



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

WRIT PETITION HABEAS CORPUS NO. 200015 OF 2025

BETWEEN:

SMT. PRIYANKA
W/O YASHWANT BETTA JEWARGI,
AGED ABOUT 37 YEARS,
OCC: HOUSEHOLD WORK,
R/O: TAJ SULTANPUR, NEAR DARGA,
KALABURAGI – 585 104.

...PETITIONER

(BY SRI SHARANABASAVESHWAR MAMADAPUR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY ITS SECRETARY,
DEPARTMENT OF INTERNAL
ADMINISTRATION (LAW AND ORDER),
VIDHANA SOUDHA, BANGALORE – 01.
2. THE ADDITIONAL DISTRICT MAGISTRATE
AND COMMISSIONER OF POLICE,
KALABURAGI CITY, KALABURAGI – 585 101.
3. THE DEPUTY COMMISSIONER,
OF POLICE (L AND O) AND SPECIAL EXECUTIVE
MAGISTRATE, KALABURAGI CITY,
KALABURAGI – 585 101.





4. THE ASSISTANT COMMISSIONER
OF POLICE, NORTH SUB-DIVISION,
KALABURAGI CITY, KALABURAGI – 585 101.
5. THE POLICE INSPECTOR,
CHOWK POLICE STATION,
KALABURAGI – 585 103.

...RESPONDENTS

(BY SRI SIDDALING P.PATIL, ADDL. SPP)

THIS WPHC IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I) ISSUE A WRIT OF HABEAS CORPUS OR ANY OTHER WRIT OR DIRECTION OR ANY OTHER ORDER IN THE NATURE OF WRIT DIRECTING THE RESPONDENTS TO PRODUCE PETITIONER'S HUSBAND SRI.YESHWANT S/O SRIPATI MELAKERI BEFORE THIS HON'BLE COURT AND CONSEQUENTLY SET HIM FREE IN THE EVENT OF HIS ILLEGAL DETENTION BY THE RESPONDENTS IN THE INTEREST OF JUSTICE AND EQUITY.

II) ISSUE A WRIT OF CERTIORARI OR ANY OTHER ORDER OR DIRECTION IN THE NATURE OF A WRIT QUASHING THE DETENTION ORDER PASSED BY THE RESPONDENT-2 DATED 25.04.2025 IN CASE BEARING NO.02/GOONDA/MAG-2/COP/KC/2025 AS PER ANNEXURE-A IN RESPECT OF DETENUE SRI YESHWANT S/O SRIPATI MELAKERI AND ETC.

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

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
and
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY



ORAL ORDER

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

The petitioner has challenged an order of detention dated 25.04.2025 passed by the respondent No.2 detaining her husband (henceforth referred to as 'detenue') under Section 3(1)(2) of the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug offenders, Gamblers, Goondas, Immoral traffic offenders, Slum grabbers and video or audio Pirates Act, 1985 (henceforth referred to as 'Act, 1985').

2. The respondent No.5 submitted a proposal to the respondent No.2 requesting the invocation of the provisions of Act, 1985 against the detenue for his preventive detention under Section 3(1)(2) of the Act, 1985. Along with the proposal, respondent No.5 submitted documents in support of his request for preventive detention of detenue. The respondent No.2 after considering the material passed an order dated 25.04.2025 detaining the husband of the petitioner. The



order of detention and the grounds of detention along with all documents were served on the detainee. The order of detention was sent for approval to the respondent No.1 who approved it in terms of an order dated 05.05.2025. The detainee submitted a representation against his preventive detention, which was rejected by the respondent No.1 in terms of an endorsement dated 16.05.2025. Thereafter, the detainee was informed about placing the order of detention before the advisory board for approval on 25.04.2025. The advisory board in terms of an order dated 05.05.2025 approved the order of detention. The petitioner is therefore before this court challenging the order of detention.

3. The learned counsel for the petitioner submitted that the order of detention is without complying the mandatory provisions of Act, 1985 and without carefully examining the material on record. He contends that the respondent No.5 being the sponsoring authority did not submit all the documents for the consideration of the



respondent No.2. He submitted that the respondent No.5 had furnished documents relating to the conviction of the detainee in S.C.No.179/2012, but the order passed by this Court in Criminal Appeal No.200048/2014, by which the detainee was acquitted, was not produced before the respondent No.2. He also contends that the detainee was enlarged on bail in all the cases referred to in the proposal and the orders of bail and the information that the detainee was released on bail was not placed before the respondent No.2. He contends that an order of detention cannot be passed for the mere asking and on the mere ground that some criminal cases are filed against the detainee. He contends for an order of preventive detention under the provisions of Act, 1985, the detainee should endanger public order. He contends that mere pendency of cases, does not justify a preventive detention more particularly when all the Courts have released the detainee on bail. He contends that not a single case is registered against the detainee which relates to disturbing public



order and morality and hence the order of detention is unwarranted and deserves to be set aside.

