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G. REDDEIAH
v.
THE GOVERNMENT OF ANDHRA PRADESH & ANR.
(Criminal Appeal No. 1761 of 2011)

SEPTEMBER 9, 2011

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[P. SATHASIVAM AND DR. B.S. CHAUHAN, JJ.]

Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral C *Traffic Offenders and Land Grabbers Act, 1986: s.3(1) – Detention order – Detaining Authority found that the detenue was habitually indulging in trespassing forest area, illicit cutting, felling, smuggling and transporting red-sanders trees and committing theft of forest wealth as many as eight times* D *within a period of one year – Conclusion of Detaining authority approved by Government and upheld by the High Court – On appeal, held: The grounds of detention showed that the Detaining Authority, after scrutinising all the details including various orders of arrest and release, bail on various dates and* E *notings held that the detenue was a master-mind in organising the felling of red-sanders trees owned by the Government and also providing vehicles for illegally transporting the red-sanders wood, hiring of labourers from the fringe forest villages and responsible for destruction of* F *valuable governmental property and the provisions of normal law were not sufficient in ordinary course to deal firmly because of his habitual nature – After satisfying all aspects including the fact that the detenue was in jail for sometime and the factum of his release from the jail in 4 criminal cases, Detaining Authority passed an order of detention with a view* G *to prevent him from further indulging into such offences – There was no infirmity either in the reasoning of the Detaining Authority or procedure followed by it – The detenue was afforded adequate opportunity at every stage and there was*

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no violation of any of the safeguards – In view of enormous activities of the detenue violating various provisions of IPC, the A.P. Act and the Rules, and his habituality in pursuing the same type of offences, the reasoning of the Detaining Authority as approved by the Government and upheld by the High Court is justified – A.P. Forest Act, 1967 – A.P. Sandal Wood & Red Sanders Transit Rules, 1969 – Penal Code, 1860.

Prevention detention – Concept of – Held: The detention is not to punish detenue for something he has done but to prevent him from doing it.

The prosecution case was that the detenue was habitually committing forest offences, particularly, felling, cutting and smuggling of red sanders wood causing loss to national wealth and was involved in such 8 cases within a period of 1 year. The Detaining Authority held that the detenue was a goonda under Section 2(g) of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986. The brother-in-law of the detenue filed a writ of habeas corpus before the High Court, which was dismissed. The instant appeal was filed challenging the order of the High Court.

Dismissing the appeal, the Court

HELD: 1. Section 3 of the of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 enables the Government to detain certain persons whose activities are prejudicial to the maintenance of public order. If the Government/Detaining Authority is able to satisfy that a person either by himself or in association with other

A members habitually commits or attempts or abets such commission of offence punishable under IPC, A.P. Act and the Rules subject to satisfying Section 3 of the 1986 Act, he can be detained in terms of the said Act. The essential concept of preventive detention is that the B detention of a person is not to punish him for something he has done but to prevent him from doing it. [Para 6, 7] [465-B; 466-B-D]

Haradhan Saha vs. State of West Bengal & Ors. (1975) C 3 SCC 198: 1975 (1) SCR 778 – relied on.

2. A reading of the grounds of detention clearly indicated that the detenue had been indulging in various activities in felling and smuggling red-sanders and he was habitually committing the same and was unmindful D of wastage of national forest wealth and public order. It also showed that it was not a solitary or stray incident but continuously maintaining his activities commencing from 22.02.2010 till 09.10.2010 in destroying the forest wealth. It clearly showed that he was habitually E committing these offences. On going through all the details relating to various offences, incidents and activities, the conclusion of Detaining Authority that by invocation of normal procedure, the activities of the detenue cannot be controlled is acceptable. Detaining F Authority was well within its powers in passing the impugned order of detention. [Para 8] [467-H; 468-A-D]

Union of India vs. Paul Manickam and Another (2003) 8 SCC 342:2003 (4) Suppl. SCR 618 – relied on.

