2026 INSC 41

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(@ SLP (CRL.) NO.18223 OF 2025)

ROSHINI DEVI **APPELLANT(S)**

VERSUS

THE STATE OF TELANGANA
AND OTHERS **RESPONDENT(S)**

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. Leave granted.

2. The appellant who is the daughter of the detenu-Aruna Bai alias Anguri Bai is aggrieved by the order of detention dated 10.03.2025 passed by the Collector and District Magistrate, Hyderabad under Section 3(2) of the Telangana Prevention of Dangerous Activities of Boot-Leggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders [Land-Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders,

Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders] Act, 1986 (for short, the Act of 1986). She approached the High Court of Telangana by preferring Writ Petition No.12443 of 2025 for challenging the aforesaid order. The Division Bench of the High Court however refused to interfere with the order of detention and dismissed the said writ petition on 28.10.2025. Being aggrieved, the appellant has preferred the present appeal.

3. The grounds of detention as referred to in the order of detention dated 10.03.2025 indicate consideration of the criminal history of the detenu. There is reference to Crime No. 243/ 2024 dated 16.09.2024 registered under Section 8 (c) read with Section 20 (b) (ii) (b) of the Narcotics Drugs and Psychotropic Substances Act, 1985 at the Prohibition and Excise Station Dhoolpet, District Hyderabad. There is also reference to Crime No.270/2024

dated 12.12.2024 registered against the detenu under similar provisions as in the first crime. The detenu came to be arrested on 12.12.2024 and while she was in judicial custody, Crime No.42/2024 under similar provisions came to be registered at the same Police Station on 17.12.2024. “Ganja” came to be seized from the detenu in this process. The detenu was found to be a “drug offender” under Section 2 (f) of the Act of 1986 and by observing that ill-effects of Ganja were harmful and injurious public health, power conferred by Section 3 (2) of the Act of 1986 came to be exercised. The Collector and District Magistrate was also of the view that the detenu had moved an application for grant of bail in Crime Nos. 243/2024 and 270/2024 which were pending. He apprehended that if the detenu succeeded in obtaining bail, she would continue to engage in illegal activities. The proceedings registered against her under the ordinary law had no deterrent effect and hence it was found necessary to detain her as a last resort in interest of public at large. On this basis, the order of detention

came to be passed on 10.03.2025. Approval to the aforesaid order came to be granted under Section 3(3) of the Act of 1986 by the General Administration Department on 15.03.2025. Thereafter on 15.04.2025, the order of detention came to be confirmed.

4. The High Court was of the view that the repeated and well planned actions of the detenu were sufficient to raise the presumption of threat and alarm amongst the general public regarding their health which was the primary criteria for maintaining peace as well as law and order in society. It found that there was no reason to interfere with the subjective satisfaction record by the detaining authority and that the order of detention did not suffer from any irregularity warranting interference. On these findings the High Court declined to interfere with the order of detention.

5. Mr. Ravi Shankar Jandhyala, learned Senior Advocate for the appellant submitted that in absence of any material for recording satisfaction that the detenu had acted in a manner prejudicial to the maintenance of

public order as required by Section 2 (a) of the Act of 1986, the detenu could not have been preventively detained. Merely because the detenu was found to be a "drug offender" under Section 2 (f) of the Act of 1986, there was no justification for passing the order of detention. The detenu had been enlarged on bail in Crime No.243 of 2024 and it could not be said that the conditions imposed while enlarging her were insufficient to prevent the detenu from committing any further offence. The order of detention was passed merely as an alternative to cancellation of bail. It was further submitted that merely by referring to the previous criminal history attributed to the detenu, the order of detention had been passed. In absence of any specific instance/s indicating the conduct of the detenu to be prejudicial to the maintenance of public order, there was no basis to direct her detention. Even if it was accepted that the detenu was involved in the offences as alleged, it could not be said that the same affected maintenance of public order. At the highest, the activities could be

termed to be prejudicial to the maintenance of law and order. To substantiate the grounds as urged, reliance was placed on the decision in **Rekha Vs. State of Tamil Nadu**[1]. It was thus submitted that in absence of relevant material on the basis of which subjective satisfaction could have been recorded by the detaining authority indicating the acts of the detenu to be prejudicial to the maintenance of public order, the order of detention was unsustainable. It was liable to be set aside.

6. Mr. Kumar Vaibhaw, learned counsel appearing for the respondents supported the order of detention. It was urged that the detenu was a drug offender within the meaning of Section 2 (f) of the Act of 1986. Considering her continuing involvement in dealing with Ganja which was evident from the crimes registered against her, the detaining authority was justified in coming to the conclusion that the detenu's activities adversely affected the maintenance of public order. Her continued illegal acts indicated that the provisions of ordinary law were insufficient so as to deter her from continuing such illegal

1 2011 INSC 267

acts in dealing with narcotic drugs. Her continuous acts were therefore rightly found to be prejudicial to the maintenance of public order. The learned counsel referred to the affidavit dated 07.01.2026 filed on behalf of the Special Officer In-charge, Government of Telangana as well as the documents filed along with it. The learned counsel referred to the decision in **Pesala Nookaraju Vs. Government of Andhra Pradesh & Ors.**[2] to urge that since the order of detention had been passed after recording subjective satisfaction that there was likelihood of breach of public order, no interference with the same was called for. It was thus submitted that the appeal was liable to be dismissed.

