



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

W.P.H.C. NO.121/2025

BETWEEN:

SMT. PAVITHRA
W/O RAVIRAJ SHETTY
AGED ABOUT 51 YEAS
R/AT 8-116/182
SHRIDEVI NILAYA, SITE NO.82
ASHRAYA COLONY, IDDYA SURATHKAL
MANGALORE, KATIPALLA
D.K. DISTRICT 575030
(DETENUE SRI. BHARATH SHETTY).

...PETITIONER

(BY SRI. SUYOG HERELE E, ADV.,)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY IS
ADDITIONAL CHIEF SECRETARY
TO GOVERNMENT
HOME DEPARTMENT
VIDHANA SOUDHA
BENGALURU 560 001.
2. THE UNDER SECRETARY TO
GOVERNMENT, (LAW AND ORDER)
GOVERNMENT OF KARNATAKA
HOME DEPARTMENT





VIDHANA SOUDHA
BENGALURU 560 001.

3. THE COMMISSIONER OF POLICE
MANGALURU 575 001.
4. THE SUPERINTENDENT
CENTRAL PRISON
PARAPPANA AGRAHARA
BENGALURU 560 068.

...RESPONDENTS

(BY SRI. THEJESH P, HCGP FOR R1 TO R4)

THIS WPHC IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF HABEAS CORPUS OR ANY OTHER WRIT OR ORDER OR DIRECTION, QUASHING OF THE DETENTION ORDER DATED 31.01.2025 PASSED IN NO.MAG-1/01/G.A./MGC/2025 PASSED BY RESPONDENT NO.3 AND THE CONFIRMATION ORDER DATED 06.02.2025 IN GO NO.HD 56 SST 2025, BENGALURU PASSED BY RESPONDENT NO.2, AND THE ORDER DATED 15.03.2025 PASSED IN NO.M.A.G.-1/01/GA/M.A.N/2025 AND THE ORDER DATED 05.08.2025 PASSED IN NO.M.A.G. 1/GA/M/N/2025 PASSED BY RESPONDENT NO.3 THEREBY DETAINING THE DETENUE IN CENTRAL PRISON, PARAPPANA AGRAHARA, BENGALURU FOR A PERIOD OF ONE YEAR BEGINNING FROM 31.01.2025 UNDER THE PROVISIONS OF KARNATAKA PREVENTION OF DANGEROUS ACTIVITIES, BOOTLEGGERS, DRUG OFFENDERS, GAMBLERS, GOONDAS IMMORAL TRAFFICKING OFFENDERS, SLUM GRABBERS AND VIDEO OR AUDIO PIRATES ACT, 1985 (HEREINAFTER REFERRED TO AS THE ACT FOR SHORT) AND ALL FURTHER PROCEEDINGS PURSUANT THERETO. (PRODUCED AS ANNEXURE-A, B, C AND C1)& ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This petition is filed by the mother of the detenue seeking a writ in the nature of habeas corpus quashing the detention order dated 31.01.2025 passed in No.MAG-1/01/G.A/MGC/2025 by the respondent No.3, the confirmation order dated 06.02.2025 in GO No.HD 56 SST 2025 passed by the respondent No.2 and the order dated 05.08.2025 passed in No.M.A.G.1/GA/M/N/2025 passed by the respondent No.3 detaining the detenue in Central Prison, Parappana Agrahara, Benagluru, for a period of one year beginning from 31.01.2025 under the provisions of the Karnataka Prevention of Dangerous Activities, Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Trafficking Offenders, Slum Grabbers and Video or Audio Pirates Act, 1985 (hereinafter referred to as 'the Goonda Act').



