



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

W.P.H.C. NO.106/2025

BETWEEN:

RAJA ALIAS REGAN
DETENUE
AGED ABOUT 26 YEARS
S/O JAKRIYAS
R/AT NO.802, CHAMARAJPET
ANDERSONPET, KGF TALUK
KOLAR DISTRICT.

PRESENTLY IN: CENTRAL JAIL
MYSORE.

...PETITIONER

(BY SRI. S. JAGAN BABU, ADV.,)

AND:

1. THE DEPUTY SECRETARY
HOME DEPARTMENT
GOVERNMENT OF KARNATAKA
(L AND O), VIDHANA SOUDHA
DR. AMBEDKAR VEEDHI
BENGALURU-560 001.
2. THE DEPUTY COMMISSIONER
AND DISTRICT MAGISTRATE
KOLAR DISTRICT
KOLAR.





3. THE POLICE SUB-INSPECTOR
ANDERSONPET POLICE STATION
K.G.F. TALUK, KOLAR DISTRICT.
4. THE DEPUTY SUPERINTENDENT OF POLICE
CHAMPION REEF, K.G.F. TALUK
KOLAR DISTRICT.
5. THE SUPERINTENDENT OF POLICE
CHAMPION REEF, K.G.F. TALUK
KOLAR DISTRICT.
6. THE SUPERINTENDENT OF CENTRAL PRISON
CENTRAL PRISON
MYSURU DISTRICT.

...RESPONDENTS

(BY SRI. B.A. BELLIAPPA, SPP-I WITH
SRI. THEJESH P, HCGP)

THIS WPHC IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR DIRECTION OR WRIT OF HABEAS CORPUS AND BE PLEASED TO QUASH THE ORDER PASSED BY RESPONDENT NO.1 DATED 16.08.2025 PASSED BY HOME DEPARTMENT (L AND O), VIDHANA SOUDHA DR. B.R. AMBEDKAR VEEDHI, GOVERNMENT OF KARNATAKA, NO.HD. 326 SST 2025 AND TO SET ASIDE THE DETENTION ORDER DATED 04.07.2025 PASSED BY 2ND RESPONDENT, DEPUTY COMMISSIONER AND DISTRICT MAGISTRATE AND BE PLEASED TO DIRECT RESPONDENT NO.6 SUPERINTENDENT OF POLICE, CENTRAL JAIL, MYSURU TO RELEASE THE PETITIONER. DIRECT RESPONDENT NO.6 TO RELEASE PETITIONER FORTHWITH & 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 detenue seeking a writ in the nature of certiorari quashing the detention order dated 04.07.2025 passed in No.MAG(2)CR/L&O/01/2025-26 by the respondent No.2, the order of approval dated 11.07.2025 and the order of confirmation No.HD.326 SST.2025 dated 16.08.2025 passed by the respondent No.1 detaining the detenue in Central Prison, Mysuru, 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 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.2 against the detenue on 04.07.2025 under Section 2(g) of



the Goonda Act, for being a habitual offender and repeatedly undertaking activities punishable under the various provisions of the Indian Penal Code, 1860 (hereinafter referred to as 'the IPC'), the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') and the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as 'the BNS') and in order to prevent him from further engaging in the activities prejudicial to the maintenance of the public order. The order of detention was approved vide order dated 11.07.2025 and confirmed by the respondent No.1 vide order dated 16.08.2025. Being aggrieved by the said order of detention and the consequent confirmation of the said order, this petition is filed by the detenue.

3. Sri.S.Jagan Babu, learned counsel appearing for the petitioner submits that the detention order has been passed in violation of law and suffers from the procedural irregularities. It is submitted that the detenue was not produced before the Advisory Board within 21 days from



the date of detention under the order, which is in violation of the procedure laid down in the Act. It is further submitted that the detainee was not furnished with the copies of the documents relied on by the Detaining Authority but only the order of detention and the grounds of detention were furnished, which is in violation of the right guaranteed under Article 22(5) of the Constitution of India i.e the right to give effective representation. Hence, he seeks to allow the petition by setting the detainee free.

