



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WPHC NO.1 OF 2026

BETWEEN:

NAGARATHNA
W/O BASAVARAJU,
AGED ABOUT 56 YEARS,
R/AT 88, WARD NO.11,
SALAGAME ROAD,
RANGOLIHALLA, HASSAN-01.

...PETITIONER

(BY SRI. PRATHEEP.K.C., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
BY ITS ADDITIONAL CHIEF SECRETARY,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BANGALORE-560 001.
2. THE DEPUTY COMMISSIONER,
AND DISTRICT MAGISTRATE,
HASSAN DISTRICT,
HASSAN-573 201.
3. THE SUPERINTENDENT OF POLICE,
HASSAN DISTRICT,
HASSAN-573 201.
4. THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON,

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA





BELLARY - 583 101

...RESPONDENTS

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

THIS WP(HC) IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, BY THE PETITIONER, WHEREIN PRAYS THAT THE HONBLE COURT MAY BE PLEASED TO A WRIT IN THE NATURE OF HABEAS CORPUS BY QUASHING THE ORDER OF DETENTION DATED 07.05.2025 PASSED BY RESPONDENT NO.2 IN NO.MAG-41/2025-26 WHICH IS PRODUCED AT ANNEXURE-A. A WRIT IN THE NATURE OF HABEAS CORPUS BY QUASHING THE EXTENSION OF DETENTION ORDER DATED 23.06.2025 PASSED BY THE RESPONDENT NO.1 IN HD 246 SST 2025 WHICH IS PRODUCED AT ANNEXURE-C.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This petition is filed challenging an Order of preventive detention passed on 07.05.2025 as well as the Order of approval dated 16.05.2025 and confirmation Order dated 23.06.2025.

2. We have heard Sri Pratheep K C, learned counsel appearing for the petitioner and Sri B A Belliappa,



learned Special Public Prosecutor - I alongwith Sri Thejesh P, learned High Court Government Pleader.

3. The learned counsel appearing for the petitioner submits that several grounds have been raised in the writ petition against the order of detention. However, it is submitted that the sole ground being argued before us today is that the detenue had been released on bail in the last case, that is, Crime No.82/2024 of the Pension Mohalla Police Station by an Order of this Court in CrI.P.No.4099/2025 on 15.04.2025. It is submitted that a perusal of the Order of Detention would clearly show that the Detaining Authority was completely unaware of the fact that the detenue had been released on bail on 15.04.2025. The Detaining Authority has specifically stated that the detenue is in custody in the said offence and that the fact that the Detaining Authority is unaware of the release on bail vitiates the Detention Order.

4. The learned counsel would rely on the decision of the Apex Court in the case of ***Rushikesh Tanaji***



Bhoite vs State of Maharashtra and Others reported in **(2012) 2 SCC 72**. It is contended that the Apex Court considering an almost identical fact situation had specifically held as under -

" 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 15.08.2010 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."

5. It is submitted that a Three Judge Bench of the Apex Court in ***Rekha vs The State of Tamil Nadu and Another*** reported in **(2011) 5 SCC 244** has also considered the issue and has held that a Detention Order would be bad if the Detaining Authority was not aware of the fact that a bail application of the detenue was pending on the date when the detention order was passed. The



Apex Court held in ***Rushikesh Tanaji's case*** (supra), that where the detinue was already released on bail and the Detaining Authority was not aware of the fact, then the detention order would be bad on that account. The learned counsel would also place reliance on the judgment in the case of ***Dhanya M vs State of Kerala and Others*** reported in **(2025) INSC 809** as well as the judgment of a Co-Ordinate bench of this Court dated **19.02.2026** in **WPHC No.122/2025**.

6. The learned Special Public Prosecutor-I, appearing for the respondents would submit that the fact of the detinue's release on bail is not a fact which is relevant to the detention of the detinue. It is submitted that there were 14 cases registered against the detinue, out of which he was acquitted in 6 of the cases. It is submitted that in many of the cases which are pending against him, he had been enlarged on bail which did not prevent him from indulging in further illegal activities and further FIRs being registered against him. It is submitted



that even if the fact of the detainee being released on bail were to be known to the Detaining Authority, it would only improve the case of the Detaining Authority since the release on bail would be a further reason to keep the detainee under preventive detention.

