

IN THE HIGH COURT FOR THE STATE OF TELANGANA, HYDERABAD

* * *

W.P.NO.2133 of 2025

Between:

Dharavath Laxmi.

Petitioner

VERSUS

The State of Telangana and Others

Respondents

ORDER PRONOUNCED ON: 20.06.2025

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO**

W.P.NO.2133 of 2025

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

MOUSHUMI BHATTACHARYA, J

MB,J & BRMR,J
W.P.No.2133 of 2025

*** THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA**
AND
THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO
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! Counsel for petitioner

: Mr.Laxmaiah Kanchani.

^ Counsel for respondent No.1

: Mr. Swaroop Oorilla, the learned Special
Government Pleader representing the learned
Advocate General for the respondents.

< GIST :

> HEAD NOTE :

? Cases referred :

¹2023 14 SCC 641

²2024 SCC OnLine SC 367

³ (2020) 14 SCC 161

⁴ 1974 SCC OnLine SC 26

⁵ (1975) 3 SCC 198

⁶1950 SCC 449

⁷1950 SCC 436

⁸1965 SCC OnLine SC 9

⁹1970 1 SCC 98

¹⁰1969 (1) SCC 10

¹¹(1973) 1 SCC 393

¹²(1973) 4 SCC 43

¹³(2023) 14 SCC 641

¹⁴ (2023) 9 SCC 587

¹⁵2024 SCC OnLine SC 3718

¹⁶2025 SCC OnLine SC 502

¹⁷(2025) 4 SCC 476

¹⁸AIR 1966 SCC 740

¹⁹W.P.No.21653 of 2024

²⁰W.P.No.12085 of 2024

²¹W.P.No.12064 of 2024

²²W.P.No.33604 of 2024

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

W.P.NO.2133 of 2025

Mr.Laxmaiah Kanchani, learned counsel appearing for the petitioner.

Mr. Swaroop Oorilla, the learned Special Government Pleader representing the learned Advocate General for the respondents.

ORDER: *(per Hon'ble Justice Moushumi Bhattacharya)*

1. The present writ petition has been filed by the wife of the detenu against an order of detention dated 25.11.2024 passed by the respondent No.2/District Collector & District Magistrate, Warangal. The petitioner also challenges an order dated 23.12.2024 passed by the respondent No.1/State of Telangana, represented by its Chief Secretary, General Administration (Law & Order) Department, confirming the detention of the petitioner's husband.

2. The petitioner seeks issuance of a Writ of Habeas Corpus directing the respondents to produce the detenu, who is presently lodged at the Central Prison, Cherlapally, Medchal-Malkajgiri

District, before this Court to set aside the impugned detention order as well as the confirmation order, and release of the detenu.

3. The impugned order dated 25.11.2024 passed by the respondent No.2/District Collector & District Magistrate, Warangal, contains the grounds of detention. The detenu has been charged with engaging in the business of possession and sale of Illicitly Distilled Liquor ('IDL') in contravention of the provisions of The Telangana Prohibition Act, 1995 ('the 1995 Act') as well as 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 ('the 1986 Act').

4. The impugned detention order also contains the particulars of cases registered against the detenu under the provisions of the 1986 Act and subsequent cases registered under the provisions of

the 1995 Act. The confirmation order dated 23.12.2024 reiterates the findings of the District Collector & District Magistrate, Warangal, and directing detention of the detenu for a period of 12 months from the date of detention (25.11.2024).

The Facts leading to the Impugned Order:

5. A case *vide* Crime Occurrence Report (COR) No.99 of 2024 was registered against the detenu on 01.04.2024 under section 7A read with section 8(e) of the 1995 Act, consequent upon 20 litres of liquor being seized from the detenu. The seized liquor was analyzed by the Chemical Examiner of the Regional Prohibition and Excise Laboratory, Warangal on 05.07.2024. The Chemical Examiner opined that the seized substance was “IDL” which is unfit for human consumption and injurious to health. On 19.10.2024, a second case was registered under the provisions of the 1995 Act and 10 litres of liquor was seized from the detenu. On 28.10.2024, the Chemical Examiner analyzed the sample and opined that the seized IDL was unfit for human consumption and injurious to health. On 26.10.2024, a third COR was registered against the detenu upon seizure of 5 litres of IDL. On 28.10.2024, the

Chemical Examiner opined that the seized IDL was unfit for human consumption and injurious to health. On 28.10.2024, a fourth COR was registered against the detenu upon seizure of 10 litres of IDL. On 29.10.2024, the Chemical Examiner opined that the seized IDL was unfit for human consumption and injurious to health.

