



NC: 2026:KHC:23593-DB
WPHC No. 6 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

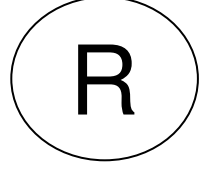
PRESENT

HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

W.P.H.C NO.6 OF 2026



BETWEEN:

DIL SHAD
W/O HUSEEN KABEER,
AGED ABOUT 42 YEARS,
R/AT-D NO.1-187(6),
NEAR PEJAVARA CHURCH,
KALVAR, KALAVARA,
DAKSHINA KANNADA – 574 142.

...PETITIONER

(BY SRI. DINESHKUMAR RAO K., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BANGALORE - 560 001
2. THE DEPUTY COMMISSIONER AND
DISTRICT MAGISTRATE,
UDUPI DISTRICT, UDUPI – 576 101
3. THE SUPERINTENDENT OF POLICE,
UDUPI DISTRICT, UDUPI – 576 101
4. THE DEPUTY SUPERINTENDENT OF POLICE,
UDUPI DISTRICT, UDUPI – 576 101

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



5. THE INSPECTOR OF POLICE,
KARKALA TOWN POLICE STATION,
UDUPI DISTRICT – 576 104
6. THE SUPERINTENDENT OF JAIL,
CENTRAL PRISON, MYSURU DISTRICT,
MYSURU – 570 022

...RESPONDENTS

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

THIS WP(HC) IS FILED UNDER ARTICLES 226 & 227 OF CONSTITUTION OF INDIA PRAYING TO A WRIT IN THE NATURE OF HABEAS CORPUS BY QUASHING OF THE ORDER OF DETENTION DATED 10.07.2025 PASSED BY RESPONDENT NO.2 IN NO.MAG(2)-CR-414/2025/E-214858 PRODUCED AT ANNEXURE-A & B, IN THE INTEREST OF JUSTICE AND ETC

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

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

ORAL ORDER

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present petition has been filed seeking to challenge an order of detention passed by the Respondent No.2/the Deputy Commissioner and District Magistrate, Udupi District, Udupi on 10.07.2025 (hereinafter referred to as the 'Detention Order') and a Confirmation Order passed by Respondent No.1/the State of Karnataka on



17.07.2025 (hereinafter referred to as the "Confirmation Order"). A prayer has also been made directing the release of the Detenue.

2. The brief facts of the case are that a Detention Order was passed under the Karnataka Prevention of Dangerous Activities of Bootleggers, Drugs Offenders, Gamblers, Goondas, Immoral Traffic Offences and Slum-Grabbers Act 1985 (hereinafter referred to as the '1985 Act') by the Respondent No.2/Magistrate on 10.07.2025, after recording subjective satisfaction that the activities of the Detenue were prejudicial to the maintenance of the public order. The Detention Order was approved by the respondent No.1/State, who issued a confirmation order on 17.07.2025. The petition has been filed by the wife of the Detenue, since the Detenue is in custody.

2.1 It is the case of the petitioner that the Detention Order is completely vague and does not set out any specific provision under which the Detention Order has been passed in terms of the 1985 Act. It merely



references Section 3(1) of the 1985 Act without setting out the type of offence under Section 2 of the 1985 Act.

2.2 The learned counsel for the petitioner submits that the Detention Order must not only be clear and specific and refer to the provisions of the 1985 Act that attracted, and it must also set out the satisfaction that the Retaining Authority has obtained. However, both are missing from the Detention Order.

2.3 The learned counsel for the petitioner further submits that the grounds of detention clearly show that of the 17 cases that have been stated to be registered against the Detenu, however, the petitioner was acquitted in most of those cases, and was only convicted in one case. The Detention Order however does not reference that fact at all. He seeks to rely upon the judgment of a Co-Ordinate Bench passed in ***Prema vs. State of Karnataka & Others¹***, in this behalf.

2.4 Lastly, it is contended that no opportunity was given to the detenu for making a representation against the

¹ W.P.(HC) No.80/2014, dtd.07.07.2014



Detention Order and that this lapse would by itself vitiate the Detention Order. The learned counsel for the petitioner seeks to rely upon the judgment of the Supreme Court in ***Kamlesh Kumar, Ishwardas Patel vs. Union Of India And Others***² to submit that where the Detaining Authority fails to inform the Detenue that he has a right to make a representation, such is a denial of his Constitutional Right and the order of detention is to be satisfied on this ground.

