Pradesh 2015 SCC OnLine Hyd 790 : (2016) 1 ALT 738 (DB). At para 44 of the said judgment, it is held as follows:

“44. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinizing the validity of an order of preventive detention, which is based on the very same charge which is to be tried by the criminal court. (Vijay Narain Singh v. State of Bihar [(1984) 3 SCC 14 : 1984 SCC (Cri) 361]; Jotha Viswanadh v. Chief Secretary, Govt. of A.P. [judgment in W.P. No. 10018 of 2012, dated 29-6-2012 (APHC) (DB)]. Where the detenu is released on bail, and is enjoying his freedom under the order of the court, the order of bail must be placed before the detaining authority, when the order of detention is passed, to enable him to reach a proper satisfaction. (Rushikesh Tanaji Bhoite v. State of

Maharashtra [(2012) 2 SCC 72 : (2012) 1 SCC (Cri) 693]. If the detaining authority was unaware of the order of bail, the detention order is rendered invalid as the Court cannot attempt to assess in what manner, and to what extent, consideration of the order granting bail to the detenu would have effected the satisfaction of the detaining authority in passing the order of preventive detention (Rushikesh Tanaji Bhoite (42 supra); Rekha (5 supra); Jotha Viswanadh (44 supra)).”

11. At para 42 of the said judgment, it is also held by the Division Bench of the common High Court that it is incumbent that all vital materials are placed before the detaining authority to enable him to arrive at the subjective satisfaction as to the necessity for passing an order of detention, as decided in M. Ahamedkutty v. Union of India ((1990) 2 SCC 1 : 1990 SCC (Cri) 258 and State of U.P. v. Kamal Kishore Saini ((1988) 1 SCC 287 : 1988 SCC (Cri) 107 (2)). Therefore, it is held that the bail order is a vital material for consideration and if it is not considered, the satisfaction of the detaining authority would be impaired.

12. Thus, it is obvious from the analogy and the legal position decided in the aforesaid judgment of the Division Bench of the common High Court, which is binding on this Court, that when the detenu was already released on bail in a crime and when it was made basis for passing the order of preventive detention and when the said order of bail was not placed before the detaining authority, it vitiates the impugned order of preventive detention. Therefore, in view of the law enunciated in the above judgment, as the order of bail is admittedly not placed before the 2nd respondent when he has passed the impugned order of preventive detention, the impugned order of preventive detention is vitiated and, therefore, cannot be sustained.”

15. The aforesaid is the settled position in law. The bail order and the conditions of bail are relevant material to be considered to arrive at the satisfaction if the order of detention is yet to be passed.”

26. In view of the law as laid down by the Hon’ble Apex Court in **M. Ahamed Kutty** (supra) the consideration of bail orders is must and the satisfaction arrived at ignoring the relevant material in the form of bail orders will not be as per the settled law.

27. There is also delay in considering the representation of 143 days. There is no satisfactory explanation given in the counter affidavit for such long delay.

28. It is well settled in law that the detinue has a fundamental right to make a representation, which is required to be considered ‘as soon as possible’. In the absence of any sufficient explanation, the delay will be without any justification violating the fundamental right of the detinue of consideration ‘as soon as possible. The continued detention in such a case would become invalid.

29. In view of the aforesaid discussions made, we are of the considered view that the order of preventive detention cannot be maintained.

30. We, accordingly, allow the petition and the order of preventive detention also confirmation order are set aside.

31. The detinue shall be set at liberty immediately, if he is not required in any other case.

32. However, liberty is granted to the detaining authority to pass an appropriate order, afresh in accordance with law.

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

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

Dated: 06.08.2026
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI

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Dated: 06.08.2026
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