

APHC010133002026



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

**[3624]**

WEDNESDAY, THE 30<sup>th</sup> DAY OF SEPTEMBER 2026

**PRESENT**

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR**

**WRIT PETITION NO: 7001/2026**

**Between:**

1.KONDA VIJAYA LAKSHMI,, W/O. K.VENKATARAM REDDY, AGED ABOUT 33 YEARS, PERMANENT RESIDENT OF DOOR NO.4-36, NELABILK GRAMAM, CHINNAMBAVI MANDAL, WANAPARTHY, TELANGANA

**...PETITIONER**

**AND**

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, HOME DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATI.522237

2.THE DIRECTOR GENERAL OF POLICE, A.P. POLICE HEADQUARTERS, MANGALAGIRI, GUNTUR DISTRICT.522503

3.THE SUPERINTENDENT OF POLICE, KURNOOL, KURNOOL DISTRICT.518001

4.THE STATION HOUSE OFFICER, KURNOOL IV STATION, KURNOOL, KURNOOL DISTRICT.518003

**...RESPONDENT(S):**

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 topleased to issue a writ, order or direction, more particularly one in nature of Writ of Habeas Corpus or any other Writ, order or direction directing

the respondents to produce the detenu (my husband), Sri. Kosire Venkataram Reddy, S/o. Kosire Krishna Reddy, before this Hon'ble Court and to set him at liberty forthwith

**IA NO: 1 OF 2026**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to implead Sri B.V. Vikrama Simha, S/o B.V. Naga Muni, aged about 46 years. Occupation Inspector of Police, Kurnool IV Town Police Station, Kurnool, as a party Respondent in the present Writ Petition, and pass

**IA NO: 2 OF 2026**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to direct the Respondents to preserve and produce the CCTV footage pertaining to 10.03.2026 and 11.03.2026 for the purpose of adjudication in the present Writ Petition, pending disposal of the same, and pass

**Counsel for the Petitioner:**

1.PAPUDIPPU SASHIDAR REDDY

**Counsel for the Respondent(S):**

1.THE ADVOCATE GENERAL

**The Court made the following:**

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

This writ petition has been filed under Article 226 of the Constitution of India seeking the following relief:-

*“....to issue a Writ, Order or direction more particularly one in the nature of Writ of **Habeas Corpus** directing the respondents to produce the detenu (husband), **Sri Kosire Venkataram Reddy**, S/o. Kosire Krishna Reddy, before this Hon'ble Court and to set him at liberty forthwith, and pass such other order or orders....”*

2. Heard Sri Papudippu Sashidhar, learned counsel for the petitioner and Sri J. Krishna Praneeth, learned Assistant Government Pleader attached to the office of the learned Advocate General, appearing for the respondents.

3. The case of the petitioner, in brief, is that the detenu, namely, Sri Kosire Venkataram Reddy, husband of the petitioner, was served with a notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), in connection with Crime No.41 of 2026 on the file of the 4th respondent-Station House Officer, Kurnool IV Station, Kurnool District, for the alleged offences punishable under Sections 196(1)(a), 299 and 356(1) of the Bharatiya Nyaya Sanhita, 2023 (BNS) read with Section 67 of the Information Technology Act, 2000, directing the detenu to appear before the Investigating

Officer on 05.03.2026. As he was unable to appear before the 4<sup>th</sup> respondent on the said date, he submitted an explanation on 04.03.2026, stating the reasons for his inability to appear and requesting one week's time to appear before the Investigating Officer. The said request was accepted and he was directed to appear before the 4<sup>th</sup> respondent on 10.03.2026 during the afternoon hours. Accordingly, he appeared before the Investigating Officer.

4. Learned counsel for the petitioner submits that, after filing of the writ petition on 11.03.2026, the detenu was released/set free at about 5:30 p.m. on 11.03.2026. He submits that the detenu was not produced before the concerned Magistrate within 24 hours and, consequently, his detention was illegal. He submits that, notwithstanding the release of the detenu on 11.03.2026, the writ petition for Habeas Corpus is still maintainable, as the detention was illegal. He further submits that the detenu was not released on 10.03.2026 and that there is nothing on record to show that the detenu was released on the aforesaid date, and that, there being an illegal detention, the detenu would be entitled to compensation for violation of his fundamental right to personal liberty under Article 21 of the Constitution of India, as well as for violation of Article 22 of the Constitution of India. He placed reliance on ***Bhim Singh, MLA v. State of J&K and Others***<sup>1</sup>.