2. The brief facts leading to the filing of this petition are that the detenue has been detained pursuant to the order of detention passed by the respondent No.3 against the detenue on 31.01.2025 under Section 2(g) of the Act for being a habitual offender and repeatedly undertaking activities punishable under various provisions of the Indian Penal Code, 1860 (for short 'IPC') and Bharatiya Nyaya Sanhita, 2023 (for short 'BNS Act') and in order to prevent him from further engaging himself in the activities prejudicial to the maintenance of public order. The said order was confirmed by the respondent No.2 vide order dated 06.02.2025. Being aggrieved by the said order of detention and the consequent confirmation of the said order, this petition is filed by the mother of the detenue.

3. Sri.Suyog Herele E, learned counsel appearing for the petitioner, reiterating the facts and grounds of the petition submits that in total, 13 cases have been filed against the detenue, out of which, 8 cases have ended in



acquittal. However, the Detaining Authority has not considered the said aspect before recording its subjective satisfaction. It is further submitted that the respondent-Authorities have given several documents in English, without a translation in Kannada and few of the documents are totally illegible, due to which the detainee has been devoid of being able to give an effective representation which violates the right guaranteed under Article 22(5) of the Constitution of India. In support of his contentions, he placed reliance on the following decisions:

- (1) ***NENAVATH BUJJI ETC. Vs. STATE OF TELANGANA AND OTHERS***¹
- (2) ***BANKA SNEHA SHEELA Vs STATE OF TELANGANA AND OTHERS***²
- (3) ***MOHAMMAD SHAFIULLA Vs THE D.G AND I.G.P OF POLICE AND OTHERS.***³

Hence, he seeks to allow the writ petition by setting the detainee free.

¹ AIR 2024 SC 1610

² (2021) 9 SCC 415

³ W.P.H.C. No.75/2023 dtd 07.12.2023



4. Sri.Thejesh P., learned High Court Government Pleader appearing for the respondent-State submits that the order of detention has been passed after following all procedural requirements and arriving at a subjective satisfaction. It is submitted that the detainee has been a habitual offender with 13 cases registered against him under various provisions of the IPC and the BNS Act. It is further submitted that due to the consistent illegal activities of the detainee causing public disorder, the order of detention was passed against the detainee to prevent the same. Hence, he seeks to dismiss the petition.

5. We have heard the learned counsel appearing for the petitioner, learned High Court Government Pleader appearing for the respondent-State and perused the material available on record. We have given our anxious consideration to the submissions advanced on both the sides and the material available on record.



6. The point that arises for consideration in this petition is:

"Whether the impugned order of detention dated 31.01.2025 passed by the respondent No.3 and the confirmation order dated 06.02.2025 passed by the respondent No.2, is sustainable under law?"

7. To appreciate the case on hand, it would be useful to refer to the relevant provisions of the Goonda Act and they are extracted as under for ready reference:

"3. Power to make orders detaining certain persons.- (1) *The State Government may, if satisfied with respect to any bootlegger or drug-offender or gambler or goonda or [Immoral Traffic Offender or Slum-Grabber or Video or Audio pirate] that with a view to prevent 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 persons be detained.*

(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 State*



Government is satisfied that it is necessary so to do, it may, by order in writing, direct that during such period as 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 sub-section :

Provided that the period specified in the order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State 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.

(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 State Government together with the grounds on which the order has been made and such other 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 State Government.



8. Grounds of order of detention to be disclosed to persons affected by the order.-

(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

10. Reference to Advisory Board.-

In every case where a detention order has been made under this Act the State Government shall within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made against the order, and in case where the order has been made by an officer, also the report by such officer under sub-section (3) of section 3.



11. Procedure of Advisory Board.-

(1) The Advisory Board shall after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desire to be heard, after hearing him in person, submit its report to the State Government, within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) The proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.



(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.

13. Maximum period of detention.-

The maximum period for which any person may be detained, in pursuance of any detention order made under this Act which has been confirmed under section 12 shall be twelve months from the date of detention."

