

HIGH COURT OF ANDHRA PRADESH

* * * *

WRIT PETITION No.13273 of 2026

Between:

Komma Siva Haritha

.....PETITIONER

AND

The State of Andhra Pradesh,
General Administration Department (GAD),
Rep. by its Principal Secretary, and 3 others

.....RESPONDENTS

DATE OF JUDGMENT RESERVED : 06.08.2026

DATE OF JUDGMENT PRONOUNCED : .09.2026

DATE OF JUDGMENT UPLOADED : .09.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HON'BLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

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

RAVI NATH TILHARI, J

PURUSHOTTAM KUMAR CHINTALAPUDI, J

APHC010252562026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
* THE HON'BLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI
+ WRIT PETITION No.13273 of 2026**

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Between:

Komma Siva Haritha

.....PETITIONER

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The State of Andhra Pradesh,
General Administration Department (GAD),
Rep. by its Principal Secretary, and 3 others

.....RESPONDENTS

! Counsel for the Petitioner : Sri Dushyanth Reddy, representing
Sri K.V.Aditya Chowdary

Counsel for the Respondents : Sri Keerthi Teja Kondaveeti,
learned Government Pleader

< Gist :

> Head Note:

? Cases Referred:

1. (2023) 9 SCC 587
2. (2012) 2 SCC 72
3. (2025) 4 SCC 476
4. W.P.No.33545 of 2025 APHC decided on 22.06.2026
5. (1981) 2 SCC 456
6. (2024) 19 SCC 791

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

WRIT PETITION NO: 13273 OF 2026

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

Heard Sri Dushyanth Reddy, learned counsel representing Sri K.V.Aditya Chowdary, learned counsel for the petitioner and Sri Keerthi Teja Kondaveeti, learned Government Pleader for the respondents.

2. The petitioner has filed this writ petition for writ of Habeas Corpus under Article 226 of Constitution of India also challenging the order of preventive detention of the detenu namely Yalapala Maruthi Prasad Reddy @ Talararla Maruthi Reddy @ Maruthi.

I. FACTS:

3. With respect to the detenu an order of preventive detention vide proceedings D.Dis.No.MAGL/E-37252, dated 02.04.2026 was passed by the Collector & District Magistrate, Sri Sathya Sai District under Section 3 of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act, 1986). The same was confirmed vide G.O.Rt.No.994 General Administration (SC-I) Department dated 18.05.2026.

4. The preventive detention order was passed on the following criminal cases:

- i) Cr.No.232/2020 under Sections 143, 147, 341, 447, 506 r/w. 149 IPC of Kothacheruvu Police Station.
- ii) Cr.No.116/2025 under Sections 79, 118(1), 329(3), 351(2) r/w 3(5) BNS, 2023 of Kothacheruvu Police Station.
- iii) Cr.No.14/2026 under Sections 79, 129(3), 329(3), 351(2) r/w 3(5) BNS, 2023 of Kothacheruvu Urban Police Station.
- iv) Cr.No.15/2026 under Sections 111, 132, 351(2) BNS of Kothacheruvu Urban Police Station.
- v) Cr.No.45/2022 under Sections 447, 353, 506 IPC r/w. 34 IPC and Sec 3 & 4 of AP Land Grabbing (Prohibition) Act, 1982 of Puttaparthi Urban Police Station.
- vi) Cr.No.70/2025 under Sections 115(2), 351(2), 126(1) BNS of Puttaparthi Urban Police Station.
- vii) Cr.No.01/2026 under Sections 103(2), 238 r/w. 3(5) BNS of Puttaparthi Urban Police Station.
- viii) Cr.No.94/2022 under Sections 324, 354, 506 r/w. 34IPC of Puttaparthi Rural Police Station.
- ix) Cr.No.159/2019 under Sections 323, 506 r/w 34 IPC of Gorantla Police Station.

II. Submissions of learned counsel for Parties:

5. Learned counsel for the petitioner submits that out of 9 grounds i.e., criminal cases in 2 grounds i.e., ground Nos.5 & 7 bail was granted.

The said bail orders were not placed before the detaining authority. So, the order of preventive detention, and its confirmation, suffers from non-consideration of the relevant material. The satisfaction of the detaining authority therefore is vitiated and the order cannot be sustained.