6. The impugned detention order was passed by the District Collector & District Magistrate, Warangal, on 25.11.2024 and was confirmed by the State Government on 23.12.2024.

Arguments made on behalf of the Parties:

7. Learned counsel appearing for the petitioner submits that the alleged crimes, which form the basis for the impugned detention order, do not constitute disturbance of public order as defined under section 2(a) of the 1986 Act. Counsel argues that possession or distribution of liquor would fall within the definition of 'law and order' as opposed to 'maintenance of public order' under the 1986 Act. Counsel further submits that the detenu can be produced before and punished by a competent Court of law since the criminal justice system has already been set

in motion. Counsel submits that Investigation Officers failed to take any steps under section 41A(4) of The Code of Criminal Procedure, 1973, despite the detenu allegedly being involved in similar offences. Counsel further submits that relevant material was not placed before the Advisory Board and that the impugned order was passed solely on the earlier cases registered against the detenu. Counsel also argues that the detention order was based on mere apprehension and lacked concrete evidence in support of the conclusion that the detenu is a habitual offender. Counsel relies on decisions to urge that the Supreme Court as well as a Co-ordinate Bench of this Court have set aside similar detention orders on the difference between 'public order' and 'law and order'.

8. The learned Special Government Pleader ("SGP") appearing for the respondentNos.1-3 i.e., the State of Telangana, the District Magistrate, Warangal, and the Superintendent, Central Prison, Cherlapally, submits that the impugned order was passed under section 2(a) and 2(b) of the 1986 Act. The SGP argues that four cases were registered against the detenu for the offence under section 7A read with section 8(e) of the 1995 Act and that the Chemical Examiner, upon analysis, confirmed that the seized

substance to be IDL which is unfit for human consumption and injurious to public health.

9. The SGP relies on the recent decisions of the Supreme Court including the case of *Pesala Nookaraju Vs. Government of Andhra Pradesh*¹ to contend that the seized samples which were found to be unfit for human consumption, constitute activity prejudicial to the maintenance of public order, thereby justifying the detention of the manufacturer/seller of the liquor. It is argued that the Detaining Authority duly considered the material on record and arrived at a subjective satisfaction of the necessity for detaining the petitioner and that there is no scope of interference with the impugned order.

Habeas Corpus and Preventive Detention:

10. “Habeas Corpus” literally means “have the body” and is directed to the person detaining the other and requires the first person to produce the body of the prisoner at a designated time and place together with the cause of the detention to the Court. The Court can issue the Writ to have the body of the detained

¹2023 14 SCC 641

person to be brought before the Court in order to determine whether the detention is legal or illegal: *Corpus Juris Secundum*. The purpose of the Writ is to obtain the production of the individual before the Court or a Judge for securing the liberty of the subject and by affording an effective release from unlawful or unjustifiable detention whether in prison or private custody. The Writ of Habeas Corpus is a powerful Writ given by the Constitution to every man who is unlawfully detained and is therefore an extraordinary remedy: *Nenavath Bujji Vs. State of Telangana*².

11. The Writ of Habeas Corpus is an extraordinary remedy which has been included as one of the Constitutional guarantees upholding individual liberty under Articles 226 and 32 of the Constitution of India. The Writ is to safeguard the freedom of an individual against illegal detention and ensures procedural justice to a person who has been unlawfully detained. The Writ is a judicial command directed to a jailer to produce the named prisoner together with the legal cause of detention. It is well settled that a Writ of Habeas Corpus will not lie where the detention or imprisonment is in accordance with law: *Home Secretary (Prison)*

² 2024 SCC OnLine SC 367

*Vs. H. Nilofer Nisha*³. The Writ of Habeas Corpus is a prerogative Writ in England, issued by the King against his officers to compel them to exercise their functions properly and where ordinary legal remedies are insufficient: *Halsbury's Laws of England*. The legality of any form of detention may be challenged under common law by an application for the Writ of Habeas Corpus. The question which the Court must answer is whether any right of the detenu has been violated which would warrant an order directing his/her release from prison. Habeas Corpus is essentially a procedural Writ and deals with the machinery of justice and not the substantive law: *Kanu Sanyal Vs. District Magistrate, Darjeeling*⁴.