4. In support of these contentions, he has relied upon the following judgments:

- 1) Aameena Begum vs. State of Telangana – (2023) 9 SCC 587;
- 2) Nenavath Bujji v. State of Telangana – AIR 2024 SC 1610;
- 3) Sushanta Kumar Banik v. State of Tripura – 2022 SCC Online 1333;
- 4) Joyi Kitty Joseph v. Union of India – 2025 INSC 327;
- 5) Mallikarjun v. State of Karnataka – 2015 (1) KLJ 495;
- 6) Smt.Kalavati vs. State of Karnataka – 2015 (6) KLJ 337;
- 7) Smt.R.Latha v. T.Madiyal – 2000 (5) KLJ 304;
- 8) Smt.Shrenika v. State of Karnataka – W.P. No.201957/2023;
- 9) Sri Mutturaj v. State of Karnataka – W.P. No.200003/2025; and
- 10) Smt.Laxmi v. State of Karnataka – W.P.No.200002/2025.



5. (i) The petition is opposed by the State which has filed a statement of objections wherein it is contended that the petitioner has suppressed that the detainee was convicted in S.C.No.236/2019 for offences punishable under Sections 353, 332, 333, 307 IPC along with Section 25 and 27 of the Arms Act by the III Additional Sessions Judge, Kalaburagi vide judgment dated 26.09.2022.

(ii) It is also claimed that there are four more cases pending trial and the detainee is tried for heinous offences while one case is under investigation. Therefore, it is contended that the detainee is a dangerous offender, who, if left free would be a threat to the society at large. It admitted that the detainee was enlarged on bail in all cases referred to in the proposal submitted by the respondent No.5, but contended that the detainee had violated the conditions of the bail orders time and again and he had paid fine of Rs.30,000/- in the office of the respondent No.3 for jumping the bail conditions on 16.11.2024. It is claimed that the detainee was involved in criminal activities



from the year 2010 till now and he has committed offences at regular intervals and has no respect for law. In addition, it is claimed that a rowdy sheet is opened against him at the respondent No.5 on 17.05.2014 and he is kept under observation. It is claimed that instead of mending his behaviour, the detainee got involved in further fresh cases for heinous offences including offences under the Arms Act. Therefore, it is contended that the detainee is not deterred from committing any offences. It is also claimed that the detainee is a threat to public tranquility in the city and therefore invoking provisions under Section 3(1)(2) of the Goonda Act, an order of detention was passed.

6. It is claimed that the detainee was involved in the following cases :

ಕ್ರ. ಸಂ.	ವರ್ಷ	ಪೋಲೀಸ್ ಠಾಣೆ	ಮೊಕದ್ದಮೆ / ಗುನ್ನಾ ಸಂಖ್ಯೆ	ಕಾಯ್ದೆಯ ಕಲಂ	ಪ್ರಸ್ತುತ ಹಂತ
1	2010	ಸಬ್ ಅರ್ಬನ್	223/2010	399, 402 ಐಪಿಸಿ	ಈ ಪ್ರಕರಣದಲ್ಲಿ ಶಿಕ್ಷೆ ವಿಧಿಸಲಾಗಿದೆ.
2	2015	ಸಬ್ ಅರ್ಬನ್	237/2015	182, 211 ಐಪಿಸಿ ಮತ್ತು 25, 27 ಭಾರತೀಯ ಆಯುಧ ಕಾಯ್ದೆ	ನ್ಯಾಯಾಲಯದ ವಿಚಾರಣೆಯಲ್ಲಿರುತ್ತದೆ
3	2017	ಸಬ್ ಅರ್ಬನ್	347/2017	143, 147, 148, 364, 302, 201,	ನ್ಯಾಯಾಲಯದ