6. Learned counsel for the petitioner further submits that in ground No.7 the bail was cancelled on 09.04.2026 i.e., after passing of detention order, for which bail cancellation application was filed on 03.03.2026 by the prosecution but it was not placed by the sponsoring authority before the detaining authority.

7. Learned counsel for the petitioner submits that in five criminal cases/grounds Section 41A Cr.P.C. notices were served and in remaining two grounds/criminal cases, the detenu was not arrested.

8. Learned counsel for the petitioner further submits that the offences complained against the detenu are of such a nature which can be dealt with under the ordinary law of the land without taking recourse to the Preventive Detention Act. There was no threat to the public order and the object of the preventive detention is not to punish. He placed reliance in ***Ameena Begum v. State of Telangana***¹.

9. The learned Government Pleader could not dispute that the bail orders in ground Nos.5 & 7 were not considered by the detaining

¹ (2023) 9 SCC 587

authority. He however submits that the activities of the detenu were prejudicial to the maintenance of the public order and so recording the satisfaction as a preventive measure the order of preventive detention was passed.

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

III. Analysis:

A. Non-Consideration of the bail orders:

11. The law is well settled with respect of the consideration of the bail orders that those are relevant material and must be considered to arrive at subjective satisfaction.

12. In ***Rushikesh Tanaji Bhoite v. State of Maharashtra***² the Hon'ble Apex Court held that the order of detention passed without considering the bail orders i.e., consideration ignoring the material/relevant material could not be sustained. Para Nos.8 to 12 in *Rushikesh Tanaji Bhoite* (supra) read as under:

“8. It would be, thus, seen that the order releasing the detenu on bail in the crime registered on 14-8-2010 and the order relaxing the bail condition were passed by the Judicial Magistrate, First Class, Dharangaon much before the issuance of the detention order dated 10-1-2011. However, the detention order or the grounds supplied to the detenu do not show that the detaining

² (2012) 2 SCC 72

authority was aware of the bail order granted in favour of the detenu on 15-8-2010.

9. In a case where the detenu is released on bail and is enjoying his freedom under the order of the court at the time of passing the order of detention, then such order of bail, in our opinion, must be placed before the detaining authority to enable him to reach at the proper satisfaction.

10. In the present case, since the order of bail dated 15-8-2010 was neither placed before the detaining authority at the time of passing the order of detention nor the detaining authority was aware of the order of bail, in our view, **the detention order is rendered invalid.** We cannot attempt to assess in what manner and to what extent consideration of the order granting bail to the detenu would have effected the satisfaction of the detaining authority but **suffice it to say that non-placing and non-consideration of the material as vital as the bail order has vitiated the subjective decision of the detaining authority.**

11. A three-Judge Bench of this Court in *Rekha v. State of T.N.* [(2011) 5 SCC 244 : (2011) 2 SCC (Cri) 596] decided recently held as under: (SCC p. 254, para 25)

“25. In this connection, it may be noted that there is nothing on the record to indicate whether the detaining authority was aware of the fact that the bail application of the accused was pending on the date when the detention order was passed on 8-4-2010. On the other hand, in Para 4 of the grounds of detention it is mentioned that ‘Thiru. Ramakrishnan is in remand in Crime No. 132 of 2010 and he has not moved any bail application so far’. Thus, the detaining authority was not even aware whether a bail application of the accused was pending when he passed the detention order, rather the detaining authority passed the detention order under the impression that no bail application of the accused was pending but in similar cases bail had been granted by the courts. We have already stated above that no details of the alleged similar cases has been given. Hence, the detention order in question cannot be sustained.”

12. In ***Rekha*** [(2011) 5 SCC 244 : (2011) 2 SCC (Cri) 596] , the detention order was held to be bad as the detaining authority was not aware of the fact that the bail application of the detenu was pending on the date when the detention order was passed. In the present case, the detenu was already released on bail but the detaining authority was not aware of the fact of grant of bail to the detenu.”