3. The learned HCGP on the other hand submits that the Detention Order sets out that the detention has been sought for under the provisions of Section 3 of the 1985 Act and thus the requirements of the provision are satisfied. He submits that the Detention Order was passed strictly in exercise of powers under Section 3(1) of the 1985 Act considering the gravity of the criminal activities of the detenu and after recording the subjective satisfaction.

² (1995) 4 SCC 51



3.1 Learned HCGP further submits that the detenu was informed of his right to be heard in person before the Advisory Board, and to make a representation as is mandated by Article 22(5) of the Constitution of India, 1950. Thus, the contention of the petitioner in this behalf is without merit.

4. An examination of the provisions of the 1985 Act shows that Section 3(1) of the 1985 Act, directs that the State Government has the power to make any orders, if satisfied that a person is a Bootlegger, Drug Offender, Gambler, Goonda, Immoral Traffic Offender and Slum-Grabber or Audio/Video pirate and may pass an order detaining him. Section 2 of the 1985 Act defines as to who may be called a 'Bootlegger' (sub-section 2(b); 'Drug Offender' sub-section 2(e); 'Gambler' sub-section 2(f); 'Immoral Traffic Offender' sub-section 2(h); 'Slum Grabber' sub-section 2(i) Video/Audio Pirate). In addition, the term 'goonda' is defined under Section 2(g) of the



1985 Act. The relevant extracts of Sections 2 and 3 of the
1985 Act is set out 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 1 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.

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2. Definitions-In this Act, unless the context otherwise requires –

(a) **"acting** in any manner prejudicial to the maintenance of public order" means,-

(i) in the case of a bootlegger, when he is engaged, or is making preparations for engaging, in any of his activities as a bootlegger, which affect adversely, or are likely to affect adversely, the maintenance of public order;

(ii) in the case of a drug-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a drug-offender, which affect adversely or are likely to affect adversely the maintenance of public order;

(iii) in the case of a gambler when he is engaged, or is making preparations for engaging in any of his activities as a gambler which affect adversely or are likely to affect adversely the maintenance of public order ;

(iv) in the case of a goonda when he is engaged, or is making preparations for engaging, in any of his activities as a goonda which affect adversely or are likely



to affect adversely the maintenance of public order ;

(V) in the case of an immoral traffic offender when he is engaged, or is making preparations for engaging in any of his activities as an immoral traffic offender which affect adversely, or are likely to affect adversely, the maintenance of public order;

(vi) in the case of a slum-grabber, when he is engaged, or is making preparations for engaging, in any of his activities as a slum-grabber, which affect adversely or are likely to affect adversely the maintenance of public order;

*(b) "**bootlegger**" means a person, who distills, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any of the provisions of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) and the rules, notifications and orders made thereunder, or in contravention of any other law for the time being in force, or who knowingly expends or applies any money or supplies any animal, vehicle, vessel or other conveyance or any receptacle or any other material whatsoever in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such things ;*

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*(e) "**drug-offender**" means a person, who manufactures, stocks, imports, exports, sells or distributes any drug or cultivates any plant or does any other thing in contravention of any of the provisions of the Drugs and Cosmetics Act, 1940 (Central Act XXIII of 1940), or the Dangerous Drugs Act, 1930 (Central Act II of 1930) and the rules, notifications and orders made under either Act, or in contravention of any other law for the time being in force, or who knowingly expends or applies any money in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such things ;*

*(f) "**gambler**" means a person, who commits or abets the commission of any offence punishable under Chapter VII of the Karnataka Police Act,*



1963 (Karnataka Act 4 of 1964) including an offence of gambling relatable to "matka" and punishable under the said Chapter;

(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);

(h) **"immoral traffic offender"** means a person who commits or abets the commission of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956) ;

(i) **"slum-grabber"** means a person, who illegally takes possession of any land (whether belonging to Government, local authority or any other person) or enters into, or creates illegal tenancies or leave and license agreements or any other agreement in respect of such lands ; or who constructs unauthorised structures thereon for sale or hire, or gives such lands to any person on rental or leave and licence basis for construction or use and occupation, of unauthorised structures or who knowingly gives financial aid to any person for taking illegal possession of such lands, or for construction of unauthorised structures thereon, or who collects or attempts to collect from any occupier of such lands, rent, compensation or other charges by criminal intimidation, or who evicts or attempts to evict any such occupier by force without resorting to the lawful procedure; or who abets in any manner the doing of any of the above mentioned things ;

xxx

xxx

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(k) **"Video or Audio pirate"** means a person who commits or attempts to commit or abets the commission of offences of infringement of copy right habitually for commercial gain, in relation to cinematograph film or a record embodying any part of the sound track associated with the film, punishable under the Copy Right Act, 1957 (Central Act XIV of 1957).