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<sup>1</sup> (1985) 4 SCC 677

5. Learned Assistant Government Pleader appearing for respondent Nos.1 to 4 submits, referring to the contents of the counter affidavit filed by respondent No.4-Station House Officer, Kurnool IV Police Station, particularly paragraph No.5, that a notice under Section 35(3) of the BNSS was issued to the detenu. The detenu appeared before the Investigating Officer on 10.03.2026. However, during the course of the inquiry, the detenu did not produce the relevant mobile phone and, consequently, he was asked to appear again on 11.03.2026 along with the said mobile phone. For that purpose, a notice under Section 94 of the BNSS, dated 10.03.2026, was also served on him, directing him to appear on 11.03.2026. He was set free on 10.03.2026 itself, with a direction to appear on the next day, for which a notice was served on him. On the next day, i.e., on 11.03.2026, the detenu appeared before the Investigating Officer and was set free on that day itself. He submits that the detenu was not kept in custody. Hence, there was no illegal detention.

6. Learned Assistant Government Pleader further submits that the present Writ of *Habeas Corpus* was filed seeking a direction to the respondents to produce the detenu. Since the detenu had already been released on 11.03.2026 itself, for the second time, the writ petition has been rendered infructuous, as, by the time the counter affidavit was filed, the detenu was not in detention, much less in illegal detention. He placed reliance on the following judgments/orders :

**(i) *Ram Narayan Singh v. State of Delhi and Others*<sup>2</sup>**

**(ii) *Mrs. Parvathi v. The Commissioner of Police, Darushefa, Hyderabad*<sup>3</sup>.**

**(iii) *Serious Fraud Investigation Office v. Rahul Modi and Another*<sup>4</sup>**

**(iv) *P.Subramanyam and 4 Others v. State of Andhra Pradesh and 12 Others*<sup>5</sup>**

7. We have considered the aforesaid submissions of the learned counsels for the parties and perused the material on record.

8. It is not in dispute that the detenu appeared before the 4<sup>th</sup> respondent on 10.03.2026. He was admittedly released on 11.03.2026 at about 5:30 p.m. The dispute raised by the petitioner is that the detenu was released after 24 hours and that, in the meantime, he was not produced before the concerned Magistrate. The mere signature of the detenu on Section 94, the notice would not, by itself, establish that he was released on 10.03.2026 and thereafter he again appeared on 11.03.2026, when in the evening of 11.03.2026, the detenu was again set free.

9. Whereas the stand of the respondents is that the detenu was released on 10.03.2026 and, by serving a notice under Section 94 of the BNSS directing him to appear again on 11.03.2026 before the Investigating

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<sup>2</sup> (1953) 1 SCC 389

<sup>3</sup> 1995 SCC OnLine AP 401

<sup>4</sup> (2019) 5 SCC 266

<sup>5</sup> W.P.No.4318 of 2026, decided on 30.06.2026.

Officer. Their case is that the detenu again appeared on 11.03.2026 and, therefore, he was not in continuous detention.

10. A copy of the notice under Section 94 of the BNSS has been placed on record. Learned Government Pleader further submitted that neither there is prayer made seeking specifically for the grant of compensation nor there is any case for grant of such compensation.

11. In view of the submissions advances, the question of maintainability of the present Writ Petition in the nature of Habeas Corpus, in view of the admitted fact that the detenu was released on 11.03.2026 at about 5:30 p.m., requires consideration.

12. In ***Serious Fraud Investigation Office v. Rahul Modi*** (supra), the Hon'ble Apex Court, on the aforesaid aspect of the maintainability of writ petition for Habeas Corpus held as follows in paragraph Nos.17 to 19, which are reproduced hereunder:

“17. For considering whether the writ petitioners were entitled to any interim relief, two questions were framed by the High Court in para 16 of its order. Before considering the matter from the perspective of the said two questions, an issue which was stressed by the learned Solicitor General may be addressed first. It was submitted by him that the date with reference to which the legality of detention can be challenged in a habeas corpus proceeding is the date on which the return is filed in such proceedings and not with reference to the initiation of the proceedings. He relied upon the decision of the Federal Court in *Basanta Chandra Ghose v. King Emperor* [*Basanta*

*Chandra Ghose v. King Emperor*, 1945 SCC OnLine FC 3 : (1945) 7 FCR 81], which had concluded: (FCR p. 94)

“... If at any time before the Court directs the release of the detinue, a valid order directing his detention is produced, the Court cannot direct his release merely on the ground that at some prior stage there was no valid cause for detention. ...”