8. A bare perusal of the aforesaid Sections indicate that the State Government may, if satisfied with respect to any "Goonda" as defined under Section 2(g) of the Goonda Act, with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, pass an order directing such a person to be detained. Sub-section (2) of Section 3 of the Goonda Act empowers the District Magistrate or the Commissioner of Police to exercise the powers conferred under sub-Section (1) of Section 3 of the Goonda Act. Sub-section (3) of Section 3 of the Goonda



Act mandates that if the order is passed by the Officer under sub-Section (2) of Section 3 of the Goonda Act, he shall forthwith report the fact to the State Government along with the grounds on which the order has been made. The order made by the Officer under sub-Section (2) shall remain in force for 12 days unless in the meantime, the State Government approves it. Section 8 of the Goonda Act mandates that the grounds of detention are required to be served on the detainee within 5 days from the date of detention and shall offer him the earliest opportunity of making a representation against the order to the State Government. Section 10 of the Goonda Act mandates that the order of detention made under the Goonda Act shall be placed before the Advisory Board within a period of 3 weeks from the date of detention order by the State Government along with grounds on which the order has been made and representation, if any, made against the order. Section 11 of the Goonda Act provides the procedure to be followed by the Advisory Board. The



Advisory Board is empowered to consider providing personal hearing to the detainee and thereafter submit report to the State Government within 7 weeks from the date of detention of the person concerned. The Advisory Board is required to forward its opinion as to whether or not there is sufficient cause for the detention of the person concerned. The opinion of the Advisory Board is confidential. Section 13 of the Goonda Act indicates that the maximum period for detention is 12 months from the date of detention.

9. The impugned detention order dated 31.01.2025 is passed by the respondent No.3 by recording the reason that the detainee is aged about 27 years, is a resident of Idya Village, Surathkal, Mangalore District, and has been involved in criminal cases including murder, attempt to murder, assault, robbery and has created fear in the minds of the people. To arrive at such a conclusion, the Authority placed reliance on the following cases:



- (a) *Crime No.23/2014 registered Surathkal Police for the offence punishable under Sections 323, 324, 504, 506 r/w 34 of IPC.*
- (b) *Crime No.356/2014 registered by Mangalore Rural police for the offence punishable under Sections 307,324 r/w 149 of IPC.*
- (c) *Crime No.89/2015 registered by Panambur Police for the offence punishable under Sections 504, 324 r/w 34 of IPC.*
- (d) *Crime No.45/2016 registered by Surathkal Police for the offence punishable under Sections 143,341,324,307,120(b) r/w 149 of IPC.*
- (e) *Crime No.187/2016 registered by Puttur Police Station for the offence punishable under Section 395 of IPC.*
- (f) *Crime No.73/2017 registered by Surathkal Police for the offence punishable under Sections 143,147,148,324,323,504,385,307 r/w 149 of IPC.*
- (g) *Crime No.205/2017 registered by Surathkal Police for the offences punishable under Sections 324,323,504,427 r/w 34 of IPC.*



- (h) Crime No. 122/2018 registered by Panambur Police for the offences punishable under Sections 143, 147, 341, 323, 324, 504, 506 r/w 149 of IPC.*
- (i) Crime No.111/2021 registered by Surathkal Police for the offences punishable under Sections 341, 323, 504, 506, 307 r/w 34 of IPC.*
- (j) Crime No.149/2021 registered by Surathkal Police for the offence punishable under Sections 341, 143, 147, 148, 323, 504, 506, 153(a), 354, 354(d) r/w 149 IPC*
- (k) Crime No.46/2022 registered by Surathkal Police for the offence punishable under Sections 143, 147, 148, 120(b), 109, 114, 302, 506, 212, 201 r/w 149 IPC.*
- (l) Crime No.121/2023 registered by Surathkal Police for the offence punishable under Sections 341, 323, 504, 506 r/w 34 IPC.*
- (m) Crime No.107/2024 registered by Surathkal Police for the offences punishable under Section 298, 324(4), 196, 61(1), 49, 190 of B.N.S Act and Section 2(a) and 2(b) under the Prevention of Destruction and Loss of Property Act, 1981.*



10. The aforesaid crimes were registered against the detainee and others from 2014 to 2024. The last crime registered against the detainee is in Crime No.107/2024 on 15.09.2024.