[Emphasis Supplied]



4.1 Thus the provision sets out that where the Authority is satisfied in respect of one of the activities that are set out in Section 2(b), (e), (f), (g), (h), (i) and/or (k) of sub Section 2 of the Act, the Authority may make an order to prevent him acting in a manner which would disturb public order, directing such person to be detained.

5. A perusal of the Detention Order however shows that the order after referencing subsection (1) of Section 3 of the 1985 Act, states that the Detenue be detained in the Central Prison, Mysuru, without mentioning any ground under Section 2 of the type of offence committed, in the following manner:

*" WHERE AS, I Swaroopa.T.K., IAS, District Magistrate Udupi District, **am satisfied that with a view to preventing the person known** as Sri Kabir, age: 46 years S/o PK Mayaddi, R/o Near Moiddeen Jumma Masjid, Kampana Kaudur Village & Post Office, Karkala Taluk, Udupi District, Udupi **from acting in any manner prejudicial to the maintenance of public order, it is necessary to make an order directing him to be detained.***

*Now, therefore, in exercise of **the powers conferred by sub-section (1) of section 3 of the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum-Grabbers Act, 1985 (Karnataka Act No.12 of 1985)** read with Government Order No.HD.75 SST 2025 Dated: 30.05.2025, **I hereby direct that the***



**said Sri Kabir, age: 46 years, S/o. PK Mayaddi, R/
Near Moiddeen Jumma Masjid, Kampana Kadur Village
And Post Office, Karkala Taluk, Udupi District, Udupi be
detained in the Central Prison, Mysuru.**

[Emphasis Supplied]

6. In addition, in the statement of objections filed by the respondent No.1/State, it is not denied that the Detention Order has not set out the relevant provision. It is however contended that the defect regarding not specifically referring to Section 2(g) of the 1985 Act in the Detention is misconceived and that the substance of the order clearly establishes that the Detenue falls within the definition of 'goonda' under the 1985 Act.

7. The Supreme Court in the case of ***Mortuza Hussain Choudhary vs. State of Nagaland and Others***³ has held that the satisfaction of the Detaining Authority has to be set out after application of mind and cannot be by a casual reference or a bald recital to the effect in the following manner:

"16. Lastly, the material placed on record reflects that the detaining authority, viz., the Special Secretary, Home Department, Government of Nagaland, did not

³ 2025 SCC OnLine SC 502



even make separate grounds of detention but merely acted upon the proposals for detention forwarded to her by the Additional Director General of Police (Administration), Nagaland. The cryptic orders of detention passed by her on 30.05.2024 merely recorded that she was satisfied, on careful examination of such proposals and other supporting documents, that sufficient grounds were made out for the detention of Ashraf Hussain Choudhary and Adaliu Chawang. This is not in keeping with the statutory scheme, inasmuch as Section 6 of the Act of 1988 specifically refers to the order of detention 'being made' on separate grounds. Further, Section 3(1) also records that the authorized officer, be it of the Central Government or of a State Government, must be 'satisfied' that the person concerned required to be detained so as to prevent him/her from engaging in illicit trafficking of narcotic drugs and psychotropic substances. Such 'satisfaction' of the detaining authority necessarily has to be spelt out after application of mind by way of separate grounds of detention made by the detaining authority itself and cannot be by inference from a casual reference to the material placed before such detaining authority or a bald recital to the effect that the detaining authority was 'satisfied' on examination of the proposals and supporting documents' that the detention of the individuals concerned was necessary."