7. Having heard the learned counsel for the parties and having perused the documentary material on record we are satisfied that the order of preventive detention is liable to be set aside.

8. The order of detention merely refers to three crimes registered against the detenu on 16.09.2024, 12.12.2024 and 17.12.2024. It may be noted that pursuant to Crime

2 2023 INSC 734

No.270/2024 dated 12.12.2024, the detenu had been arrested and was in judicial custody when Crime No.42/2024 dated 17.12.2024 came to be registered. On the premise that if the detenu was released on bail she was likely to indulge in serious offences, the detaining authority proceeded to record that it was satisfied that cases registered against her under the ordinary law had no deterrent effect in preventing her prejudicial activities. Whether the conditions imposed while enlarging the detenu on bail in the earlier offences were insufficient to prevent her from indulging in similar offences has not been adverted to. It would be profitable to refer to the reason for detention as recorded by the Detaining Authority in the detention order. The relevant portion thereof reads as under:

> "I am aware that you were arrested on 12-12-2024 in Crime No.270/2024 dated 12-12-2024 and 243/2024 dated 16-09-2024 of Prohibition & Excise Station Dhoolpest and Crime No.42/2024 dated 17/12/2024 (produced before the Hon'ble Court through P.T. Warrant) of Excise Station Narayanguda Hyderabad and in Judicial Custody at Special Prison for Women Hyderabad at

Chenchalguda. Subsequently, you have moved bail petition before the Hon'ble Sessions Court in Crime No. 243/2024 and 270/2024 vide Crl M.P. No. 695/2025 and 696/2025 Dt 11-02-2025 and granted bail. You have also filed bail petition in Crime No. 42/2024 vide Crl. M.P. No. 370/2025 and is pending before the Hon'ble Sessions Judge for orders, hence still in judicial custody.

Considering entire material, including the bail petitions and the orders passed therein, I apprehend that if you succeed in obtaining bail and you being released on bail in due course, keeping in view that on the earlier occasions during the period 2016 to 2023, though you were released on bail, but did not mend your habitual nature of committing similar offences and again in the recent past during the year 2024 you have committed (3) more similar offences, I strongly believe though you are in judicial custody in Cr.No.42/2024 and your bail petition is pending, in case of being granted bail in the said case and after your release on bail you would again resort to similar unlawful activities of peddling of Ganja, and keeping in view your antecedents and considering the ill effects of Ganja on the public health and particularly youth and students and its impact on the society and having satisfied that the cases registered against you under the ordinary law have no deterrent effect in preventing your prejudicial activities, I strongly believe that you are not amenable to ordinary law, unless you are detained by an

> appropriate order of detention as a last resort, in the interest of public at large.
>
> It is imperative to prevent you from acting in any manner prejudicial to maintenance of Public Order, I feel that recourse to normal law would involve considerable time and may not be effective deterrent in preventing you from indulging in further activities prejudicial to maintenance of public order in and around Hyderabad District."

From the aforesaid observations, it is clear that the Detaining Authority intended to detain the mother of the appellant at any cost. Her conduct during the period from 2016 to 2023 has been kept in mind. If the Detaining Authority was of the view that the detenu had violated any conditions of bail, steps for cancellation of her liberty could have been taken. That has not been done here.

9. In this regard, we may refer to the decision of this Court in **Ameena Begum Vs. the State of Telangana and Others**[3], wherein the effect of extraneous factors weighing in the mind of the Detaining Authority while passing an order of detention has been considered. Incidentally, the order of detention therein was also

3 2023 INSC 788

passed under the Act of 1986. It has been observed in paragraphs 49 to 52 as under: -

> "……..At the same time, the detaining authority ought to ensure that the order does not manifest consideration of extraneous factors. The detaining authority must be cautious and circumspect that no extra or additional word or sentence finds place in the order of detention, which evinces the human factor - his mindset of either acting with personal predilection by invoking the stringent preventive detention laws to avoid or oust judicial scrutiny, given the restrictions of judicial review in such cases, or as an authority charged with the notion of overreaching the courts, chagrined and frustrated by orders granting bail to the detenu despite stiff opposition raised by the State and thereby failing in the attempt to keep the detenu behind bars.
>
> 50. What we have expressed above is best exemplified by the observations of the Commissioner in the Detention Order under challenge, which are considered appropriate to be quoted. Therein, the Commissioner inter alia stated as follows:
>
> > "The proposed detenu and his associate are notorious offenders and rowdy sheeters….