12. Preventive Detention, as the name entails, prevents a person from doing an act which is apprehended on the part of the concerned authority by way of a subjective assessment of the misconduct of the detenu and the likelihood of the detenu committing or repeating the act which would adversely affect the maintenance of public order.

³ (2020) 14 SCC 161

⁴ 1974 SCC OnLine SC 26

13. A distinction should also be made between preventive detention and punitive detention. While preventive detention is to prevent commission of an act or a crime on the basis of a reasonable apprehension, punitive detention is to punish a person for something he/she has already done. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even after acquittal. Pendency of prosecution is not a bar to an order of preventive detention; the reverse is also true: *Haradhan Saha Vs. The State of West Bengal*⁵.

14. The concept of preventive detention takes colour from the 1986 Act and particularly section 2(a) of the said Act read with Explanation thereto.

‘2(a). “acting in any manner prejudicial to the maintenance of public order” means when a boot-legger, a dacoit, a drug-offender, a goonda, an immoral traffic offender, Land-Grabber, a Spurious Seed Offender, an Insecticide Offender, a Fertiliser Offender, a Food Adulteration Offender, a Fake Document Offender, a Scheduled Commodities Offender, a Forest Offender, a Gaming Offender, a Sexual Offender, an Explosive Substances Offender, an Arms Offender, a Cyber Crime Offender and a White Collar or Financial Offender is engaged or is making preparations for engaging, in any

⁵ (1975) 3 SCC 198

of his activities as such, which affect adversely, or are likely to affect adversely, the maintenance of public order:

Explanation:- For the purpose of this clause public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely inter alia, if any of the activities of any of the persons referred to in this clause directly, or indirectly, is causing or calculated to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave wide-spread danger to life or public health;'

15. The detention of a person belonging to any of the categories of offenders named in the Act would be justified if the detaining authority is able to establish that the detention is necessary not only by reason of the past acts/offences committed by the person but also an anticipation of the repetition of the said acts in future or even a feeling of insecurity among the general public or a sense of alarm on its part by reason of the recurrence of the act. The degree of seriousness, the breach of offence as well as the risk to public health are all brought within the ambit of the justification for preventive detention.

The Telangana Prohibition Act, 1995 and 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.

16. The Telangana Prohibition Act, 1995 and The Telangana Prevention of Dangerous Activities Act, 1986 form part of the impugned order of detention and we hence propose to deal with the relevance of these statutes in the context of the present dispute.

The avowed object of The Telangana Prohibition Act, 1995 is the prohibition of consumption of intoxicating drugs which is injurious to health except for medicinal purposes. The enactment of the statute was considered necessary in the wake of an alarming increase in consumption of alcoholic drinks, especially Arrack, despite the Government banning its sale on 01.10.1993. Arrack is defined as an Asian alcoholic beverage like Rum which is distilled from a fermented mash of malted rice with toddy or molasses: *Merriam-Webster* dictionary. Several State Governments had

banned Arrack in an effort to prevent poor people who are the largest consumers of local liquor. Section 7A of the 1995 Act prohibits production, manufacture, storage, possession, collection, purchase, sale and transport of Arrack. Section 8(e) imposes punishment with imprisonment and fine in the event of contravention of section 7A.

17. The Telangana Prevention of Dangerous Activities Act, 1986 (as amended in 2017) provides for preventive detention of persons in the categories mentioned in the Act for the overall prevention of dangerous activities prejudicial to the maintenance of public order. The Statement of Objects and Reasons of the Act specifically notes dangerous activities of certain anti-social elements who cause harm, danger and alarm and a feeling of insecurity among the general public and adversely affects public order by causing grave danger to life and public health. The Explanation to section 2(a) adds that public order shall be deemed to have been adversely affected or likely to be adversely affected if any of the activities of the persons referred to in section 2(a) directly or indirectly causes or is likely to cause danger or alarm or a feeling of insecurity

among the general public or any section thereof or a grave or widespread danger to life or public health.

18. The Explanation to section 2(a) of the 1986 Act needs to be broken up into meaningful parts for understanding the import of the expression 'prejudicial to the maintenance of public order'. Public order can be adversely affected if the activities have a direct or indirect bearing or is calculated to cause any harm, danger or alarm to the general public or any section thereof or widespread danger to life or public health. The adverse effect can also be expanded to a feeling of insecurity among the general public or any section thereof. The adverse effect of public order stretches further to a serious danger to a large number of person or a danger to the lives of the larger community.