8. The Co-ordinate Bench in the case of **Prema vs. State of Karnataka & Others** has held that not mentioning the grounds of detention specifically, in the Detention Order would be a serious lapse on the part of the Detaining Authority and thus, it is a clear case of non-application of mind. The relevant extract of the judgment of the Co-Ordinate Bench is below:

" 3..... The detention states that he has been consistently conducting the game of chance called



*Bombay Matka. Therefore, the same would come under the provisions of Section 2(f) of the Act. **The grounds of detention order, having mentioned Section 2(g), is a serious lapse on the part of the detaining authority. Section 2(g) is with reference to a goonda who habitually** commits or attempts to commit offences punishable under Chapter VIII, XV, XVI, XVII or XXII of the IPC. **Therefore, it is a clear case of non-application of mind.** Therefore, we have no hesitation to hold that the order of detention stands vitiated on this ground alone. Hence it is not necessary for us to consider various other grounds urged. Since the very order of the detaining authority shows the abject non-application of mind, such an order cannot be allowed to remain. Consequently, the detention order vide Annexure-B dated 28-2-2014 passed by respondent No.2 confirming the order of detention vide Annexure-D dated 10-3-2014 passed by respondent No.1 and the extension of detention order vide Annexure-E dated 11-4-2014 passed by respondent No.1 are quashed."*

[Emphasis Supplied]

9. In addition, although an examination of the Detention Order, does reflect that although there were 17 cases against the Detenue, the Detenue was acquitted in more than 50% of those cases, while 3 of these cases have ended in a compromise. In addition, in Sl.No.4, the accused was convicted, the investigation is still pending in four of these cases at Sl.Nos.14, 15, 16 and 17. In addition and examination of the offences also show that the majority of offences relate to theft of jersey cows and



illegal transportation of cattle. The table showing criminal antecedent is set out below:

Sl. No.	Police Station & Crime No.	Sections	Brief Allegations	Case Status
1	Karkala Town PS – Cr.No.33/2005	302 IPC	Murder of Divakar Shetty by assault with sword	Acquitted SC No.42/2005 – 03.10.2006
2	Hiriyadka PS – Cr.No.2/2010	279, 337 IPC & Sec.8,9,10 Cow Slaughter Act	Illegal Transportation of Cattle for slaughter	Pleaded guilty- Fine Imposed (12.05.2010)
3	Sringeri PS – Cr.No.53/2011	379 IPC	Theft of Cattle transported in vehicle	Acquitted (CC No.99/2012 – 10.12.2019)
4	Sringeri PS – Cr.No.59/2012	394, 307, 353, R/W 34 IPC & Arms Act	Attack on Police and snatching AK-47 rifle	Convicted – 10 years RI (SC No.3/2013- 06.04.2016)
5	Padubidri PS- Cr.No.46/2012	341, 364(A), 506, 143, 147, r/w 149 IPC	Kidnapping and Threatening complainant	Acquitted (CC 1688/2012 – 14.11.2013)
6	Manipal PS – Cr.No.88/2012	399, 402, 353, 307, 120(B) of IPC	Preparation for dacoity and attack on Police	Acquitted (SC No.56/2012 – 20.03.2020)
7	Koppa PS- Cr.No.38/2012	384, 511, 120(B), 75 IPC	Attempt to extort gold coins	Acquitted (CC No.230/2012 – 06.04.2018)
8	Kapu PS – Cr.No.155/2012	143, 147, 148, 323, 324, r/w. 149 IPC	Assault with knife causing injuries	Acquitted (CC No.3573/2016 – 21.09.2024)
9	Suratkal PS – Cr.No.189/2013	380 IPC	Theft of Jersey cow	Acquitted CC No.403/2014 – 01.07.2017
10	Suratkal PS – Cr.No.194/2013	395 IPC	Dacoity involving theft of cattle with deadly weapons	Acquitted SC No.107/2017 – 24.01.2018
11	Venur PS- Cr.No.56/2019	379 IPC	Theft of Cow and Calf	Compromised (CC No.967/2021- 08.07.2023)
12	Venur PS- Cr.No.57/2019	379 IPC	Theft of Jersey Cow	Compromised in Lok Adalath (CC No.970/2021- 09.12.2023)



13	Shirva PS- Cr.No.50/2020	279,341,143,14 7,148,507,307 R/W 149 IPC	Attack with deadly weapons after vehicle collision	Compromised (CC No.6/2021- 27.03.2021)
14	Karkala PS- Town Cr.No.46/2021	380 IPC & Sec.5, 12 Cattle Preservation Act	Theft and illegal transportation of Cow	Trial Pending (CC No.1354/2022)
15	Shirva PS- Cr.No.05/2022	379 IPC & Sec.5,12 Cow Slaughter Act	Illegal Transport of Cows and Calves	Trial Pending (CC No.1099/2023)
16	Karkala PS- Town Cr.No.100/2024	399, 402, 149 IPC & Sec.27 Arms Act	Preparation for dacoity	Under Investigation
17	Manipal PS- Cr.No.169/2024	BNS 140(1), 115(2), 109, 352, 351(2)(3)(5)	Abduction, assault and extortion demanding hafta	Under Investigation