**18.** Similar questions arose for consideration in *Naranjan Singh Nathawan v. State of Punjab* [*Naranjan Singh Nathawan v. State of Punjab*, (1952) 1 SCC 118 : 1952 SCR 395 : AIR 1952 SC 106 : 1952 Cri LJ 656], *Ram Narayan Singh v. State of Delhi* [*Ram Narayan Singh v. State of Delhi*, (1953) 1 SCC 389 : 1953 SCR 652 : AIR 1953 SC 277 : 1953 Cri LJ 1113], *A.K. Gopalan v. Union of India* [*A.K. Gopalan v. Union of India*, (1966) 2 SCR 427 : AIR 1966 SC 816 : 1966 Cri LJ 602], *Pranab Chatterjee v. State of Bihar* [*Pranab Chatterjee v. State of Bihar*, (1970) 3 SCC 926 : 1971 SCC (Cri) 170], *Talib Hussain v. State of J&K* [*Talib Hussain v. State of J&K*, (1971) 3 SCC 118], *B. Ramachandra Rao v. State of Orissa* [*B. Ramachandra Rao v. State of Orissa*, (1972) 3 SCC 256 : 1972 SCC (Cri) 481]. These decisions were considered in *Kanu Sanyal v. Distt. Magistrate, Darjeeling* [*Kanu Sanyal v. Distt. Magistrate, Darjeeling*, (1974) 4 SCC 141 : 1974 SCC (Cri) 280], as under: (SCC pp. 145-46, para 4)

“*Re: Grounds A and B*

4. These two grounds relate exclusively to the legality of the initial detention of the petitioner in the District Jail, Darjeeling. We think it unnecessary to decide them. It is now well settled that the earliest date with reference to which the legality of detention challenged in a habeas corpus proceeding may be examined is the date on which the application for habeas corpus is made to the Court. This Court speaking through Wanchoo, J., (as he then was) said in *A.K. Gopalan v. Union of India* (1966) 2 SCR 427 : AIR 1966 SC 816 : 1966 Cri LJ 602] : (AIR p. 818, para 5)

*‘5. It is well settled that in dealing with a petition for habeas corpus the Court is to see whether the detention on the date on which the application is made to the Court is legal, if nothing more has intervened between the date of the application and the date of the hearing.’*

In two early decisions of this Court, however, namely, *Naranjan Singh Nathawan v. State of Punjab* [*Naranjan Singh Nathawan v. State of Punjab*, (1952) 1 SCC 118 : 1952 SCR 395 : AIR 1952 SC 106 : 1952 Cri LJ 656] and *Ram Narayan Singh v. State of Delhi* [*Ram Narayan Singh v. State of Delhi*, (1953) 1 SCC 389 : 1953 SCR 652 : AIR 1953 SC 277 : 1953 Cri LJ 1113] a slightly different view was expressed and that view was reiterated by this Court in *B. Ramachandra Rao v. State of Orissa* [*B. Ramachandra Rao v. State of Orissa*, (1972) 3 SCC 256 : 1972 SCC (Cri) 481] where it was said (at p. 259, para 7):

***‘7. ... in habeas corpus proceedings the Court is to have regard to the legality or otherwise of the detention at the time of the return and not with reference to the institution of the proceedings’.***

and yet in another decision of this Court in *Talib Hussain v. State of J&K* [*Talib Hussain v. State of J&K*, (1971) 3 SCC 118] . Mr Justice Dua, sitting as a Single Judge, presumably in the vacation, observed that (at p. 121, para 6):

***‘6. ... in habeas corpus proceedings the Court has to consider the legality of the detention on the date of the hearing.’***

*Of these three views taken by the Court at different times*, the second appears to be more in consonance with the law and practice in England and may be taken as having received the largest measure of approval in India,