13. In ***Joyi Kitty Joseph v. Union of India***³, the Hon’ble Apex Court held that the bail was granted by the jurisdictional court, that too on conditions, the detaining authority ought to have examined whether they were sufficient to curb the evil of further indulgence in identical activities; which is the very basis of the preventive detention order. In the said case the detention order was silent on that aspect. The Hon’ble Apex court interfered with the detention order only on the ground that the detaining authority did not look into the conditions imposed by the Magistrate while granting bail for the very same offence to enter a satisfaction as to whether those conditions were sufficient or not to restrain the detenu from indulging in further like activities of smuggling. Para Nos.32 to 35 in ***Joyi Kitty Joseph*** (supra) are reproduced as under:

“32. Likewise, in the present case, we are not concerned as to whether the conditions imposed by the Magistrate would have taken care of the apprehension expressed by the detaining authority; of the detenu indulging in further smuggling activities. **We are more concerned with the aspect that the detaining authority did not consider the efficacy of the conditions**

³ (2025) 4 SCC 476

and enter any satisfaction, however subjective it is, as to the conditions not being sufficient to restrain the detenu from indulging in such activities.

33. *Ameena Begum* [*Ameena Begum v. State of Telangana*, (2023) 9 SCC 587 : (2023) 3 SCC (Cri) 754] , noticed with approval *Vijay Narain Singh v. State of Bihar* [*Vijay Narain Singh v. State of Bihar*, (1984) 3 SCC 14 : 1984 SCC (Cri) 361] and extracted para 32 from the same (*Vijay Narain Singh* [*Vijay Narain Singh v. State of Bihar*, (1984) 3 SCC 14 : 1984 SCC (Cri) 361]) : (SCC pp. 35-36)

“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 ... 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 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.***”

(emphasis supplied)

34. The criminal prosecution launched and the preventive detention ordered are on the very same allegations of organised smuggling activities, through a network set-up, revealed on successive raids carried on at various locations, on specific information received, leading to recovery of huge cache of contraband. **When bail was granted by the jurisdictional court, that too on conditions, the detaining authority ought to have examined whether they were sufficient to curb the evil of further indulgence in identical activities; which is the very basis of the preventive detention ordered.**

35. The detention order being silent on that aspect, we interfere with the detention order only on the ground of the detaining authority having not looked into the conditions imposed by the Magistrate while granting bail for the very same offence; the allegations in which also have led to the preventive detention, assailed herein, to enter a satisfaction as to whether those conditions are sufficient or not to restrain the detenu from indulging in further like activities of smuggling.

14. In ***Buddiga Dhana Lakshmi v. State of Andhra Pradesh***⁴, on consideration of various pronouncements this Court held that the bail order and the conditions of the bail are relevant material to be considered to arrive at the subjective satisfaction if the order of detention is yet to be passed. There was no consideration of the bail orders in the order of detention. The impugned order of detention was set aside on that ground. Para Nos.14 to 16 in ***Buddiga Dhana Lakshmi*** (supra) read as under:

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

“9. However, as per the settled law, the **very fact that the order of bail granted to the detenu in Crime No.219 of 2024 of Gopalapatnam Police Station for the offence under NDPS Act, was not placed before the detaining authority, while passing the impugned order of detention, by**

⁴ W.P.No.33545 of 2025 APHC decided on 22.06.2026

itself, is sufficient to hold that it vitiates the impugned order of detention. The legal position in this regard is fairly well settled.

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

“44. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinizing the validity of an order of preventive detention, which is based on the very same charge which is to be tried by the criminal court. (Vijay Narain Singh v. State of Bihar [(1984) 3 SCC 14]; Jotha Viswanadh v. Chief Secretary, Govt. of A.P. [Judgment in W.P.No.10018 of 2012, dated 29.06.2012 (APHC) (DB)]. Where the detenu is released on bail, and is enjoying his freedom under the order of the court, the order of bail must be placed before the detaining authority, when the order of detention is passed, to enable him to reach a proper satisfaction. (Rushikesh Tanaji Bhoite v. State of Maharashtra [(2012) 2 SCC 72]. If the detaining authority was unaware of the order of bail, the detention order is rendered invalid as the Court cannot attempt to assess in what manner, and to what extent, consideration of the order granting bail to the detenu would have effected the satisfaction of the detaining authority in passing the order of preventive detention (Rushikesh Tanaji Bhoite (42 supra); Rekha (5 supra); Jotha Viswanadh (44 supra)).”