G 3. The contention was raised on behalf of the appellant that even though the detenue was arrested on 09.10.2010 and was released on bail on 10.11.2010, the detention order was passed on 12.11.2010, the aspect that the detenue was in custody till 10.11.2010 was neither H specifically adverted to and considered in the detention

order nor the sponsoring authority placed any material regarding the same, hence, the ultimate detention order passed 12.11.2010 cannot be sustained. If the Detaining Authority was aware of the relevant fact, namely, that he was under custody from 09.10.2010 and he would be released or likely to be released or as in this case released on 10.11.2010 and if an order is passed after due satisfaction in that regard, undoubtedly, the order would be valid. The said objection was neither raised before the Advisory Board nor in the representation to the Government and was not mentioned in the grounds of challenge and argued before the High Court. This ground was not even raised in the special leave petition. It was not in dispute that such objection was not raised anywhere except during the course of argument. It was also not in dispute that the detenue was given adequate opportunity of hearing before the Advisory Board and all his grievances were addressed to by the Board and submitted its report. The Government, on going through the entire materials including the report of the Advisory Board as well as the representation of the detenue, considering the gravity of the offence alleged against him and his habituality, confirmed the order of detention. [Para 9, 11, 12] [468-D-F; 469-H; 470-A-D; 470-F-G]

M. Ahamedkutty vs. Union of India & Another (1990) 2 SCC 1: 1990(1) SCR 209 ; *Anant Sakharam Raut vs. State of Maharashtra and Anr.* (1986) 4 SCC 771: 1987 (1) SCR 221 – relied on.

4. The grounds of detention running into 60 pages and the order of detention to 5 pages clearly demonstrated various details about the involvement of the detenue violating the provisions of IPC, A.P. Act and the Rules. The details furnished in the grounds of detention clearly showed the application of mind on the part of the Detaining Authority. It was not the case of the

A detenue or the appellant that the required relevant and relied on materials were not furnished which prevented him from making effective representation to the Government. The detailed report of the Inspector of Police and Sponsoring Authority clearly showed that the B detenue was a master-mind in organising the felling of red-sanders trees owned by the Government and also providing vehicles for illegally transporting the red-sanders wood, hiring of labourers from the fringe forest villages and responsible for destruction of valuable C governmental property. It also showed that it was he who operated gang for destruction of the national wealth causing deforestation leading to ecological imbalance affecting the community as a whole. The grounds of detention also showed that the Detaining Authority, after D scrutinising all the details including various orders of arrest and release, bail on various dates and noting that he was habitually indulging in trespass in forest area, illicit cutting, felling, smuggling and transporting red-sanders from the reserved forest owned by the State, arrived at a definite conclusion that the provisions of E normal law were not sufficient in ordinary course to deal firmly because of his habitual nature and after satisfying all aspects including the fact that the detenue was in jail from 09.10.2010 to 10.11.2010 and the factum of release from the jail in 4 criminal cases, passed an order of F detention with a view to prevent him from further indulging into such offences. In a matter of detention, the law is clear that as far as subjective satisfaction is concerned, it should either be reflected in the detention order or in the affidavit justifying the detention order. G Once the Detaining Authority is subjectively satisfied about the various offences labelled against the detenue, habituality in continuing the same, difficult to control him under the normal circumstances, he is free to pass appropriate order under Section 3 of the 1986 Act by H fulfilling the conditions stated therein. There was no

infirmity either in the reasoning of the Detaining Authority or procedure followed by it. The detenue was afforded adequate opportunity at every stage and there was no violation of any of the safeguards. In view of the enormous activities of the detenue violating various provisions of IPC, the A.P. Act and the Rules, continuous and habituality in pursuing the same type of offences, damaging the wealth of the nation and taking note of the abundant factual details as available in the grounds of detention and also of the fact that all the procedures and statutory safeguards were fully complied with by the Detaining Authority, the reasoning of the Detaining Authority as approved by the Government and upheld by the High Court is accepted. [Para 13, 14] [470-H; 471-A-H; 472-A-E]

Rekha vs. *State of Tamil Nadu* **(2011) 5 SCC 244 – held inapplicable.**

Case Law Reference:

1975 (1) SCR 778	**relied on**	**Para 7**
2003 (4) Suppl. SCR 618	**relied on**	**Para 10**
1990 (1) SCR 209	**relied on**	**Para 11**
1987 (1) SCR 221	**relied on**	**Para 11**
(2011) 5 SCC 244	**held inapplicable**	**Para 14**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1761 of 2011.