				504, 506, 109 ಸಂ.149 ಐಪಿಸಿ ಮತ್ತು 25, 27 ಭಾರತೀಯ ಆಯುಧ ಕಾಯ್ದೆ	ವಿಚಾರಣೆಯಲ್ಲಿರುತ್ತದೆ
4	2017	ಸಬ್ ಅರ್ಬನ್	415/2017	353, 332, 333, 307 ಐಪಿಸಿ ಮತ್ತು ಪಬ್ಲಿಕ್ ಪ್ರಾಪರ್ಟಿ ಡ್ಯಾಮೇಜ್ ಆಕ್ಟ್ 1984 ಕಲಂ. 3 ಹಾಗೂ 25, 27 ಭಾರತೀಯ ಆಯುಧ ಕಾಯ್ದೆ	ಈ ಪ್ರಕರಣದಲ್ಲಿ ಶಿಕ್ಷೆ ವಿಧಿಸಲಾಗಿದೆ.
5	2022	ಆಲಮೇಲ್ (ವಿಜಯಪುರ ಜಿಲ್ಲೆ)	16/2022	143, 147, 148, 342, 365, 109, 120 (ಬಿ) 364ಎ, 302, 201 ಸಂ.149 ಐಪಿಸಿ	ನ್ಯಾಯಾಲಯದ ವಿಚಾರಣೆಯಲ್ಲಿರುತ್ತದೆ
6	2024	ಚೌಕ್	167/2024	189 (2), 191(2), 191 (3), 109(1), 61(2), 111 ಸಂ.190 ಬಿಎನ್.ಎಸ್. ಕಾಯ್ದೆ ಮತ್ತು 25, 27 ಭಾರತೀಯ ಆಯುಧ ಕಾಯ್ದೆ	ನ್ಯಾಯಾಲಯದ ವಿಚಾರಣೆಯಲ್ಲಿರುತ್ತದೆ
7	2025	ಬ್ರಹ್ಮಪುರ	52/2025	308 (2), 352, 351(2), 351(3), 3(5) ಬಿ.ಎನ್.ಎಸ್.ಕಾಯ್ದೆ	ಪ್ರಕರಣವು ತನಿಖಾ ಹಂತದಲ್ಲಿರುತ್ತದೆ.

7. It is contended that the purpose of detaining the detenué is not to punish him but to prevent him from committing similar offences. Therefore, it is contended that there is no need to interfere with the order passed by respondent No.2.

8. They learned Additional State Public Prosecutor reiterated above contentions and submitted that the detenué has indulged in serious offences ranging from offences under Section 364, 302 and Arms Act etc., He contends that if the detenué goes around with an illegal



firearm, that would create fear in the minds of the general public and hence he would be a threat to public order and hence, the respondent No.2 has rightly passed the order of detention. He therefore prays that the petition filed by the petitioner be dismissed. In support of his contention, he has relied upon the following judgments :

- i) Pesala Nookaraju vs. The Government of Andhra Pradesh and others – 2023 INSC 734;
- ii) Smt.Roopa W/o Nagaraj vs. State of Karnataka and others – W.P.(HC) No.37/2025;
- iii) Mrs.Shaziya vs. State of Karnataka and others – W.P.(HC) No.200011/2025.

9. We have considered the submissions of the learned counsel for the petitioner and the learned Additional State Public Prosecutor for the State/respondents.

10. The order of detention passed by the respondent No.2 shows that what was placed before the respondent No.2 were the documents relating to several cases registered against the detainee in various police



stations. The first of the cases was the conviction of the detainee in Crime No.223/2010. However, the detainee had filed an appeal against the said judgment before this Court in Criminal Appeal No.200048/2014 where he was acquitted. The said material was not placed before the respondent No.5. Similarly, the detainee was released on bail in all the seven offences that were registered against him and the said fact was not placed before the respondent No.2. The order of detention shows that the prime reasons for the arrest of the detainee under the Act, 1985, were (i) Cases registered in various districts, (ii) Conviction by courts, (iii). Prime accused in heinous cases, (iv). Rowdy cheetah, (v). Indulging in barbarous acts, (vi). No respect towards law of land, (vii) Tendency to indulge in acts prejudicial to maintenance of law and order, (viii). Threat to public peace and order.

11. A 'Goonda' is defined under Section 2(g) of the Act, 1985 as follows :



"(g) "Goonda" means a person who either by himself or as a member of or leader of a gang, habitually commits or attempts to commit or abets the commission of offences punishable [under Chapter VIII, Chapter XV, Chapter XVI] Chapter XVII or Chapter XXII of the Indian Penal Code (Central Act XLV of 1860)."