11. *At paragraph 42 of the said judgment, it is also held by the Division Bench of the common High Court that it is incumbent that all vital materials are placed before the detaining authority to enable him to arrive at the subjective satisfaction as to the necessity for passing an order of detention, as decided in **M. Ahamedkutty v. Union of India** ((1990) 2 SCC 1 and **State of U.P. v. Kamal Kishore Saini**(1988 (1) SCC 287). Therefore, it is held that the bail order is a vital material*

for consideration and if it is not considered, the satisfaction of the detaining authority would be impaired.

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

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

16. Admittedly, there is no consideration of all the bail orders in the order of detention though in five cases the bail was granted prior to passing of the order of detention and even in the order of approval and confirmation by the State there is no consideration whereas by that time in all seven cases bail (s) had been granted.”

15. In the present case the detaining authority was not even aware of the fact the detenu was released on bail in two criminal cases under ground Nos.5 & 7. The bail orders were not placed before the detaining Authority which do not find consideration. The satisfaction of the detaining authority would be impaired and the order of preventive detention would be vitiated.

B. Public order & Law and order

16. On the aspect of the distinction between public order and law and order in *Ameena Begum* (supra), the Hon'ble Apex Court held as under:

“34. The issues with the detention order which we need to address are these: **first, whether the alleged acts of commission for which the detenu has been kept under detention are prejudicial to “public order”** and secondly, whether all relevant circumstances were considered or whether extraneous factors weighed in the mind of the detaining authority leading to the conclusion that the detenu is a habitual offender and for prevention of further crimes by him, he ought to be detained. Incidentally, the issue of whether application of mind is manifest in first ordering detention and then confirming it by continuing such order for a period of 12 (twelve) months upon rejection of the representation filed on behalf of the detenu by the appellant could also be answered. Needless to observe, we need not examine the second and the incidental issues if the appeal succeeds on the first issue.

35. Addressing the first issue first, it has to be understood as a fundamental imperative as to how this Court has distinguished between disturbances relatable to “law and order” and disturbances caused to “public order”.

36. It is trite that breach of law in all cases does not lead to public disorder. In a catena of judgments, this Court has in clear terms noted the difference between “law and order” and “public order”.

37. We may refer to the decision of the Constitution Bench of this Court in *Ram Manohar Lohia v. State of Bihar* [*Ram Manohar Lohia v. State of Bihar*, 1965 SCC OnLine SC 9 : (1966) 1 SCR 709] , where the difference between “law and order” and “public order” was lucidly expressed by Hon'ble M. Hidayatullah, J. (as the Chief Justice then was) in the following words : (SCR pp. 745-46, paras 54-55)

“54. ... *Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder.* When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. **A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act** but disturbances which subvert the public order are. ...

55. It will thus appear that just as “public order” in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting “security of State”, “law and order” also comprehends disorders of less gravity than those affecting “public order”. One has to imagine three concentric circles. *Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State.*”

(emphasis supplied)

38. For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquillity affects the public order and the question to be asked, as articulated by Hon'ble M. Hidayatullah, C.J. in *Arun Ghosh v. State of W.B.* [*Arun Ghosh v. State of W.B.*, (1970) 1 SCC 98 : 1970 SCC (Cri) 67] , is this : (SCC p. 100, para 3)

“3. ... Does it [the offending act] lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed?”

39. In *Arun Ghosh case* [*Arun Ghosh v. State of W.B.*, (1970) 1 SCC 98 : 1970 SCC (Cri) 67] , the petitioning detenu was detained by an order of a District Magistrate since he had been indulging in teasing, harassing and molesting young girls and assaults on individuals of a locality. While holding that the conduct of the petitioning detenu could be reprehensible, it was further held that it (read : the offending act) “does not add up to the situation where it may be said that the community at large was being disturbed or in other words there was a breach of public order or likelihood of a breach of public order. (*Arun Ghosh case* [*Arun Ghosh v. State of W.B.*, (1970) 1 SCC 98 : 1970 SCC (Cri) 67] , SCC p. 101, para 5)”

40. In the process of quashing the impugned order, the Hidayatullah, C.J. while referring to the decision in *Ram Manohar Lohia* [*Ram Manohar Lohia v. State of Bihar*, 1965 SCC OnLine SC 9 : (1966) 1 SCR 709] also ruled : (*Arun Ghosh case* [*Arun Ghosh v. State of W.B.*, (1970) 1 SCC 98 : 1970 SCC (Cri) 67] , SCC pp. 99-100, para 3)

“3. ... Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. ... It is always a question of degree of the harm and its effect upon the community. ... This question has to be faced in every

case on facts. There is no formula by which one case can be distinguished from another.”