From the Judgment & Order dated 08.4.2011 of the High Court of Judicature Andhra Pradesh at Hyderabad in Writ Petition No. 65 of 2011.

ATM Ranga Ramanujan, Gouri Karuna Das Mohanti, Anu Gupta, Prakhar Sharma, Sanjeev Kumar Sharma, Rani Jethmalani for the Appellant.

A R. Sundravardhan, C. Kannan, Ravi Shankar, G.N. Reddy for the Respondents.

The Judgment of the Court was delivered by

P.SATHASIVAM,J. 1. Leave granted.

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2. The appellant, who is the brother-in-law of R. Sreenivasulu-the detenue, has filed this appeal against the judgment and final order dated 08.04.2011 passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in a writ of C *Habeas Corpus* being Writ Petition No. 65 of 2011 whereby the High Court dismissed his petition holding that the order of detention of R. Sreenivasulu passed by the Collector and District Magistrate, Kadapa, Y.S.R. District, in Ref. No. 670/M/ 2010 dated 12.11.2010 is not illegal.

D 3. **Brief Facts:**

a. According to the prosecution, the detenue was found to be involved in felling, transporting, smuggling of red-sanders trees and committing theft of forest wealth in as many as eight E times within a period of one year. The cases registered against him disclose his activities. They are:

(i) OR No. 130/2009-10- dated 22.02.2010:

On 22.02.2010, on receiving information at 06:00 a.m., F Forest Range Officer and Deputy Range Officer Rayachoty, alongwith other staff proceeded to Masineni Kanuma locality of Palakonda Reserved Forest in Saraswathipalli Beat and noticed 3 persons lifting and storing red-sanders wood and preparing to transport the same. On seeing the Forest officials, G they ran away from the scene of offence and could not be apprehended. Later, they were identified and one among them was the detenue. Thereafter, the Forest officials seized 30 red-sanders logs weighing 844 kgs. worth Rs.45,576/-. An offence was registered against them vide P.O.R. No. 6 dated H 22.02.2010 under Section 20(1)(c)(ii) of the A.P. Forest Act,

1967 (hereinafter referred to as "the A.P. Act") for trespassing in Reserved Forest, under Section 20(1)(c)(iii) of the A.P. Act for causing damage by willfully cutting trees and dragging the same, under Section 20(1)(c)(vi) and (x) of the A.P. Act for collection and removal of red-sanders timber and under Section 29(2)(b) of the A.P. Act read with Rule 3 of the A.P. Sandal Wood and Red Sanders Transit Rules, 1969 (in short "the Rules") for transportation of red-sanders timber without permit and without any Government Transit Mark and for theft of red-sanders timber from Reserved Forest under Section 378 of the Indian Penal Code, 1860 (in short "IPC") and for criminal conspiracy under Section 120B IPC.

(ii) OR No. 01/2010-11 dated 01.04.2010

On 01.04.2010, on receiving information at 7.30 a.m., the Deputy Range Officer, Forest Beat Officers and Assistant Beat Officer proceeded to the localities in Gudukonda and Pathikona and noticed the movement of the detenue and two others who escaped from the scene of the offence and later the detenue was identified and crime was registered against him vide P.O.R. No. 16 dated 01.04.2010 under various sections of the A.P. Act and the Rules and also under Sections 378 and 120B IPC.