*though the third view also cannot be discarded as incorrect, because an inquiry whether the detention is legal or not at the date of hearing of the application for habeas corpus would be quite relevant, for the simple reason that if on that date the detention is legal, the Court cannot order release of the person detained by issuing a writ of habeas corpus.* But, for the purpose of the present case, it is immaterial which of these three views is accepted as correct, for it is clear that, whichever be the correct view, the earliest date with reference to which the legality of detention may be examined is the date of filing of the application for habeas corpus and the Court is not, to quote the words of Mr Justice Dua in *B. Ramachandra Rao v. State of Orissa* [*B. Ramachandra Rao v. State of Orissa*, (1972) 3 SCC 256 : 1972 SCC (Cri) 481] , “concerned with a date prior to the initiation of the proceedings for a writ of habeas corpus”. Now the writ petition in the present case was filed on 6-1-1973 and on that date the petitioner was in detention in the Central Jail, Visakhapatnam. The initial detention of the petitioner in the District Jail, Darjeeling had come to an end long before the date of the filing of the writ petition. It is, therefore, unnecessary to examine the legality or otherwise of the detention of the petitioner in the District Jail, Darjeeling. The only question that calls for consideration is whether the detention of the petitioner in the Central Jail, Visakhapatnam is legal or not. Even if we assume that grounds A and B are well founded and there was infirmity in the detention of the petitioner in the District Jail, Darjeeling, that cannot invalidate the subsequent detention of the petitioner in the Central Jail, Visakhapatnam. (See para 7 of the judgment of this Court in *B. Ramachandra Rao v. State of Orissa* [*B. Ramachandra Rao v. State of Orissa*, (1972) 3 SCC 256 : 1972 SCC (Cri) 481] .) The legality of the detention of the petitioner in the Central Jail, Visakhapatnam would have to be judged on its own merits. We, therefore, consider it unnecessary to embark on a discussion of Grounds A and B and decline to decide them.”

**19.** The law is thus clear that “in habeas corpus proceedings a court is to have regard to the legality or otherwise of the detention at the time of the return and not with reference to the institution of the proceedings”. In *Kanu Sanyal*

[*Kanu Sanyal v. Distt. Magistrate, Darjeeling*, (1974) 4 SCC 141 : 1974 SCC (Cri) 280] the validity of the detention of the petitioner in District Jail, Darjeeling was therefore not considered by this Court and it was observed that the infirmity in the detention of the petitioner therein in District Jail, Darjeeling could not invalidate subsequent detention of the petitioner in Central Jail, Vishakhapatnam.”

13. A Co-ordinate Bench of this Court in ***Mrs.Parvathi*** (supra), had held in paragraph Nos.6 & 7 as follows :

*“6. The fact, however, remains that the alleged detenues have been released on executing personal security bonds, details of which have been stated in the Counter filed by the 6th respondent. This is an important fact to be kept in mind and has relevance for disposal of the above Writ Petition.*

*7. It is well settled that in Habeas Corpus proceedings, the Court is to have regard to the legality or otherwise of the detention of a person at the time of the return and not with reference to the institution of the proceedings. (See AIR 1953 SC 277 which view has been reiterated in (1974) 4 SCC 141 : AIR 1974 SC 510). **Therefore as the facts amply prove, the alleged detenues are no longer in detention.** The material date is 16th May, 1995 when the affidavit on behalf of the respondent was filed and wherein it is clearly stated that the detenu have been released on 29th April, 1995, 30th April, 1995 and 1st May, 1995 by orders of the respective Executive Magistrates. **It is also well settled that the detenu having been released, Writ of Habeas Corpus cannot be issued and accordingly the same is liable to be dismissed.**”*

14. In **P.Subramanyam** (supra), a Co-ordinate Bench of this Court, on consideration of the various judgments including *State of Maharashtra v. Tasneem Rizwan Siddiquee* ((2018) 9 SCC 745), in *Home Secretary (Prison) v. H.Nilofer Nisha* ((2020) 14 SCC 161, in *A.K.Gopalan v. Government of India* (supra) and *Sanjay Dutt v. State* ((1994) 5 SCC 410, held that on the date of hearing of the petitioner, the detenu was no longer in detention. The writ of *Habeas Corpus* was held not maintainable. Paragraph Nos.21 & 24, read as under :