19. The Explanation further clarifies that public order can also be adversely affected when there is a grave or widespread danger to public health. An expansive reading of the Explanation would make it clear that the seriousness and reach of the act with the potential to cause harm, danger or alarm to the general public transitions to an actual risk to life and public health with the potential of destabilizing public order. The Explanation to section

2(a) becomes relevant in the context of the grounds of detention contained in the impugned order i.e., detention of the detenu for the repeated acts of manufacture and sale of IDL.

20. The impugned Preventive Detention Order dated 25.11.2024 categorises the detenu as a 'Boot-Legger' under the 1986 Act as justification for the impugned order.

21. 'Boot-Legger' has been defined under section 2(b) of the 1986 Act as a person, who distils, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any of the provisions of The Telangana Excise Act, 1968 or in contravention of any other law for the time being in force.

The Undisputed Facts in The Present Case

22. The Grounds of Detention which form the part of the impugned order dated 25.11.2024 records the following facts:

- (i) The detenu was found to be habitually indulging in the clandestine business of possession and

sale of IDL in contravention of the provisions of the 1995 Act.

- (ii) The detenu acted in a manner prejudicial to the maintenance to public order.
- (iii) The IDL was found to be unfit for human consumption and injurious to health due to the presence of fusel oil and allied impurities.
- (iv) The detenu created a situation which caused fear and insecurity among the public and widespread danger to public health.
- (v) The detenu is disturbing public order.
- (vi) The detenu has indulged in the trade of IDL at the cost of public health for financial gains.
- (vii) The detenu's illegal activities constitute offences under The Telangana Prohibition Act, 1995 and The Telangana Prevention of Dangerous Activities Act, 1986 (as amended by the Telangana Ordinance No.3 of 2017).

23. The Grounds of Detention consist of six old cases registered against the detenu from 27.06.2022 - 28.10.2024 and four cases against the petitioner (the wife of the detenu) from 30.01.2024 –

14.09.2024. Of the six cases registered against the detenu, four cases were singled out in the grounds as being within the area limits of the Prohibition and Excise Station: Parkal. The detenu was charged under the 1995 Act in these four cases for possession of various amounts of IDL i.e., 5 Litres to 25 Litres. The said four cases are pending investigation. The Grounds of Detention proceed to individually deal with each of the four cases in detail including the finding of the Chemical Examiner that the seized IDL in each of the cases was found to be "*unfit for human consumption and injurious to health*".

'PUBLIC ORDER' Vs. 'LAW AND ORDER'

24. The debate over whether a detention order is justified or can be challenged within the rights safeguarded by the Constitution of India primarily hinges on whether the act complained of disturbs the law and order of a particular locality or has broader repercussions on the larger sphere of public order. This distinction assumes crucial significance within the framework of the 1986 Act, particularly section 2(a) thereof, which specifically

refers to any act that is prejudicial to the ‘*maintenance of public order*’.

25. Before turning our gaze to the Explanation of the term ‘public order’ in the 1986 Act, it would be useful to examine the decisions of the Supreme Court, right from *Brij Bhushan Vs. State of Delhi* ⁶ to the recent judgment delivered on 21.03.2024 in *Nenavath Bujji (supra)*. The Supreme Court considered the fine line demarcating ‘*law and order*’ and ‘*public order*’ in several cases spanning 75 years and arrived at illuminating opinions on the issue.

26. On an overview of the decisions, the consensus appears to be that ‘public order’ can be equated with ‘public tranquility’ as an overall environment of peace prevailing amongst members of a political society, akin to public safety: *Brij Bhushan (supra)* and *Romesh Thappar Vs. State of Madras*⁷. Public order has also been described as any kind of disturbance which would lead to public disorder and generally involves disruptions of greater gravity than those affecting law and order: *Ram Manohar Lohia Vs. State of*

⁶ 1950 SCC 449

⁷ 1950 SCC 436

*Bihar*⁸. Apart from its gravity, 'public order' also entails a broader segment of the community, as opposed to 'law and order' where the even tempo of life of the community or the country as a whole or even a specific locality is disrupted by the commission of the act: *Arun Ghosh Vs. State of West Bengal*⁹. The Supreme Court in *Pushkar Mukherjee Vs. State of West Bengal*¹⁰ dwelt on the distinction between 'public' and 'private' crimes, emphasizing the injury to public interest in the former as opposed to the injury to specific persons in the latter.