41. In *Kuso Sah v. State of Bihar* [*Kuso Sah v. State of Bihar*, (1974) 1 SCC 185 : 1974 SCC (Cri) 84] , Hon'ble Y.V. Chandrachud, J. (as the Chief Justice then was) speaking for the Bench held that : (SCC pp. 186-87, paras 4 & 6)

“4. ... The two concepts have well defined contours, it being well-established that stray and unorganised crimes of theft and assault are not matters of public order since they do not tend to affect the even flow of public life. *Infractions of law are bound in some measure to lead to disorder but every infraction of law does not necessarily result in public disorder.* ...

6. ... *The power to detain a person without the safeguard of a court trial is too drastic to permit a lenient construction and therefore Courts must be astute to ensure that the detaining authority does not transgress the limitations subject to which alone the power can be exercised.*”

(emphasis supplied)

42. Turning our attention to Section 3(1) of the Act, the Government has to arrive at a subjective satisfaction that a *goonda* (as in the present case) has to be detained, in order to prevent him from acting in a manner prejudicial to the maintenance of public order. Therefore, we first direct ourselves to the examination of what constitutes “public order”. Even within the provisions of the Act, the term “public order” has, *stricto sensu*, been defined in narrow and restricted terms. An order of detention under Section 3(1) of the Act can only be issued against a detenu to prevent him “*from acting in any manner prejudicial to the maintenance of public order*”. “Public order” is defined in the Explanation to Section 2(a) of the Act as encompassing situations that cause “*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*”.

43. *Ram Manohar Lohia* [*Ram Manohar Lohia v. State of Bihar*, 1965 SCC OnLine SC 9 : (1966) 1 SCR 709] is an authority to rely upon for the proposition that if **liberty of an individual can be invaded under statutory rules by the simple process of making of a certain order**, he can be so deprived only if the order is in consonance with the said rule. Strict compliance with the letter of the rule, in such a case, has to be the essence of the matter since the statute has the potentiality to interfere with the personal liberty of an individual and a Court is precluded from going behind its face. Though circumstances may make it necessary for ordering a detention without trial, but it would be perfectly legitimate to require strict observance of the rules in such cases. If there is any doubt whether the rules have been strictly observed, that doubt must be resolved in favour of the detenu.

44. *Rekha* [*Rekha v. State of T.N.*, (2011) 5 SCC 244 : (2011) 2 SCC (Cri) 596] too provides a useful guide. It is said in para 30 that : (SCC p. 255)

“30. Whenever an order under a preventive detention law is challenged, one of the questions the court must ask in deciding its legality is : was the ordinary law of the land sufficient to deal with the situation? If the answer is in the affirmative, the detention order will be illegal. In the present case, the charge against the detenu was of selling expired drugs after changing their labels. Surely the relevant provisions in the Penal Code and the Drugs and Cosmetics Act were sufficient to deal with this situation. Hence, in our opinion, for this reason also the detention order in question was illegal.” [Ed. : As observed in para 26 of this judgment hereinabove, this observation in para 30 of *Rekha*, (2011) 5 SCC 244 : (2011) 2 SCC (Cri) 596, that preventive detention is not permissible when the ordinary law of the land can deal with the situation, is per incuriam paras 19 and 32 to 34 of the Constitution Bench in *Haradhan Saha v. State of W.B.*, (1975) 3 SCC 198 : 1974 SCC (Cri) 816. See also paras 24 to 26, of the present judgment above. Paras 19 and 32 to 34 of *Haradhan Saha* have been set out in the Headnote at SCC pp. 589-90.]