**“21. In Col.Dr.B.Ramachandra Rao v. State of Orissa<sup>6</sup> para-7 reads as under:**

**“7. Assuming that the sentence imposed by the Secunderabad court on the petitioner has been served out by him, then the only point which the petitioner has raised in his petition relates to the alleged illegality of his custody in the jail when he was brought to Bhubaneshwar from Secunderabad. Such an infirmity, assuming the petitioner's allegation to be correct, cannot invalidate the present confinement of the petitioner in the Bhubaneshwar Sub-Jail. As observed by this Court in *Naranjan Singh Nathawan v. State of Punjab* [(1952) 1 SCC 118 : AIR 1952 SC 106 : 1952 SCR 395] and reaffirmed in *Ram Narayan Singh v. State of Delhi* [(1953) 1 SCC 389 : AIR 1953 SC 277 : 1953 SCR 652] **in habeas corpus proceedings the Court is to have regard to the legality or otherwise of the detention at the time of the return and not with reference to the institution of the proceedings. A fortiori the Court would not be concerned with a date prior to the initiation of the proceedings for a writ of habeas corpus. We accordingly dismiss Writ Petition No. 601 of 1970.**”**

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<sup>6</sup> (1972) 3 SCC 256

**24.** *In the present case, on the date of filing of the writ petition the detention was pursuant to the remand order. The remand order was not challenged. On the date of hearing of the petition, the detenu was no longer in detention. During pendency of the writ petition, the detenu has been released on bail.”*

15. In the present case, on the date of filing of the writ petition, i.e., on 11.03.2026, the petitioner's case was that the detenu was in detention. However, and in any case, during the pendency of the writ petition, on 11.03.2026 itself, the detenu was released. The Court has to examine whether, on the date when the petition is considered, the detenu continues to be in detention and, if so, whether such detention is legal or illegal. But, where the detention itself has come to an end, no inquiry is required with regard to the legality of the detention as on the date of filing of the petition, since there have been subsequent intervening events between the date of filing of the petition and the date of hearing.

16. Learned counsel for the petitioner submitted that in ***Tirupathi Bharathi v. State of Andhra Pradesh and others***<sup>7</sup> notwithstanding the release of the detenu, a Co-ordinate Bench considered the question as to whether the detention was illegal and, having found the detention to be illegal, also granted compensation. He submitted that consequently in the present case for the purpose of grant of compensation to the detenu, the legality of the

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<sup>7</sup> W.P.No.25601 of 2024 decided on 10.11.2025.

detention can be adjudicated, as compensation can be awarded in a writ of *Habeas Corpus*.

17. We have gone through the aforesaid judgment in ***Tirupathi Bharathi*** (supra). In that case, a direction was initially issued to the respondent therein to produce the CCTV footage of the concerned Police Station for the specified dates. The police produced the CCTV footage of only two cameras and not of all the cameras. From the CCTV footage of those two cameras, it transpired that there was detention. As the respondents failed to comply with the direction to produce the CCTV footage of all the cameras, the learned Co-ordinate Bench in fact, drew an adverse inference. Since the CCTV footage from all the cameras was not produced, it was inferred that the detention was illegal. Consequently, compensation of ₹10,000/- was awarded, referring to the judgments of the Hon'ble Apex Court in *Nilabati Behera v. State of Orissa* {(1993) 2 SCC 746 : 1993 SCC (Cri) 527 : 1993 SCC OnLine SC 135} and *D.K. Basu v. State of West Bengal* {(1997) 1 SCC 461 : 1997 SCC (Cri) 92}.

18. In the present case, there is no direction to produce the CCTV footage from the cameras. Consequently, question of drawing any adverse inference against the respondents does not arise and based thereon any illegal detention cannot be inferred.

19. In the present case, the respondents have brought on record the notice under Section 94 of the BNSS, on which, there is no dispute raised that the same was received by the detenu. The submission advanced is that merely because the notice was received, it would not mean that the detenu was released on 10.03.2026 and he attended again. On 11.03.2026 pursuant to the notice and was again released on 11.03.2026.

20. At this stage, we may add that in ***Tirupathi Bharathi*** (supra) there was no such notice under Section 94 (BNSS) given to the detenu therein.

21. We are of the further view that the questions as to whether the detenu was released on 10.03.2026, and whether he again came on 11.03.2026 and was again set free on that day, are questions of fact. In the absence of any material placed before us, it cannot be held that the detenu was in any illegal detention. The petitioner's own pleading in the writ petition *vide* paragraph No.4, reads as under :

*“4. I submit that on 03.03.2026, my husband was served with a notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in connection with Crime No.41 of 2026 on the file of the 4th Respondent Polica Station for the alleged offences punishable under Sections 196(1)(a), 299 and 356(1) of the Bharatiya Nyaya Sanhita (BNS) read with Section 67 67 of the 7. Information Technology Act, 2000, directing him to appear before the Investigating Officer on 05.03.2026. As he was unable to appear before the 4th Respondent on the said date, he submitted an explanation on 04.03.2026, stating the reasons for his inability*

*to appear and requested one week's time to attend before the Investigating Officer. The said request was accepted and he was directed to appear before the 4<sup>th</sup> respondent on 10.03.2026.”*

The above averment when seen with the stand of the respondents that notice under Section 94 BNSS was served on 10.03.2026 for appearance again on 11.03.2026, is to be given due weight and credence against the petitioner's case of illegal detention.