27. The conclusion which may be drawn from the above cases is that the act complained of must be assessed not only in terms of gravity but also by its potential to cause widespread breach of tranquility affecting persons forming a sizable part of a community or a locality. The potential impact of the act was also considered in *Babul Mitra alias Anil Mitra Vs. State of West Bengal*¹¹, *Dipak Bose alias Naripada Vs. State of West Bengal*¹², and in *Pesala Nookaraju*

⁸1965 SCC OnLine SC 9

⁹1970 1 SCC 98

¹⁰1969 (1) SCC 10

¹¹(1973) 1 SCC 393

¹² (1973) 4 SCC 43

Vs. Government of Andhra Pradesh ¹³ which contains a comprehensive discussion of the law on the subject.

28. Therefore, the essential distinction between ‘public order’ and ‘law and order’ is that the act committed by the detenu must not only be of an indisputably serious nature amounting to a grave offence against persons under the prevailing laws, but must also have a ripple-effect extending beyond the immediacy of the situation to the community at large, thereby disturbing and unsettling public peace and tranquility. In other words, the adverse effect of the act complained of does not remain restricted to the first/immediate sufferer, so to speak, but transcends the private sphere of the person/s directly involved to others in the locality or community who would also bear the consequences of the act.

29. The widespread effect of the act is specifically clarified in the 1986 Act which provides that ‘public order’ shall also be ‘deemed’ to have been adversely affected where the activities of the persons described in the Act, even indirectly, affect or are calculated to

¹³ (2023) 14 SCC 641

cause danger to the general public. The Explanation to section 2(a) of the 1986 Act reinforces the significance of the indirect effect by expanding the same to a feeling of alarm or insecurity among the general public. This means that, a person may be subjected to preventive detention even in the absence of any direct or proven tangible harm to the general public provided the Detaining Authority is satisfied, based on the material before it, that the act has the potential to cause insecurity among members of the community.

30. The second limb of the Explanation to section 2(a) of the 1986 Act i.e., '*grave or widespread danger to life or public health*' is more relevant to the present dispute and is being separately dealt with in the next section.

'...grave or widespread danger to life or public health' – the Explanation to section 2(a) of The Telangana Prevention of Dangerous Activities Act, 1986.

31. As stated above, the concluding part of the Explanation to section 2(a) of the 1986 Act contains a separate, if not severable, constituent that would qualify as an act prejudicial to the

maintenance of public order. Since the Explanation has already been set out in the earlier part of the judgment, the portion which is relevant for the present discussion is extracted below:

“Explanation:- For the purpose of this clause public order shall be deemed to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life or public health.”

32. It is clear that the adverse effect of an act also encompasses public health. The Explanation to section 2(a) provides context to public health through the immediately preceding words used in the Explanation i.e., ‘widespread danger to life’.

33. The grounds of detention lists six cases registered against the detenu, of which four cases were considered while passing the impugned Preventive Detention Order. It is undisputed that six cases were registered against the detenu from 27.06.2022 - 28.10.2024. There is a noticeable gap of almost 18 months between the second and the third cases, followed by three other cases registered until 28.10.2024. The reference to the registration of offence/Crime Occurrence Report is corroborated in the grounds of detention which state that the detenu had taken strategic gaps

between his operations and that different quantities of contraband substance/IDL was recovered from the possession of the detenu several times in 2022 and 2024. The grounds also state that the detenu was acquitted in the two CORs of 2022 and investigation is pending in the remaining four CORs of 2024.

34. The particulars of the four cases pending investigation also include a clear statement that the samples seized were analysed by the Chemical Examiner and found to be *'Illicitly Distilled Liquor, unfit for human consumption and injurious to health'*. The findings of the Chemical Examiner are reiterated in the Grounds of Detention, a portion of which is reproduced below:

"The Chemical Examiner who analyzed the sample opined through his C.E. Report No.1244/2024, dt: 05.07.2024 that SI.No.27268 to 27280 was Illicitly Distilled Liquor which was unfit for human consumption and injurious to health."

35. Therefore, the impugned detention order first classifies the detenu as a 'Boot-Legger' under section 2(b) of the 1986 Act, for selling IDL in contravention of the 1995 Act and thereafter sets out the Grounds of Detention in justification of the impugned order

under the provisions of section 2(a) of the 1986 Act read with the Explanation thereto.