9.1 An examination of the Detention Order dated 10.07.2025 shows that the respondent No.1/Magistrate has exercised powers under subsection (1) of Section 3 of the 1985 Act. However, it does not in fact refer to which offence the Detenue is accused of. There is also no reference to the provisions of Section 2(g) of 1985 Act, which the Detenue is subsequently stated to be accused of, as has been referenced in the grounds of detention.

10. However, in addition and in view of the fact that the Detaining Authority did not notice, while recording its satisfaction, that in a majority of cases, the Detenu has either been acquitted or compromise has taken place, also



shows that there is non-application of mind by the Detaining Authority.

11. The Supreme Court in **Mallada K. Sri Ram v. State of Telangana and Others**⁴ held that preventive detention is unjustified where ordinary criminal law is sufficient, and in absence of a real and proximate threat to public order, especially when the detenu is already on bail, the order reflects non-application of mind and is liable to be quashed. The relevant extract is set out below -

14. In Sama Aruna v. State of Telangana, a two-Judge Bench of this Court examined a case where stale materials were relied upon by the detaining authority under the Telangana Act of 1986. The order of detention pertained to incidents which had occurred between nine and fourteen years earlier in relation to offences involving a criminal conspiracy, cheating, kidnapping and extortion. **This Court held that a preventive detention order that is passed without examining a live and proximate link between the event and the detention is tantamount to punishment without trial. The Court held : (SCC p. 158, para 17)**

"17. We are, therefore, satisfied that the aforesaid detention order was passed on grounds which are stale and which could not have been considered as relevant for arriving at the subjective satisfaction that the detenu must be detained. The detention order must be based on a reasonable prognosis of the future behaviour of a person based on his past conduct in light of the surrounding circumstances. The live and

⁴ (2023) 13 SCC 537



proximate link that must exist between the past conduct of a person and the imperative need to detain him must be taken to have been snapped in this case. A detention order which is founded on stale incidents, must be regarded as an order of punishment for a crime, passed without a trial, though purporting to be an order of preventive detention. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. See *G. Reddeiah v. State of A.P.* and *P.U. Iqbal v. Union of India.*"

15. A mere apprehension of a breach of law and order is not sufficient to meet the standard of adversely affecting the "maintenance of public order". In this case, the apprehension of a disturbance to public order owing to a crime that was reported over seven months prior to the detention order has no basis in fact. The apprehension of an adverse impact to public order is a mere surmise of the detaining authority, especially when there have been no reports of unrest since the detenu was released on bail on 8-1-2021 and detained with effect from 26-6-2021. The nature of the allegations against the detenu is grave. **However, the personal liberty of an accused cannot be sacrificed on the altar of preventive detention merely because a person is implicated in a criminal proceeding. The powers of preventive detention are exceptional and even draconian. Tracing their origin to the colonial era, they have been continued with strict constitutional safeguards against abuse. Article 22 of the Constitution was specifically inserted and extensively debated in the Constituent Assembly to ensure that the exceptional powers of preventive detention do not devolve into a draconian and arbitrary exercise of State authority. The case at hand is a clear example of non-application of mind to material circumstances having a bearing on the subjective satisfaction of the detaining authority.** The two FIRs which were registered against the detenu are capable of being dealt by the ordinary course of criminal law."

[Emphasis Supplied]



12. The grounds of detention however do reference the fact that the Detenue may make a representation. Thus, on this aspect, nothing further is requisite.

13. Accordingly, and as per the contentions advanced, and in view of the discussion above, we are of the opinion that the Detention Order under challenge in this writ petition cannot be sustained. The Detention Order is accordingly set aside. The Detenue shall be enlarged and set at liberty, in case, his detention is not required in any other pending case.

14. The operative portion of this order shall be communicated to the Superintendent of the Central Prison, Mysuru, by the Registry immediately.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ/YKL
List No.: 2 Sl No.: 1