(iii) OR No. 02/2010-11 dated 03.04.2010

On 02.04.2010, the Forest Range Officer, Rayachoty along with other staff stopped a vehicle carrying 20 red- sanders logs. The detenue along with two others escaped from the vehicle but the Forest officials apprehended the driver of the vehicle and a crime was registered vide P.O.R. No. 17 dated 03.04.2010 against them for an offence under various sections of the A.P. Act and the Rules and also under Sections 378 and 120B IPC.

(iv) OR No.13/2010-11 dated 11.05.2010 and PS Crime No. 40/10

A On 08.05.2010, on receiving a complaint regarding smuggling of red-sanders logs, while doing routine vehicle check, the Inspector of Police, L.R. Palli along with other staff stopped two vans and caught hold of four persons and seized red-sanders logs from the above two vehicles and on the basis B of their information a crime was registered by Galiveedu Police Station in Crime No. 40/2010 for an offence under various sections of the A.P. Act and the Rules and also under Sections 379 IPC against 14 accused persons in which detenue was shown as 12th accused.

C (v) OR No. 18/2010-11 dated 23.05.2010

On the intervening night of 22.05.2010, the Forest Officer, Rayachoty along with other staff caught-hold of detenue along with other persons and seized 32 red-sanders logs weighing D 794 kgs. and a crime was registered vide P.O.R. No. 20 dated 23.05.2010 against them under various sections of the A.P. Act and the Rules.

(vi) FIR No. 46/10 dated 27.05.2010 and OR No. 20/2010-11 dated 30.05.2010

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On 27.05.2010, the Inspector of Police, Rayachoty Rural Circle and Sub-Inspector of Police, Veeraballi P.S. along with their staff noticed one Indica Car followed by a lorry from Ragimannudivanpalli. On seeing them, the occupants tried to F run away and the police chased and caught-hold of two persons while one person escaped. The lorry was found loaded with 25 red-sanders logs. On interrogation, they informed that the detenue was escorting them and he ran away from the scene. The police registered a case in FIR No. 46/10 dated G 27.05.2010 under Section 379 IPC and Section 29A(1) of the A.P. Act read with Rule 3 of the Rules. The Forest Range Officer, Rayachoty also booked a case vide POR No. 20/2010-11 dated 30.05.2010.

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(vii) FIR No. 75/10 dated 03.10.2010 and OR No. 60/2010-11 dated 04.10.2010

On 03.10.2010, the Inspector of Police, Rayachoty Rural Circle and Sub-Inspector of Police, Veeraballi P.S. along with forest officials proceeded to Teacher Narayana Reddy Mango Garden located at Peddamadiga Palli Village, hamlet of Vongimalla and found four persons removing red-sanders logs from the bushes. On seeing them, three persons escaped and the police could apprehend only one person who informed that the detenue was also involved in taking away the logs three times in his vehicle. The police registered a case in Crime No. 75/10 under Section 379 IPC and Section 29 of the A.P. Act read with Rule 3 of the Rules and the Forest Range Officer also booked a case vide POR No. 60/2010-11 dated 04.10.2010.

(viii) Crime No. 92/10

On 09.10.2010, the Sub-Inspector of Galiveedu and Veeraballi, C.I. L.R. Palli along with staff and panchayatdars while proceeding towards the forest found one Tata Sumo and a Ford Ikon car carrying 36 red-sanders logs. When the occupants tried to escape, the police caught hold of them. One among them was the detenue. The police seized the vehicles and registered Crime No. 92 of 2010 under Section 379 IPC and Section 29 of the A.P. Act read with Rule 3 of the Rules.

(b) Thereafter, on 10.11.2010, the detenue was released on bail and he was immediately arrested and order of detention was served on 12.11.2010 by the Collector and District Magistrate, Kadapa, Y.S.R. District under Sections 3(1) and 2 (a) and (b) of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (in short "the 1986 Act") stating that the activities of the detenue are dangerous to forest wealth and forest eco-system and are prejudicial to the maintenance of public order.