22. Learned counsel for the petitioner submitted that, since it is not in dispute that the detenu attended before the Investigating Officer at the Police Station on 10.03.2026, the burden is on the respondents to show the date and time of his release from the record, which, as submitted, has not been produced. It is true that no such record has been produced, but the admitted fact is that the detenu was released on 11.03.2026 at 5:30 p.m. In between, there is a notice duly served under Section 94 of the BNSS. In the presence of such a notice neither we can draw an inference that the detenu was continuously kept in detention from 10.03.2026 till 11.03.2026 nor it can be held that there was any illegal detention.

23. We cannot hold that the detenu was in illegal detention.

24. Learned counsel for the petitioner placed reliance on the case of **Bhim Singh** (*supra*) to contend that, in the said case, there was illegal detention and, consequently, compensation was granted.

25. So far as the law laid down in **Bhim Singh** (*supra*) is concerned, there cannot be any dispute that, in the case of violation of the fundamental right to life and liberty of an individual, compensation may be granted in appropriate cases in the exercise of jurisdiction under Article 226 of the Constitution of India. However, for that, a specific finding must be recorded as to illegal detention in violation of fundamental rights, which, in the present case, as observed above, cannot be recorded in favour of the detenu.

26. On the point of claim for compensation, a Co-ordinate Bench in **P.Subramanyam** (*supra*) considered and held that in public law remedy under Article 226 of the Constitution of India for violation of the fundamental right, compensation can be granted in appropriate case. However, in that case, it was held that there was no illegal detention. Paragraph Nos.49 to 55, which read as under :

**“Claim for compensation:**

**49.** *Learned counsel for the petitioner raised another submission for grant of compensation. He submitted that the compensation, can be granted for violation of the fundamental right under the public law remedy under Article 226 of the Constitution of India as well.*

**50.** *Learned counsel for the petitioners placed reliance in **Nilabati Behera (SMT) Alias Lalita Behera v. State of Orissa**<sup>8</sup>, to contend that the detention being illegal, the detenues are entitled for an award of compensation under public law. That*

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<sup>8</sup> (1993) 2 SCC 746

was a case of death in police custody. The death was in unnatural cause by multiple injuries. The burden was on the authorities to explain the death and the injuries which caused the death. There was no possible explanation given. The Court recorded, that was a case of custodial death. On such finding the Court proceeded to consider the question of liability of the respondents for the compensation. In view of the judgments of Hon'ble Apex Court in **Rudul Sah v. State of Bihar and others**, the Hon'ble Apex Court determined that the State was liable for compensation and in that context the Hon'ble Apex Court observed that the award of compensation in a proceedings under Article 32 by the Apex Court and under Article 226 of the Constitution by the High Court is a remedy available in public law, based on strict liability for contravention of fundamental rights to which the principle of sovereign immunity does not apply.

**51.** There is no dispute on the settled proposition of law as in the **Rudul Sah (supra)** and **Nilabati Behera (SMT) Alias Lalita Behera (supra)** that in case of violation of fundamental right to personal liberty under Article 21 of the Constitution, the compensation can be awarded in exercise of the jurisdiction under Article 226 of Constitution of India, which is a remedy available under public law. However, in the present case it could not be shown that there was violation of the fundamental right of the detenues under Article 21 of Constitution of India of their personal liberty. The detention of detenues was pursuant to the remand order. The detenues were arrested and produced within the statutory period. There is nothing on record to show to the contrary. There was no violation neither of the Article 21 nor of Article 22 of the Constitution of India. Neither the detention nor its continuance till bail was granted, can be said to be illegal, violating any of the fundamental rights of the detenues. So, there

is no question of the applicability of the judgment in **Rudul Sah (supra)** and **Nilabati Behera (SMT) Alias Lalita Behera (supra)** for grant of any compensation.