36. The very fact that the samples of IDL seized from the possession of the detenu were chemically-analyzed and found to be 'unfit for human consumption' and 'injurious to health', coupled with the series of identical offences committed by the detenu and the cases registered against him, would bring the act squarely within the contours of the Explanation to section 2(a) of the 1986 Act. The manufacture, possession and sale of liquor may not, by themselves, breach the outer parameters of public order unless the substance distributed falls foul of the standards required for public health and safety.

37. In the present case, the IDL recovered from the possession of the detenu failed the certification for safe consumption every single examination in all the four cases registered against the detenue. The four cases pending investigation also prove that the detenu is a habitual offender who has attempted to evade the process of law despite being charged for similar offences in 2022. The grounds of detention make a compelling case for detention, highlighting the

risk to gullible consumers who may be lured by inexpensive intoxicants and, as a result, be exposed to serious and chronic health problems including loss of memory, blurred vision and permanent damage to the liver and nervous system.

38. We are reminded of several instances of wide reportage of hooch tragedies which claimed a large number of lives, particularly among the socio-economic weaker sections. These kinds of tragedies not only affect isolated individuals but have a far-reaching impact on the wider social order, i.e., disrupting families, jeopardizing the future of innocent children and causing irreversible damage to social structures. We simply cannot shut our eyes to the real possibility that the sale of IDL which is 'unfit for human consumption' could cause immeasurable and permanent damage to society, including harm to the health and well-being of the public and irrevocably disturbing public tranquility in its wake. If this is not destabilizing of public order, then nothing is.

39. The objective of preventive detention is to serve as insurance for the future. It is meant to ensure that the person detained

cannot commit or repeat the act complained of, thereby prejudicially affecting the lives of others. Though orders of preventive detention are considered to be draconian on the deprivation of individual liberty, they may be necessary when the potentiality of the act to cause widespread injury is established on the material before the Detaining Authority. The 1986 Act aims to intervene in this space where the 'Dangerous Activities' of Boot-Leggars and other offenders named in the Act have the capacity to disturb the maintenance of public order, including causing widespread danger to life or public health. The sale of IDL, which is injurious to public health, hence clearly falls within this category and qualifies for an order of preventive detention.

Cases relied on by the Petitioner

40. Learned counsel for the petitioner has placed several decisions in support of the plea for production and release of the detenu. These decisions however do not assist the petitioner for the reasons discussed below.

41. *Nenavath Bujji* (supra) and *Ameena Begum Vs. State of Telangana*¹⁴ were both concerned with ‘Goonda’s as defined under section 2(g) of the 1986 Act and hence were on a different factual footing. The Supreme Court also came to a specific finding in *Ameena Begum* that the detention order is not sustainable by reason of the Commissioner of Police, Hyderabad, transgressing his jurisdiction and attempting to detain the detenu at any cost without resorting to due procedure. *Arjun S/o. Ratan Gaikwad Vs. State of Maharashtra*¹⁵ was under The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders and Dangerous Persons Act, 1981. The case was concerned with manufacture of handmade liquor and the Supreme Court came to a specific finding that the alleged crime can be dealt with by the ordinary legal machinery in respect to a law and order situation. The Supreme Court accordingly held that the subjective satisfaction of the Detaining Authority did not support the fact that the activities of the appellant were prejudicial to maintenance of public order.

¹⁴ (2023) 9 SCC 587

¹⁵ 2024 SCC OnLine SC 3718

42. The Supreme Court in *Mortuza Hussain Choudhary Vs. The State of Nagaland*¹⁶ held that the grounds for detention were absent and that the Detaining Authority/Special Secretary, Home Department, Government of Nagaland, had merely acted on the proposal for detention forwarded by the Additional Director General of Police (Administration) Nagaland. The Supreme Court also found that the detention order was cryptic and did not adhere to the statutory scheme of The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. *Joyi Kitty Joseph Vs. Union of India*¹⁷ was delivered under The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (‘the COFEPOSA Act’). The Supreme Court found that the detaining authority should have examined whether the conditions granted by the jurisdictional Court were sufficient to curb the commission of identical activities. *Ram Manohar Lohia Vs. State of Bihar*¹⁸ dealt with the Writ of Habeas Corpus for directing the release of the appellant who had been detained under The Defence of India Rules, 1962.

¹⁶ 2025 SCC OnLine SC 502

¹⁷ (2025) 4 SCC 476

¹⁸ AIR 1966 SCC 740

43. It should be stated in this context that for a case to be relevant, the offence must be in the same category i.e., of a Boot-Legger, as in the present, case which is under the 1986 Act. The cases cited on behalf of the petitioner are mostly under other statutes, though occasionally of similar import or passed much before the 1986 Act.