A (c) The General Administration (Law and Order II) Department of the Government of A.P., in G.O. Rt. No. 5657, dated 20.11.2010, approved the order of detention and he was sent to Cherlapalli Jail on 13.11.2010. Again on 22.12.2010, Government of A.P. confirmed the order of detention by B directing to continue the detention for a period of 12 months from the date of detention i.e. from 13.11.2010.

(d) In January, 2011, challenging the detention order passed by the Collector and District Magistrate, Kadapa, Y.S.R. District, dated 12.11.2010, the appellant herein - brother-in-law C of the detenue, filed W.P. No. 65 of 20011 before the High Court for issuance of writ of *Habeas Corpus*. By impugned order dated 08.04.2011, the High Court dismissed the petition holding that the order of detention is not illegal. Aggrieved by the said order, the appellant has filed this appeal by way of D special leave petition before this Court.

4. Heard Mr. A.T.M. Rangaramanujam learned senior counsel for the appellant and Mr. R. Sundaravardan, learned senior counsel for the State.

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5. It is the definite stand of the State that its administration is not in a position to curb the illegal activities of the detenue under the normal procedure, who was habitually indulging in illicit trespass, cutting, dressing and transporting the red-sanders wood from the Reserved Forest owned by the State F causing irreparable loss to national wealth. The Detaining Authority, on going through all the materials and after holding that the said detenue is a 'goonda' under Section 2(g) of the 1986 Act passed the order of detention.

G 6. Since the said detention was challenged by his brother-in-law before the High Court and the same has been negatived by the High Court, let us refer certain provisions of the 1986 Act. Section 2(g) defines "goonda" which reads as under:-

H 2(g) "goonda" means a person, who either by himself of

A as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XVI or Chapter XVII or Chapter XXII of the Indian Penal Code;"

B Section 3 of the 1986 Act enables the Government to detain certain persons whose activities are prejudicial to the maintenance of public order. Section 3 reads as under:-

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

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

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

(3) When any order is made under this Section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other H

A particulars as in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the Government."

B If the Government/Detaining Authority is able to satisfy that a person either by himself or in association with other members habitually commits or attempts or abets such commission of offence punishable under IPC, A.P. Act and the Rules subject to satisfying Section 3 of the 1986 Act, he can be detained in terms of the said Act.

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7. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. Even, as early as in 1975, the Constitution Bench of this Court considered the procedures D to be followed in view of Articles 19 and 21 of the Constitution. In *Haradhan Saha* vs. *State of West Bengal & Ors.* (1975) 3 SCC 198, the Constitution Bench of this Court, on going through the order of preventive detention under Maintenance of Internal Security Act, 1971 laid down various principles which are as E follows:-

".....First; merely because a detenue is liable to be tried in a criminal court for the commission of a criminal offence or to be proceeded against for preventing him from committing offences dealt with in Chapter VIII of the Code F of Criminal Procedure would not by itself debar the Government from taking action for his detention under the Act.

Second; the fact that the Police arrests a person and later G on enlarges him on bail and initiates steps to prosecute him under the Code of Criminal Procedure and even lodges a first information report may be no bar against the District Magistrate issuing an order under the preventive detention.

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Third; where the concerned person is actually in jail custody at the time when an order of detention is passed against him and is not likely to be released for a fair length of time, it may be possible to contend that there could be no satisfaction on the part of the detaining authority as to the likelihood of such a person indulging in activities which would jeopardize the security of the State or the public order.

Fourth; the mere circumstance that a detention order is passed during the pendency of the prosecution will not violate (sic) the order.

Fifth; the order of detention is a precautionary measure. It is based on a reasonable prognosis of the future behaviour of a person based on his past conduct in the light of the surrounding circumstances."

In the light of the above principles, let us test the validity of the detention order issued under the 1986 Act and as affirmed by the High Court.