11. It is contended by the learned counsel for the petitioner that as on the date of the passing of the detention order, out of the 13 cases filed against him, 8 cases had resulted in acquittal but the Detaining Authority has only considered 7 cases as acquitted. The said aspect amounts to non-consideration of relevant material by the Detaining Authority for arriving at subjective satisfaction.

12. The Hon'ble Supreme Court in the case of **AMEENA BEGUM Vs. STATE OF TELANGANA & OTHERS⁴** has held in paragraph No.28 as under:

"28. In the circumstances of a given case, a constitutional court when called upon to test the legality of orders of preventive detention would be entitled to examine whether:

⁴ (2023) 9 SCC 587



28.1. *The order is based on the requisite satisfaction, albeit subjective, of the detaining authority, for, the absence of such satisfaction as to the existence of a matter of fact or law, upon which validity of the exercise of the power is predicated, would be the sine qua non for the exercise of the power not being satisfied;*

28.2. *In reaching such requisite satisfaction, the detaining authority has applied its mind to all relevant circumstances and the same is not based on material extraneous to the scope and purpose of the statute;*

28.3. *Power has been exercised for achieving the purpose for which it has been conferred, or exercised for an improper purpose, not authorised by the statute, and is therefore ultra vires;*

28.4. *The detaining authority has acted independently or under the dictation of another body;*

28.5. *The detaining authority, by reason of self-created rules of policy or in any other manner not authorised by the governing statute, has disabled itself from applying its mind to the facts of each individual case;*



28.6. *The satisfaction of the detaining authority rests on materials which are of rationally probative value, and the detaining authority has given due regard to the matters as per the statutory mandate;*

28.7. *The satisfaction has been arrived at bearing in mind existence of a live and proximate link between the past conduct of a person and the imperative need to detain him or is based on material which is stale;*

28.8. *The ground(s) for reaching the requisite satisfaction is/are such which an individual, with some degree of rationality and prudence, would consider as connected with the fact and relevant to the subject-matter of the inquiry in respect whereof the satisfaction is to be reached;*

28.9. *The grounds on which the order of preventive detention rests are not vague but are precise, pertinent and relevant which, with sufficient clarity, inform the detenu the satisfaction for the detention, giving him the opportunity to make a suitable representation; and*

28.10. *The timelines, as provided under the law, have been strictly adhered to."*



13. It is clear from the aforesaid enunciation of law by the Hon'ble Supreme Court that the subjective satisfaction arrived at by the Detaining Authority is without giving due consideration to the relevant material such as acquittal in a case. Such non-consideration of relevant material amounts to violation of procedural safeguards, non-application of mind and arriving at a subjective satisfaction by ignoring the relevant material. It is to be noticed that the documents furnished to the detainee clearly indicates that the detainee has been acquitted in 8 of the criminal cases out of 13 cases, but only 7 cases have been considered in the grounds of detention as having been acquitted. Hence, we are of the view of that the order of detention and the consequent order of confirmation suffers from non-consideration of relevant material.

14. The other contention of the learned counsel for petitioner is that the Authorities have failed to furnish the



documents to the detainee in the language known to him and non-furnishing of such documents has deprived him of the ability to give effective representation to the Authorities. The representation of the detainee to the respondent-State against the order of detention clearly states that several documents were produced in English and no Kannada translation for the same was provided and furthermore that various documents given were illegible. No material has been placed on record by the respondent-State to refute the same. It is also noticed that the detainee, in his representations submitted to the Authority has clearly referred to the page numbers of the documents for which no Kannada translation was provided and also for those which were illegible. However, the respondent-State failed to substantiate the said contentions by rebutting the same in their statement of objections or by placing the material to that affect. The grounds of the detention and the material placed by the respondent-Authorities indicate that the detainee has studied up to 10th



Standard and he is able to read only Kannada Language. Admittedly, some of the documents furnished to the detainee are in English Language and non-furnishing of translated copies from English to Kannada Language vitiates the detention order as the detainee's right guaranteed under Article 22(5) of the Constitution of India, is infringed.