12. The respondents are vested with the power to pass orders of detention of certain persons who are goondas, who are in any manner prejudicial to the maintenance of public order in the manner prescribed under Section 3 of the Act, 1985. The same is extracted below :

"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."

13. While doing so, the respondents are bound to be cautious and ensure compliance of Article 22 of the Constitution of India as the fundamental right of the detainee under Article 21 of the Constitution of India would be impaired. Therefore, the respondents are bound to ensure that the respondent No.2 was fully informed of all the facts and circumstances which warranted the preventive detention of the detainee.

14. An order of preventive detention curtails the personal life and liberty of an individual and therefore



while passing such an order, the detaining authority cannot do so casually. He is bound to take a holistic view of all facts and circumstances and verify whether there is a need for detaining a person to prevent him from committing similar offences. It is apposite to rely the decision of the Hon'ble Supreme Court in the case of ***Sushanta Kumar Banik v. State of Tripura and others***

- **2022 SCC Online SC 1333**, which held as follows :

"27. From the above decisions, it emerges that the requisite subjective satisfaction, the formation of which is a condition precedent to passing of a detention order will get vitiated if material or vital facts which would have bearing on the issue and weighed the satisfaction of the detaining authority one way or the other and influence his mind are either withheld or suppressed by the sponsoring authority or ignored and not considered by the detaining authority before issuing the detention order."

15. As stated earlier, the respondent No.5 did not place on record the order of acquittal of the detainee in Criminal Appeal No.200048/2014 and the orders of bail granted by the courts in all the cases registered against the detainee. Therefore the respondent No.2 was not fully



appraised of all facts so as to enable the respondent No.2 to take an informed decision to pass an order of preventive detention. If only the Courts were convinced that the detainee was a habitual offender and his release was deleterious to law and order, the Courts would not have, released the detainee on bail. Once the detainee was released on bail, there must be extraordinary and compelling reasons to detain a person and curtail his fundamental rights. Be that as it may, the respondent No.5 ought to have justified the request for preventive detention of the detainee by placing all material facts to justify that the detainee has indulged in criminal activities after he was released on bail and such criminal activities affected public order. Our criminal jurisprudence is built on the premise that an accused is innocent until proven guilty. A person is not guilty of an offence merely because the police say so but have to prove to the Court as to how he is guilty. If in the meanwhile, the Courts have released



such person on bail, the authorities cannot misuse the power of preventive detention to detain such a person.

16. Mere involvement in criminal cases, even if heinous *per se* would not enable the respondent No.2 to seek for preventive detention as the law of the land would take care of such offences. The cases which are registered against the detainee even if taken into consideration, show that the detainee had indulged in the alleged acts for personal gain. There appears to be no case where the detainee has indulged in activities which affect public order. In this regard, it is apposite to refer to the judgment of the Apex Court in the case of ***Nenavathi Bujji v. State of Telangana – AIR 2024 SC 1610*** where the Hon'ble Apex Court, while considering the distinction between law and order and public order, held as follows :

"23. The explanation attached to Section 2(a) of the Act 1986 reproduced above contemplates that 'public order' shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely, inter alia if any of the activities of any person referred to in Section 2(a) directly or indirectly, are causing or is likely to cause any harm,



danger or alarm or feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life, property or public health. The Explanation to Section 2(a) also provides that for the purpose of Section 2, a person shall be deemed to be "acting in any manner prejudicial to the maintenance of public order" when such person is a "GOONDA" and engaged in activities which affect adversely or are likely to affect adversely the maintenance of public order. It, therefore, becomes necessary to determine whether besides the person being a "GOONDA" his alleged activities are such which adversely affected the public order or are likely to affect the maintenance of public order."

17. Therefore, we are of the opinion that the materials placed before the respondent No.2 were in the first instance insufficient and the respondent No.5 did not place all materials before the respondent No.2 to pass an informed decision for preventive detention of the detainee. Besides this, the mere involvement of the detainee in criminal offences, *per se* does not amount to violation of public order and consequently, the power under Section 3(1)(3) of the Act, 1985 could not have been exercised against the petitioner.



18. In that view of the matter, this petition is ***allowed***. The order of preventive detention of the detainee dated 25.04.2025 in case bearing No.2/Goonda/MAG-2/COP/KC/2025 passed by respondent No.2 was set aside. The detainee is directed to be released forthwith.

**Sd/-
(R.NATARAJ)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**