The proposed detenu was surrendered before the Hon'ble Court in Cr.No.35/2023 of Falaknuma PS and the Hon'ble Magistrate remanded him to judicial custody, he moved bail petitions in Cr.Nos. 18/2023 of Golconda PS and 35/2023 of Falaknuma PS. The prosecution has filed suitable counters strongly opposing the grant of bail to him, but the Hon'ble Magistrate granted bail to him in both the cases and ordered for his release. Subsequently, he was released from judicial remand on bail.

As seen from his past criminal history, background and antecedents and also his habitual nature of committing crimes one after the other and his efforts to come out of the prison, I strongly believe that if such a habitual criminal is set free, his activities would not be safe to the society and there is an imminent possibility of his committing similar offences by violating the bail conditions in one of the cases, which would be detrimental to public order, unless he is preventively detained from doing so by an appropriate order of detention."

With respect to the stage of proceedings in the offences which form its basis, the Detention Order states that despite being contested by the State, bail has been granted to the Detenu in Crimes No. 4 and 5. Insofar as grant of bail to the Detenu is concerned, the Commissioner states that:

> "I strongly believe that if such a habitual criminal is set free his activities would not be safe to the society and there is an imminent possibility of his committing similar offences by violating the bail conditions in one of the cases, which would be detrimental to public order, unless he is preventively detained from doing so by an appropriate order of detention."

51. We are of the opinion that the aforesaid excerpts from the Detention Order lay bare the Commissioner's attempt to transgress his jurisdiction and to pass an order of detention, which cannot be construed as an order validly made under the Act. The quoted observations are reflective of the intention to detain the Detenu at any cost without resorting to due procedure. It is neither the case of the respondents that the Detenu had not complied with the terms of the notice issued under section 41-A of the Cr. PC, nor has it been alleged that the conditions of bail had been violated by the Detenu. It is pertinent to note that in the three criminal

proceedings where the Detenu had been released on bail, no applications for cancellation of bail had been moved by the State. In the light of the same, the provisions of the Act, which is an extraordinary statute, should not have been resorted to when ordinary criminal law provided sufficient means to address the apprehensions leading to the impugned Detention Order. There may have existed sufficient grounds to appeal against the bail orders, but the circumstances did not warrant the circumvention of ordinary criminal procedure to resort to an extraordinary measure of the law of preventive detention.

52. In **Vijay Narain Singh Vs. State of Bihar**[4], Hon'ble E.S. Venkataramiah, J. (as the Chief Justice then was) observed:

> 32. ...It is well settled that the law of preventive detention is a hard law and therefore it should be strictly construed. Care should be taken that the liberty of a person is not jeopardised unless his case falls squarely within the four corners of the relevant law. The law of preventive detention should not be used merely to clip the wings of an accused who is involved in a criminal prosecution. It is not intended for the purpose of keeping a man under detention when under

4 (1984) 3 SCC 14

> ordinary criminal law it may not be possible to resist the issue of orders of bail, unless the material available is such as would satisfy the requirements of the legal provisions authorising such detention. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinising 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."
>
> (underlining ours, for emphasis)"

Thus, mere apprehension on the part of the detaining authority that in the event of the detenu being released on bail, she was likely to indulge in similar crimes that would be prejudicial to maintenance of public order would not be a sufficient ground to order her preventive detention.

10. Section 3 (1) of the Act of 1986 enables the Government, if it is satisfied that a drug offender ought to be prevented from acting in any manner prejudicial to the maintenance of public order to make an order of preventive detention. The expression "acting in any

manner prejudicial to the maintenance of public order" has been defined by Section 2(a) of the Act 1986. As per the Explanation to the said provision, if any of the activities of the person concerned causes or is calculated to cause any harm, danger or alarm or a feeling of insecurity among the general public or a section thereof or in case of a grave widespread danger to life or public health is likely to be caused, such power can be exercised. The order of detention does not indicate in what manner the maintenance of public order was either adversely affected or was likely to be adversely affected so as to detain the detenu. Mere reproduction of the expressions mentioned in Section 2(a) of the Act of 1986 in the order of detention would not be sufficient. The detention order ought to indicate the recording of subjective satisfaction by the detaining authority in that regard. It is well settled that there is a fine distinction between "law and order" and "public order". Mere registration of three offences by itself would not have any bearing on the maintenance of public order

unless there is material to show that the narcotic drug dealt with by the detenu was in fact dangerous to public health under the Act of 1986. This material is found to be missing in the order of detention.

11. For aforesaid reasons, we find that the order of detention dated 10.03.2025 to be unsustainable. It is accordingly quashed and set aside. Consequently, the impugned judgment dated 28.10.2025 in Writ Petition No. 12443 of 2025 passed by the Division Bench of the High Court is also quashed. The detenu be released forthwith if not required in any other proceedings. The appeal is allowed in aforesaid terms leaving the parties to bear their own costs.

.....J.
[J.K. MAHESHWARI]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI,
JANUARY 08, 2026.