15. It would be useful to refer to paragraphs 8 and 9 of the decision of the Hon'ble Supreme Court in the case of **HARIKISAN VS. STATE OF MAHARASHTRA**⁵ which reads as under:

"8. We do not agree with the High Court in its conclusion that in every case communication of the grounds of detention in English, so long as it continues to be the official language of the State, is enough compliance with the requirements of the Constitution. If the detained person is conversant with the English language, he will naturally be in a position to understand the gravamen of the charge against him and the facts and circumstances on which the order of detention is based. But to a

⁵ 1962 SCC Online 117



person who is not so conversant with the English language, in order to satisfy the requirements of the Constitution, the detainee must be given the grounds in a language which he can understand, and in a script which he can read, if he is a literate person.

9. *The Constitution has guaranteed freedom of movement throughout the territory of India and has laid down detailed rules as to arrest and detention. It has also, by way of limitations upon the freedom of personal liberty, recognised the right of the State to legislate for preventive detention, subject to certain safeguards in favour of the detained person, as laid down in clauses (4) and (5) of Article 22. One of those safeguards is that the detained person has the right to be communicated the grounds on which the order of detention has been made against him, in order that he may be able to make his representation against the order of detention. In our opinion, in the circumstances of this case, it has not been shown that the appellant had the opportunity, which the law contemplates in his favour, of making an effective representation against his detention. On this ground alone we declare his detention illegal, and set aside the Order of the High Court and the Order of Detention passed against him."*



16. The aforesaid enunciation of law laid down by the Hon'ble Supreme Court makes it clear that non-supplying of document in the language known the detenue affects the detenue's right to give effective representation as provided under the law and the same is in violation of the Constitutional right guaranteed under Article 22(5) of the Constitution of India. Similar view has been taken by this Court in the cases of ***SMT. RAKHI PRAKASH PAWAR Vs. COMMISSIONER OF POLICE, BELAGAVI CITY, BELAGAVI DISTRICT AND OTHERS⁶***, ***SMT. P VIJAYALAKSHMI Vs. THE COMMISSIONER OF POLICE, BANGALORE CITY, BANGALORE AND OTHERS⁷*** and ***SMT. SHRENIKA Vs. THE STATE OF KARNATAKA AND OTHERS.⁸***

17. Though the petitioner has raised other grounds in the petition to attack the order of detention, we are of the considered view that the impugned orders of detention are required to be interfered on two grounds referred

⁶ 2016 (1) Kar.L.J 422 (DB)

⁷ 2015 (6) Kar.L.J 686 (DB)

⁸ WP No.201957/2023 (GM-RES) D.D.31.08.2023



supra and hence, we need not consider the other contentions. This Court has also taken note of the fact that the validity of the detention order would come to an end in a few days' time. Having held that the detention order under challenge is contrary to law and requires interference, we are of the considered view that the impugned order of detention is passed in violation of the fundamental rights of the detenue guaranteed under Article 21 of the Constitution of *India*. For the aforementioned reasons, we proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned detention order dated 31.01.2025 passed by the respondent No.3, the confirmation order dated 06.02.2025 passed by the respondent No.2 and the order dated 05.08.2025 passed by the respondent No.3, are hereby quashed.



- iii. The respondents are directed to set the detenue at liberty forthwith.
- iv. Registry is directed to communicate the operative portion of the order to the Chief Superintendent of Central Prison, Parappana Agrahara, Bengaluru, forthwith for compliance.
- v. No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 2 Sl No.: 1