44. *Rampuri Vaishali Vs. The State of Telangana*¹⁹ involved peddling of Cannabis/Ganja and the Division Bench found that the use of preventive detention in the facts of that case would be an overreach of executive power which would be amount to circumventing the judicial process. The Court also found that the detaining authority had treated pending cases against the detenu as evidence of guilt and that the detention order was also in violation of earlier bail orders. The decisions of the Co-ordinate Benches of this Court including *Konireddy Premalatha Vs. The State of Telangana*²⁰ and *Bodapati Laxmi Vs. The State of Telangana*²¹ were on factually different situations including that

¹⁹W.P.No.21653 of 2024

²⁰W.P.No.12085 of 2024

²¹W.P.No.12064 of 2024

the offence in those cases involved the category 'Goonda' and crimes of a different order including rape, criminal trespass, extortion and criminal intimidation.

45. Counsel for the petitioner has laid particular emphasis on a decision of a Co-ordinate Bench in *Banoth Bulli Vs. The State of Telangana*²². Although, the detention order in the said case was passed on the offence of Boot-Legging under the 1986 Act, there was no finding of the seized sample being '*unfit for human consumption and injurious to health*'. The argument made on behalf of the detaining authority was that the manufacture of IDL was done with the help of unscientific methods and in unhygienic conditions. As stated before, there was no independent finding of any chemical examination of the sample failing the test of fitness for human consumption. The Co-ordinate Bench was also of the view that the detaining authority had failed to make a distinction between 'public order' and 'law and order' while passing the detention order. There is no reference to the decision of the Supreme Court in *Pesala Nookaraju* in the said decision.

²²W.P.No.33604 of 2024

46. We are hence of the considered view that the decisions cited on behalf of the petitioner do not support the case for production of detenu or for his release. As stated above, we are inclined to follow the view taken by the Supreme Court in *Pesala Nookaraju*.

The State Authorities must also discharge their Duty

47. We take note of the caution sounded by the Supreme Court in *Nenavath Bujji* and *Ameena Begum* on the spate of orders of preventive detention under the 1986 Act and that the State of Telangana should ensure that orders of preventive detention are not passed in a routine manner without application of mind. Giving due weightage to the observations, we deem it fit to direct the Detaining Authority to ensure that the ongoing investigation in each of the four cases registered against the detenu are expedited and that the Detaining Authority extends full co-operation in that regard. We note that the first case was reported on 01.04.2024 which means that the investigation has been pending for 15 months. We are of the firm view that the detenu should not be detained for an inordinately long period on the pretext of pending investigation. We also deem it expedient to reiterate the view taken

by the Supreme Court in *Nenavath Bujji* that the Advisory Board constituted under section 9 of the 1986 Act with powers of Reference of an Order of Detention under section 10 and 11 of the said Act, should give due importance to its role of ascertaining whether the detention is justified under the law or not. The Advisory Board should give its definite opinion of the legality of the order of detention in view of the immediate infraction of a person's constitutional right of freedom and liberty. The Advisory Board should apply its independent assessment to the particular facts of each case and should come to a conclusion which is supported by law.

The present Case aligns with the decision of the Supreme Court in *Pesala Nookaraju*

48. The Appeal in that case was filed at the instance of the detenu who had been preventively detained under section 3(2) of the 1986 Act. The Division Bench of the Andhra Pradesh High Court had dismissed the Writ Petition filed by the detenu (the appellant before the Supreme Court) and had declined to interfere with the order of preventive detention passed by the District

Collector, Kakinada District, Andhra Pradesh. The particulars of the four cases which had been registered against the detenu under the 1986 Act formed part of the order of detention and spanned from 06.01.2021 – 09.03.2022. The detenu was categorised as a 'Boot-Legger' under section 2(b) of the 1986 Act. All the four samples of liquor recovered from the detenu were analysed and were found to be IDL unfit for human consumption and injurious to health. The Supreme Court exhaustively analysed the material and the case law on the subject of Preventive Detention and the Writ of Habeas Corpus and concluded that the liquor sold by the detenu is dangerous to public health and is activity prejudicial to the maintenance of public order under the provisions of the 1986 Act. The Supreme Court also found that the grounds of detention had specifically mentioned that the appellant/detenu's sale of the liquor would be harmful to the health of the people of that locality and constitutes an expression of subjective satisfaction of the Detaining Authority. The detenu's Appeal was accordingly dismissed by the Supreme Court.