8. In the earlier part of our order, we have culled out and noted 8 cases in which the detenue-R. Sreenivasulu was involved and was habitually committing forest offences, particularly, felling, cutting and smuggling of red-sanders wood causing loss to national wealth. Inasmuch as we have adverted to the details regarding all the 8 cases commencing from 22.02.2010 ending with 09.10.2010 which is reflected in the grounds of detention, there is no need to refer the same once again. Mr. Rangaramanujam, learned senior counsel for the appellant has submitted that some of the cases have been foisted and, according to him, the relevant details furnished in the grounds of detention such as the date of occurrence, commission of various offences both under the A.P. Act and the Rules and IPC, cannot be construed that his activities are habitual or would not affect the national forest wealth. We are unable to accept the said contention. A reading of the grounds

A of detention clearly indicate that the detenue had been indulging in various activities in felling and smuggling red-sanders and he was habitually committing the same and was unmindful of wastage of national forest wealth and public order. It also shows that it was not a solitary or stray incident but continuously B maintaining his activities commencing from 22.02.2010 till 09.10.2010 in destroying the forest wealth. It clearly shows that he is habitually committing these offences. On going through all the details relating to various offences, incidents and activities, we are satisfied that the conclusion of Detaining C Authority that by invocation of normal procedure, the activities of the detenue cannot be controlled is acceptable. We also hold that Detaining Authority is well within its powers in passing the impugned order of detention. Further, we are also in agreement with the reasoning of the High Court which, by a detailed D judgment, upheld the order of detention.

9. Mr. Rangaramanujam submitted that even though the detenue was arrested on 09.10.2010 and was released on bail on 10.11.2010, the detention order was passed on 12.11.2010, the aspect that the detenue was in custody till 10.11.2010 was E neither specifically adverted to and considered in the detention order nor the sponsoring authority placed any material regarding the same, hence, the ultimate detention order passed on 12.11.2010 cannot be sustained. Before considering his objection, it is useful to refer the following decision and F principles laid down therein.

10. The incident relating to procedure to be adopted in case the detenue is already in custody has been dealt in several cases. In *Union of India vs. Paul Manickam and Another* G (2003) 8 SCC 342, this Court, has held as under:-

> "14.....Where detention orders are passed in relation to persons who are already in jail under some other laws, the detaining authorities should apply their mind and show their awareness in this regard in the grounds of detention, the H chances of release of such persons on bail. The necessity

of keeping such persons in detention under the preventive detention laws has to be clearly indicated. Subsisting custody of the detenue by itself does not invalidate an order of his preventive detention, and the decision in this regard must depend on the facts of the particular case. Preventive detention being necessary to prevent the detenue from acting in any manner prejudicial to the security of the State or to the maintenance of public order or economic stability etc. ordinarily, it is not needed when the detenue is already in custody. The detaining authority must show its awareness to the fact of subsisting custody of the detenue and take that factor into account while making the order. If the detaining authority is reasonably satisfied with cogent materials that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time, he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made. Where the detention order in respect of a person already in custody does not indicate that the detenue was likely to be released on bail, the order would be vitiated. The point was gone into detail in *Kamarunnissa* v. *Union of India*. The principles were set out as follows: even in the case of a person in custody, a detention order can be validly passed: (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has a reason to believe on the basis of reliable material placed before him (*a*) that there is a real possibility of his release on bail, and (*b*) that on being released, he would in all probability indulge in prejudicial activities; and (3) if it is felt essential to detain him to prevent him from so doing. If an order is passed after recording satisfaction in that regard, the order would be valid. In the case at hand the order of detention and grounds of detention show an awareness of custody and/or a possibility of release on bail."