45. At this stage, it would be useful to consider certain events anterior to the detention order but referred to therein. The earlier order of detention dated 4-3-2021 was challenged by the detenu's father before the High Court. Such order of detention was passed considering 4 (four) FIRs under Sections 420 and 406IPC, wherein the detenu was arraigned as an accused. In its reasoned judgment dated 16-8-2021 [*Hakeem Khan v. State of Telangana*, 2021 SCC OnLine TS 3663] , the High Court noted this Court having opined in a catena of decisions that there is a vast difference between “law and order” and “public order”; when offences are committed against a particular individual it falls within the ambit of “law and order” whereas when the public at large is adversely affected by the criminal activities of a person, then such conduct of the person is said to disturb “public order”. Holding that the true distinction between the areas of “law and order” and “public order” lies not merely in the nature or quality of the act, but in the proper degree and extent of its impact on the society, it was ruled that the cases do not fall within the ambit of the words “public order” or “disturbance of public order”, instead, they fall within the scope of the words “law and order”, and that there was no need for the detaining authority to pass the impugned order. Based thereon, the impugned order was quashed and the detenu set at liberty.

46. In fine, what we find is that the order of detention impugned in that writ petition failed to differentiate between offences which create a “law and order” situation and which prejudicially affect or tend to prejudicially affect “public order”. The present detention order fares no better. Even if the offences referred to in the detention order, alleged to have been committed by the detenu have led to the satisfaction being formed, still the same are separate and stray acts affecting private individuals and the repetition of similar such acts would not tend to affect the even flow of public life. The offence in respect of the minor girl did exercise our consideration for some time but we have noted that the detenu was not arrested because of an order passed by the High Court on an application under Section 438 of the Criminal Procedure Code (“CrPC” hereafter). The investigating agency not having elected to have such order quashed by a higher forum, the facts have their

own tale to tell. Even otherwise, the gravity of the offences alleged in *Arun Ghosh* [*Arun Ghosh v. State of W.B.*, (1970) 1 SCC 98 : 1970 SCC (Cri) 67] was higher in degree, yet, the same were not considered as affecting “public order”. The only other offence that could attract the enumerated category of “acting in any manner prejudicial to the maintenance of public order” and an order of preventive detention, if at all, is the stray incident where the detenu has been charged under Section 353IPC and where the police has not even contemplated an arrest under Section 41CrPC.

47. On an overall consideration of the circumstances, it does appear to us that the existing legal framework for maintaining law and order is sufficient to address like offences under consideration, which the Commissioner anticipates could be repeated by the detenu if not detained. **We are also constrained to observe that preventive detention laws—an exceptional measure reserved for tackling emergent situations—ought not to have been invoked in this case as a tool for enforcement of “law and order”.** This, for the reason that, the Commissioner despite being aware of the earlier judgment and order of the High Court dated 16-8-2021 [*Hakeem Khan v. State of Telangana*, 2021 SCC OnLine TS 3663] passed the detention order ostensibly to maintain “public order” without once more appreciating the difference between maintenance of “law and order” and maintenance of “public order”. The order of detention is, thus, indefensible.”

17. In ***Ameena Begum*** (supra) it was held that the breach of law in all cases does not amount to public disorder. There is difference between law and order and public order. Every breach of the peace does not lead to public disorder. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. The act may affect law and order but not the public order. For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquillity affects the public order.

18. With respect to the submission of the learned counsel for the petitioners, that it is a case of the breach of law and order situation not affecting the public order, we are of the view that since we are satisfied that the bail orders were not taken into consideration by the detaining authority, so the order of preventive detention cannot be sustained, even if it be a case of threat to public order, though we do not conclusively observe it to be a case of public order or law and order situation only.

19. In **Shiv Parsad Bhatnagar vs. State of M.P and another**⁵, the Hon'ble Apex Court has held that "the single vicious ground is sufficient to vitiate an order of preventive detention."

20. In **Pramod Singla v. Union of India**⁶, the Hon'ble Apex Court held that in cases of preventive detention, every procedural irregularity, keeping in mind the principles of Article 21 and Article 22(5) of the Constitution of India, must be accrued in favour of the detenu.

Result:

21. The writ petition is allowed. The order of preventive detention dated 02.04.2026 and the order of confirmation dated 18.05.2026 are set aside.

22. The detenu shall be set at liberty immediately, if he is not in detention in any other pending case.

⁵ (1981) 2 SCC 456

⁶ (2024) 19 SCC 791

23. The detaining authority shall however be at liberty to pass fresh order in accordance with law.

24. In case any order of detention is passed afresh, the period of detention shall not exceed in total the statutory period, including the period already served under the impugned detention order.

No order as to costs.

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

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

Dated: .09.2026

Note:

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

WRIT PETITION NO: 13273 OF 2026

Dated: .09.2026

Note:

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