**52.** In **Bhim Singh v. State of J & K**, also upon which relevance was made, the Hon'ble Apex Court observed that since the detenu was no longer in the detention, there was no need to make any order to set him free. The Hon'ble Apex Court however granted compensation, as it was found that the order of remand was passed in collusion with the police officer in a casual manner and due to irresponsible attitude of the Magistrate. In the present case the detenues have been granted bail. They are not in any detention much less illegal detention. Even prior to the grant of bail their detention was pursuant to the remand order. There is no question of any illegal detention. **Bhim Singh (supra)** cannot be applied for grant of any compensation.

**53.** In **Rudul Sah v. State of Bihar**<sup>9</sup>, the petitioner was detained illegally in prison for 14 years after his acquittal in a full-fledged trial. There was acquittal. In spite thereof, the person was detained in jail. Such detention was illegal. The Hon'ble Apex Court directed payment of compensation in Habeas Corpus petition. That is not the position here.

**54.** In the present case there being no illegal detention, the question of grant of compensation to the detenu does not arise.

**55.** Thus considered, we hold that:

i) the writ of Habeas Corpus is not maintainable as the arrest was made on 09.02.2026. The detenu was produced before the Magistrate on 10.02.2026 within the statutory period. Nothing could be brought on record to the contrary.

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<sup>9</sup> (1983) 4 SCC 141

*ii) The Magistrate had granted remand even prior to filing of the writ petition. That was not disclosed in the writ petition, except mentioning that the petitioners learnt that the Magistrate was going to remand.*

*iii) The order of remand has not been challenged.*

*(iv) the detenue was granted bail during pendency of the writ petition.*

*v) The detenue not being in an illegal detention when the writ petition was filed and also having been released on bail during the pendency of the writ petition, the writ for Habeas Corpus is not maintainable.*

*vi) The Court does not make roving enquiry into disputed questions of fact, which cannot be duly investigated in the exercise of the writ jurisdiction under Article 226(1) of Constitution of India, which may also require the evidence and consideration of relevancy, admissibility, including of the electronic evidence sought to be summoned.*

*vii) News in newspaper publication as an evidence is not admissible without any verifiable and supportive material, writ of habeas corpus based on the newspaper report ordinarily cannot be issued.*

*viii) There is no illegal detention. So, no question of grant of any compensation to the detenu arises.”*

27. In view of the foregoing discussion, this Writ Petition is **dismissed**. However, the dismissal of this Writ Petition shall not preclude the

petitioner from availing such remedy as may be available in law, before the appropriate forum, if so advised.

No order as to costs.

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

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**RAVI NATH TILHARI, J**

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**ALAPATI GIRIDHAR, J**

Date: 30.09.2026

***Note :- L.R. Copy to be marked.***

B/o  
RPD

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI  
AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

**(Dismissed)**

**WRIT PETITION NO: 7001 of 2026**

**Date: 30.09.2026**

***Note :- L.R. Copy to be marked.***

B/o  
RPD.

**\* THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**\* THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR**

**+ WRIT PETITION NO: 7001 OF 2026**

**% 30.09.2026**

**# Konda Vijaya Lakshmi.**

**.....Petitioner**

**And:**

**\$ The State of Andhra Pradesh and others**

**....Respondents.**

**!Counsel for the petitioner : Sri Papudippu Sashidhar**

**^Counsel for the respondents : Sri J.Krishna Praneeth**  
learned Assistant Government Pleader

**<Gist:**

**>Head Note:**

**? Cases referred:**

1. (1985) 4 SCC 677
2. (1953) 1 SCC 389
3. 1995 SCC OnLine AP 401
4. (2019) 5 SCC 266
5. W.P.No.4318 of 2026, decided on 30.06.2026.
6. (1972) 3 SCC 256
7. W.P.No.25601 of 2024 decided on 10.11.2025
8. (1993) 2 SCC 746
9. (1983) 4 SCC 141

**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

\* \* \* \*

**WRIT PETITION NO: 7001 OF 2026****DATE OF JUDGMENT PRONOUNCED: 30.09.2026****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI****&****THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR**

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|--------------------------------------------------------------------------------------|--------|
| 1. <i>Whether Reporters of Local newspapers may be allowed to see the Judgments?</i> | Yes/No |
| 2. <i>Whether the copies of judgment may be marked to Law Reporters/Journals</i>     | Yes/No |
| 3. <i>Whether Your Lordships wish to see the fair copy of the Judgment?</i>          | Yes/No |

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**RAVI NATH TILHARI, J**

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**ALAPATI GIRIDHAR, J**