11. It is clear that if the Detaining Authority was aware of

A the relevant fact, namely, that he was under custody from 09.10.2010 and he would be released or likely to be released or as in this case released on 10.11.2010 and if an order is passed after due satisfaction in that regard, undoubtedly, the order would be valid. Before answering this point, Mr. R. B Sundaravardan, learned senior counsel for the State has brought to our notice that the said objection was neither raised before the Advisory Board nor in the representation to the Government and was not mentioned in the grounds of challenge and argued before the High Court. He also pointed out that even C before this Court, this ground was not raised in the special leave petition. It is not in dispute that such objection was not raised anywhere except during the course of argument. No doubt, learned senior counsel for the appellant by drawing our attention to Crl.M.P. No. 11504 of 2011 which was filed for permission D to file additional documents submitted that the same may be considered and in the absence of such satisfaction by the Detaining Authority as reflected in the detention order, the same is liable to be quashed. Non-consideration of bail order would amount to non-application of mind. [vide *M. Ahamedkutty vs. Union of India & Another.* (1990) 2 SCC 1 E and *Anant Sakharam Raut vs. State of Maharashtra and Anr.* (1986) 4 SCC 771].

12. As pointed out above, the said objection was not raised anywhere. It is also not in dispute that the detenue was given F adequate opportunity of hearing before the Advisory Board and all his grievances were addressed to by the Board and submitted its report. The Government, on going through the entire materials including the report of the Advisory Board as well as the representation of the detenue, considering the G gravity of the offence alleged against him and his habituality, confirmed the order of detention.

13. The grounds of detention running into 60 pages and the order of detention to 5 pages clearly demonstrate various details about the involvement of the detenue violating the

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provisions of IPC, A.P. Act and the Rules. The details furnished in the grounds of detention clearly show the application of mind on the part of the Detaining Authority. It is not the case of the detenue or the appellant that the required relevant and relied on materials have not been furnished which prevented him from making effective representation to the Government. The detailed report of the Inspector of Police and Sponsoring Authority clearly show that the detenue was a master mind in organising the felling of red-sanders trees owned by the Government and also providing vehicles for illegally transporting the red-sanders wood, hiring of labourers from the fringe forest villages and responsible for destruction of valuable governmental property. It also shows that it was he who operated gang for destruction of the national wealth causing deforestation leading to ecological imbalance affecting the community as a whole. The grounds of detention also show that the Detaining Authority, after scrutinising all the details including various orders of arrest and release, bail on various dates and noting that he is habitually indulging in trespass in forest area, illicit cutting, felling, smuggling and transporting red-sanders from the reserved forest owned by the State, arrived at a definite conclusion that the provisions of normal law were not sufficient in ordinary course to deal firmly because of his habitual nature and after satisfying all aspects including the fact that the detenue was in jail from 09.10.2010 to 10.11.2010 and the factum of release from the jail in 4 criminal cases, passed an order of detention with a view to prevent him from further indulging into such offences. In a matter of detention, the law is clear that as far as subjective satisfaction is concerned, it should either be reflected in the detention order or in the affidavit justifying the detention order. Once the Detaining Authority is subjectively satisfied about the various offences labelled against the detenue, habituality in continuing the same, difficult to control him under the normal circumstances, he is free to pass appropriate order under Section 3 of the 1986 Act by fulfilling the conditions stated therein. We have already concluded that there is no infirmity either in the reasonings of

A the Detaining Authority or procedure followed by it. We are also satisfied that the detenue was afforded adequate opportunity at every stage and there is no violation of any of the safeguards. In these circumstances, we reject the contention raised by learned senior counsel for the appellant.

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14. Though an attempt was made to nullify the order of detention by drawing our attention to the latest decision of this Court reported in *Rekha vs. State of Tamil Nadu* (2011) 5 SCC 244, on going through the factual position and orders therein and in view of enormous activities of the detenue C violating various provisions of IPC, the A.P. Act and the Rules, continuous and habituality in pursuing the same type of offences, damaging the wealth of the nation and taking note of the abundant factual details as available in the grounds of detention and also of the fact that all the procedures and D statutory safeguards have been fully complied with by the Detaining Authority, we are of the view that the said decision is not applicable to the case on hand. On the other hand, we fully agree with the reasoning of the Detaining Authority as approved by the Government and upheld by the High Court.

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15. In the light of the above discussion, we find no merit in the appeal, consequently, the same is dismissed.

D.G. Appeal dismissed.