4. The learned State Public Prosecutor-I 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, despite being under trial in various offences and being out on bail, has continued his illegal activities causing disturbance to the public order due to which, he is required to be detained under the order of preventive detention. Hence, he seeks to dismiss the petition.



5. We have heard the learned counsel appearing for the petitioner, learned SPP-I 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 04.07.2025 passed by the respondent No.2, the order of approval dated 11.07.2025 and the order of confirmation dated 16.08.2025 passed by the respondent No.1, are 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 indicates 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 04.07.2025 is passed by the respondent No.2 by recording the reason that the detainee is aged about 26 years and a resident of House No.802, Chamarajpet, Andersonpet, K.G.F. Taluk, Kolar District, and he has been involved in criminal cases including assault, attempt to murder, robbery and offences under the BNS, which 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.27/2025 registered by Andersonpet Police Station for the offences punishable under Sections 115(2), 118(1), 189(3), 189(4), 190, 191, 191(2), 351(2) and 352 of BNS Act.
- (b) Crime No.28/2025 registered by Andersonpet Police Station for the offences punishable under Sections 109, 115(2), 118(1), 3(5) and 352 of BNS Act.



- (c) Crime No.93/2016 registered by Robertsonpet Police Station for the offences punishable under Section 392 of the IPC.
- (d) Crime No.15/2017 registered by Robertsonpet Police Station for the offences punishable under Sections 380 and 457 of the IPC.
- (e) Crime No.90/2017 registered by Robertsonpet Police Station for the offences punishable under Sections 457 and 380 of the IPC.
- (f) Crime No.216/2018 registered by Robertsonpet Police Station for the offences punishable under Sections 457 and 380 of the IPC.
- (g) Crime No.73/2022 registered by Robertsonpet Police Station for the offences punishable under Sections 20(B)(2)(A) of the NDPS Act.



- (h) Crime No.30/2024 registered by Champion Reef Police Station for the offences punishable under Sections 110 E and G of the Cr.P.C.
- (i) Crime No.118/2024 registered by Robertsonpet Police Station for the offences punishable under Sections 129 E and G of the Bharatiya Nagarik Suraksha Sanhita, 2023.
- (j) Crime No.23/2025 registered by Robertsonpet Police Station for the offences punishable under Sections 115(2), 118(1), 118(2), 189(2), 189(4), 191(2), 191(3) and 190 of the BNS.
- (k) Crime No.66/2016 registered by Champion Reef Police Station for the offences punishable under Sections 380 and 457 of IPC.



- (l) Crime No.04/2017 registered by Champion Reef Police Station for the offences punishable under Sections 96(B) of the Karnataka Police Act, 1963.
- (m) Crime No.107/2018 registered by BEML Nagara Police Station for the offences punishable under Section 379 of IPC.
- (n) Crime No.03/2021 registered by BEML Nagara Police Station for the offences punishable under Sections 454, 457 and 380 of IPC.

10. The aforesaid crimes were registered against the detainee from 2016 to 2025. The last crime registered against the detainee is in Crime No.23/2025 on 19.03.2025.

11. It is contended by the learned counsel for the petitioner that the detainee was not furnished with the documents relied on by the Detaining Authority, which



violates the fundamental right of the detenu to give effective representation guaranteed under Article 22(5) of the Constitution of India.

12. It would be useful to refer to the decision of the Hon'ble Supreme Court in the case of **JASEELA SHAJI Vs. UNION OF INDIA¹**, wherein it was held as under:

"23. In M. Ahamedkutty v. Union of India [M. Ahamedkutty v. Union of India, (1990) 2 SCC 1 : 1990 SCC (Cri) 258] , this Court was considering the issue as to whether non-supply of the copies of the bail application and the bail order vitiated the right of the detenu under Article 22(5) of the Constitution of India. After taking the survey of the earlier judgments, this Court observed thus : (SCC pp. 12-13, paras 19-20)