49. The facts in the present case are substantially similar to those in *Pesala Nookaraju*. In the case before us, the Grounds of

Detention specifically record multiple cases being registered against the detenu and the four recovered samples being found unfit for human consumption and injurious to health. This would show that not only was the detenu indulging in repeated offences of the same nature but was also selling liquor which would disrupt public order by affecting the health and well-being of the community. The Grounds of Detention also narrate the components used for IDL together with the unhygienic conditions for production of IDL. The Grounds further narrate the debilitating irreversible injury to health on consumption of such liquor.

50. As opined in *Pesala Nookaraju*, we do not find any material placed before us for dislodging the subjective satisfaction arrived at by the District Collector and District Magistrate, Warangal or any compelling shift in the narrative to take a different view in the present case.

51. We also find that the Detaining Authority followed the sequential procedure provided under the 1986 Act, i.e., categorising the detenu as a 'Boot-Legger' under section 2(b) of the 1986 Act and thereafter passing the impugned order along with the

Grounds of Detention upon satisfaction of the requirement to pass such an order under section 3(1) of the 1986 Act. The Government is conferred with the power under section 3 to pass orders detaining certain persons named in the 1986 Act. The impugned order does not contain omnibus allegations but deals with each of the four cases of recovery of IDL from the detenu and the chemical analysis reports of the same.

52. We accordingly find that the case in hand fits within the decision-parameters in *Pesala Nookaraju* and the law discussed by the Supreme Court therein.

Conclusion

53. The discussion in the preceding paragraphs leads us to the firm conclusion that the impugned order of Preventive Detention dated 25.11.2024 along with its Confirmation Order dated 23.12.2024 are justified in the particular facts of the case. The petitioner has not been able to counter the findings in the impugned order and the Grounds of Detention with regard to the multiple offences committed by the detenu qualifying him as a habitual offender or the fact that the IDL failed to meet the

required safety standards of human consumption. The opinion on the necessity of the detention is fortified by the factual particulars and constitutes the subjective satisfaction of the Detaining Authority. The subjective satisfaction so expressed cannot ordinarily be discarded by the Court unless it is demonstrably clear that the Detaining Authority has failed to consider relevant circumstances or has taken unnecessary and irrelevant circumstances into account for ordering a detention. The Court does not sit in judgment over the correctness of the subjective satisfaction unless the decision-making process is influenced by caprice and malice: *Nenavath Buji* (supra). The present facts fully satisfy the last and ninth conclusion outlined in the “Summary of Findings” at paragraph 43 of *Nenavath Buji* (supra).

54. The Detaining Authority has examined the material adduced against the detenu and satisfied itself, first, that the detenu has been acting in a manner prejudicial to the maintenance of public order, and second, that the detenu is likely to continue to act in a similar manner in the near future unless prevented from doing so by passing an order of detention.

55. In the instant case, we have not found any lack of application of mind in the impugned order, nor any perverse element that would vitiate the said order.

56. We also do not have any doubt that possession and sale of IDL, which is unfit for human consumption and injurious to health, would have larger and irreversible repercussions on the community. The depth and gravity of the offence would extend beyond the smallest circle of the community and penetrate through successive layers, thereby affecting a much larger number of persons. The indirect effect of the sale of spurious liquor, which is hazardous to health, would result in permanent and irreversible health hazards, leading to a decline in the overall quality of life and well-being of the society. This would in turn impair the income generating capability, employment opportunities, nutritional standards and literacy levels of the society as a whole.

57. The impugned order therefore satisfies the manifold requirements of section 2(a) of the 1986 Act read with the Explanation thereto. The only caveat is that the preventive detention should not be continued for an indefinite period under

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the pretext of an ongoing investigation. The authorities concerned should ensure that the justice system is activated and sustained to conclude the investigation as expeditiously as possible and preferably by 31.12.2025.

58. Thus, we do not find any reason to interfere with the impugned Preventive Detention Order dated 25.11.2024 or the subsequent Confirmation Order dated 23.12.2024.

59. W.P.No.2133 of 2025 is accordingly dismissed, without any order as to costs. All connected applications are disposed of. Interim orders, if any, shall stand vacated.

MOUSHUMI BHATTACHARYA, J

B.R.MADHUSUDHAN RAO, J

20thJune, 2025.

Note: Mark L.R. Copy.
(B/o. VA/BMS)