7. We have considered the contentions advanced on either side. We notice that the recital in the detention order with regard to the last crime that is, Crime No.82/2024 under Section 302 read with Section 34 of the Indian Penal Code of the Pension Mohalla Police Station is as follows:-

**"14. Pension Mohla Police Station Cr No: 82/2024
U/s 302 R/w 34 IPC:-**

On 05/06/2024 at around 7.45-8.00 am the husband of the first informant Sint. Gowthami, namely Ravikumar @ Child Ravi, went on his white color Honda Activa scooter having reg. number KA 13 EW 5490 to fetch drinking water. After a few minutes, someone came to informants house and told that someone had killed her husband to death near Shivappa's house. She immediately went to the spot and found her husband lying in blood. There were chop wounds on the neck and hands, and when Complainant enquired about the people present at the spot, it was learned that you Preetham Gowda @ Preetham, a resident of Rangolihalla, had come there with 2-3 people with in a car and dashed against Ravi kumar's scooter when Ravi kumar fell down you and



your accomplices attacked Ravi kumar with sharp weapons and killed the informant's husband Ravikumar as you had enmity and were not talking each other. You had been saying that you will kill Ravikumar and make a big name for yourself. On this date 05/06/2024 at 7.45-8.00 a.m. you Preetham and your associates killed Ravikumar with Weapons in front of Shivappa house near 9th Cross, 3rd Main Road, Hemavati Nagar, Hassan Town. As mentioned above, a case has been registered against you based on the first information lodged that you have committed murder by chopping Ravikumar with deadly weapons.

In the above case you Preetham Gowda @ Preetham is accused-1. Your Associates A2 Keerthi, A3 Ranganath, A4 Ameet have been arrested by the investigating officer on 06/06/2024. 1)KA-13-EW-5490 Honda Activa Scooter, 2) KA-02-N-7459 Silver colour Santro Car, three 22 Inches long Machettes, one 21 inch Long sword, 03 Android Mobiles, 3)KA-01-AJ-8404 Bajaj RE Compact LPG Auto 4) One i Phone mobile of APPLE Company make 5)KA-02-N-7459 Car and one Realme Company Mobile were seized through Seized Mahazar and entered in Station Property No-77/2024, 74/2024, 79/2024, 81/2024, 82/2024 respectively. The other accused in this case namely A5 Accused Lokesh is arrested on 18/06/2024 and A6 accused Bharatraj S.R, A7 Accused Manikanta. J.K were arrested on 11/06/2024 and Produced before the Hon'ble court and the court remanded you and all other accused to judicial custody. CCTV images of the crime have been seized and subjected to PF. The charge sheet is and filed in SC NO.202/2024. Next date of hearing is 24/04/2025."

(Emphasis supplied)

8. After referring to the details of the crime, it is stated in the detention order that the detainee is remanded



to judicial custody and is in custody in connection with the said crime.

9. The learned counsel appearing for the petitioner has placed on record a memo producing the order of a learned Single Judge of this Court dated 15.04.2025 in Criminal Petition No.4099/2025. By the said order, the criminal petition is allowed and the petitioner/the detenue herein is directed to be enlarged on bail in Crime No.465/2024 of SC No.202/2024 pending before the Court of the V Additional District and Sessions Judge, Hassan, arising out of Crime No.82/2024 registered by the Pension Mohalla Police Station, Hassan. The conditions on which the bail is granted are as follows.

"a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

b) The petitioner shall appear before Station House Officer between 10.30 am and 01.00 pm on first Sunday of every month and mark his attendance till the case registered against him is closed;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;



e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off."

10. It is therefore clear from a reading of the order of detention the fact that the detainee has been released on bail was not known to the Detaining Authority. The Apex Court has clearly held that in a case where a detainee is released on bail at the time of the passing of the order of detention, then such order of bail must be placed before the Detaining Authority to enable him to reach a proper satisfaction. The question as to in what manner and to what extent consideration of the order granting bail to the detainee would have affected the satisfaction of the Detaining Authority was held to be not relevant since the question would be that the non-placing or non-consideration of the fact that the detainee is on bail would be relevant for the consideration as to whether the detainee is required to be placed under preventive detention.



11. Having considered the contentions advanced and the materials on record, we find that in the instant case, the detainee had been released on bail by order of this Court dated 15.04.2025. The detention order came to be passed on 07.05.2025. In the said detention order, it is clear that the Detaining Authority is completely unaware of the fact that the detainee has been enlarged on bail.

12. In the above view of the matter, we are of the opinion that the contention raised by the petitioner that the fact of the detainee being released on bail not being noticed by the Detaining Authority is a flaw in the reasoning of the Detaining Authority.

13. In the above circumstances, we are of the opinion that the Detention Order is liable to be set aside on that ground. The writ petition succeeds. The order of the detention as well as the order of confirmation are set aside. The detainee shall be released, in case he is not required to be detained in any other offences.



14. The gist of the order shall be communicated to the Superintendent of Central Prison, Bellary.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

YKL
List No.: 2 Sl No.: 2