"19. The next submission is that of non-supply of the bail application and the bail order. This Court, as was observed in Mangalbai Motiram Patel v. State of Maharashtra [Mangalbai Motiram Patel v. State of Maharashtra, (1980) 4 SCC 470 : 1981 SCC (Cri) 49] has "forged" certain procedural safeguards for citizens under preventive detention. The constitutional imperatives in Article 22(5) are twofold : (1) The detaining authority must, as soon as may be i.e. as soon as practicable, after the detention communicate to the detenu the grounds on which the order of detention

¹ (2024) 9 SCC 53



has been made, and (2) the detaining authority must afford the detenu the earliest opportunity of making the representation against the order of detention. The right is to make an effective representation and when some documents are referred to or relied on in the grounds of detention, without copies of such documents, the grounds of detention would not be complete. The detenu has, therefore, the right to be furnished with the grounds of detention along with the documents so referred to or relied on. If there is failure or even delay in furnishing those documents it would amount to denial of the right to make an effective representation. This has been settled by a long line of decisions : Ramchandra A. Kamat v. Union of India [Ramchandra A. Kamat v. Union of India, (1980) 2 SCC 270 : 1980 SCC (Cri) 414] , Frances Coralie Mullin v. W.C. Khambra [Frances Coralie Mullin v. W.C. Khambra, (1980) 2 SCC 275 : 1980 SCC (Cri) 419] , Icchu Devi Choraria v. Union of India [Icchu Devi Choraria v. Union of India, (1980) 4 SCC 531 : 1981 SCC (Cri) 25] , Pritam Nath Hoon v. Union of India [Pritam Nath Hoon v. Union of India, (1980) 4 SCC 525 : 1981 SCC (Cri) 19] , Tushar Thakker v. Union of India [Tushar Thakker v. Union of India, (1980) 4 SCC 499 : 1981 SCC (Cri) 13] , Lallubhai Jogibhai Patel v. Union of India [Lallubhai Jogibhai Patel v. Union of India, (1981) 2 SCC 427 : 1981 SCC (Cri) 463] , Kirit Kumar Chaman Lal Kundaliya v. Union of India [Kirit Kumar Chaman Lal Kundaliya v. Union of India, (1981) 2 SCC 436 : 1981 SCC (Cri) 471] and Ana Carelina D'Souza v. Union of India [Ana Carelina D'Souza v. Union of India, 1981 Supp SCC 53 (1) : 1982 SCC (Cri) 131(1)] .

20. It is immaterial whether the detenu already knew about their contents or not. In Mehrunisa v. State of Maharashtra [Mehrunisa v. State of Maharashtra, (1981) 2 SCC 709 : 1981 SCC (Cri) 592] it was held that the fact that the detenu was aware of the contents of the documents not furnished was immaterial and non-furnishing of the copy of the seizure list was held to be fatal. To appreciate this point one has to bear in mind that the detenu is in



jail and has no access to his own documents. In Mohd. Zakir v. State (UT of Delhi) [Mohd. Zakir v. State (UT of Delhi), (1982) 3 SCC 216 : 1982 SCC (Cri) 695] it was reiterated that it being a constitutional imperative for the detaining authority to give the documents relied on and referred to in the order of detention pari passu the grounds of detention, those should be furnished at the earliest so that the detenu could make an effective representation immediately instead of waiting for the documents to be supplied with. The question of demanding the documents was wholly irrelevant and the infirmity in that regard was violative of constitutional safeguards enshrined in Article 22(5)."

(emphasis supplied)

35. *In Ranu Bhandari [Union of India v. Ranu Bhandari, (2008) 17 SCC 348 : (2010) 4 SCC (Cri) 543] , this Court observed thus : (SCC pp. 355-56, paras 25-27)*

"25. Keeping in mind the fact that of all human rights the right to personal liberty and individual freedom is probably the most cherished, we can now proceed to examine the contention advanced on behalf of the parties in the facts and circumstances of this case. But before we proceed to do so, it would be apposite to reproduce hereinbelow a verse from a song which was introduced in the cinematographic version of Joy Adamson's memorable classic Born Free which in a few simple words encapsulates the essence of personal liberty and individual freedom and runs as follows:

*'Born free, as free as the wind blows,
As free as the grass grows,
Born free to follow your heart.
Born free and beauty surrounds you,
The world still astounds you,
Each time you look at a star.
Stay free, with no walls to hide you,*



*You're as free as the roving tide,
So there's no need to hide.
Born free and life is worth living,
It's only worth living, if you're born free.'*

The aforesaid words aptly describe the concept of personal liberty and individual freedom which may, however, be curtailed by preventive detention laws, which could be used to consign an individual to the confines of jail without any trial, on the basis of the satisfaction arrived at by the detaining authority on the basis of material placed before him. The courts which are empowered to issue prerogative writs have, therefore, to be extremely cautious in examining the manner in which a detention order is passed in respect of an individual so that his right to personal liberty and individual freedom is not arbitrarily taken away from him even temporarily without following the procedure prescribed by law.

26. We have indicated hereinbefore that the consistent view expressed by this Court in matters relating to preventive detention is that while issuing an order of detention, the detaining authority must be provided with all the materials available against the individual concerned, both against him and in his favour, to enable it to reach a just conclusion that the detention of such individual is necessary in the interest of the State and the general public.

27. It has also been the consistent view that when a detention order is passed all the material relied upon by the detaining authority in making such an order, must be supplied to the detenu to enable him to make an effective representation against the detention order in compliance with Article 22(5) of the Constitution, irrespective of whether he had knowledge of the same or not. These have been recognised by this Court as the minimum safeguards to ensure that preventive detention laws, which are an evil necessity, do not become instruments of oppression in the hands of the authorities concerned or to avoid criminal proceedings which would entail a proper investigation."

(emphasis supplied)



36. *A perusal of the aforesaid judgment would reveal that for emphasising the importance of personal liberty and individual freedom, this Court has reproduced Joy Adamson's memorable classic Born Free. This Court observed that though the concept of personal liberty and individual freedom can be curtailed by preventive detention laws, the courts have to ensure that the right to personal liberty and individual freedom is not arbitrarily taken away even temporarily without following the procedure prescribed by law. It has been held that when a detention order is passed all the material relied upon by the detaining authority in making such an order must be supplied to the detenu to enable him to make an effective representation. This Court held that this is required in order to comply with the mandate of Article 22(5) of the Constitution, irrespective of whether the detenu had knowledge of such material or not.*

37. *It is thus a settled position that though it may not be necessary to furnish copies of each and every document to which a casual or passing reference has been made, it is imperative that every such document which has been relied on by the detaining authority and which affects the right of the detenu to make an*



effective representation under Article 22(5) of the Constitution has to be supplied to the detenu."

13. It is clear from the aforesaid enunciation of law by the Hon'ble Supreme Court that though the concept of personal liberty and individual freedom can be curtailed by preventive detention laws, the Courts have to ensure that the right to personal liberty and individual freedom is not arbitrarily taken away even temporarily without following the procedure prescribed by law. It has been held that when a detention order is passed all the material relied upon by the Detaining Authority in making such an order must be supplied to the detenu to enable him to make an effective representation. In the instant case, the detenu was only furnished with the order of detention and the grounds of detention and no documents that were relied on by the Detaining Authority were furnished and the same is also admitted by the respondents, which clearly violates the fundamental right guaranteed under Article 22(5) of the Constitution of India.



14. 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 solely on the ground referred *supra*. Hence, we need not consider the other contentions. 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 detenu guaranteed under Article 21 of the Constitution of India.

15. For the aforementioned reasons, we proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned detention order dated 04.07.2025 passed by the respondent No.2, the order of approval dated 11.07.2025 and the order of confirmation



dated 16.08.2025 passed by the respondent No.1, are hereby quashed.

- iii. The respondents are directed to set the detenue at liberty forthwith if his detention is not required in any other cases.
- iv. Registry is directed to communicate the operative portion of the order to the Chief Superintendent of Central Prison, Mysuru, forthwith for compliance.
- v. No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE