

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION (HABEAS CORPUS) NO.132 OF 2025

BETWEEN:

SMT. NANDINI V.
W/O CHITTIBABU
D/O VENKATESHAPPA N.
AGED ABOUT 25 YEARS
KARAHALLI, BANGARPET DISTRICT
KOLAR, KARNATAKA-563 162

...PETITIONER

(BY SRI. RANGANATH REDDY R, ADV.,)

AND:

- 1 . STATE OF KARNATAKA
BY ITS UNDER SECRETARY
LAW AND ORDER DEPARTMENT
VIDHANA SOUDHA
BENGALURU-560 001
- 2 . STATE OF KARNATAKA
BY ITS DEPUTY SECRETARY
LAW AND ORDER DEPARTMENT
VIDHANA SOUDHA
BENGALURU-560 001
- 3 . THE DEPUTY COMMISSIONER
AND DISTRICT MAGISTRATE
KOLAR DISTRICT
KOLAR-563 103

- 4 . THE DEPUTY SUPERINTENDENT OF POLICE
KOLAR DISTRICT
NO.413, 2nd MAIN ROAD
GANDHI NAGAR
KOLAR-563 101
- 5 . THE POLICE INSPCTOR
BANGARPET POLICE STATION
KGF, KOLAR-563 113
- 6 . THE SUPERINTENDENT OF PRISON
CENTRAL JAIL
HINDALAGA
BELGAUM DISTRICT-591 108

...RESPONDENTS

(BY SRI.B.A.BELLIAPPA, SPP-1 A/W.
SRI. P.THEJESH, HCGP)

THIS WP(HC) IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF HABEAS CORPUS AND TO DECLARE THAT THE DETENTION ORDER NO.MAG/L&O/04/2025-26 DATED 26.09.2025 VIDE ANNEXURE-A PASSED BY THE THIRD RESPONDENT AND GOVERNMENT SANCTION NO.HD 497 SST 2025 DATED 03.10.2025 VIDE ANNEXURE-C PASSED BY THE 1ST RESPONDENT AND EXTENSION OF DETENTION ORDER NO.HD 497 SST 2025 DATED 11.11.2025 VIDE ANNEXURE-D PASSED BY THE SECOND RESPONDENT AS ILLEGAL AND VOID AND THE DETENUE IS SET AT LIBERTY.

THIS WP(HC) HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16.03.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

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

CAV JUDGMENT

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

This Writ Petition (Habeas Corpus) is filed seeking to issue a writ in the nature of Habeas Corpus and declare the Detention Order No.MAG/L&O/04/2025-26 dated 26.09.2025 passed by respondent No.3 and Government Sanction No.HD 497 SST 2025 dated 03.10.2025 passed by respondent No.1 and extension of Detention Order No.HD 497 SST 2025 dated 11.11.2025 passed by respondent No.2 under Section 3(1) and (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 ('1985 Act' for short) as illegal and void and the detinue be set at liberty.

2. We have heard Shri. Ranganath Reddy R, learned counsel appearing for the writ petitioner, Shri. B.A.Belliappa, learned State Public Prosecutor-1 along with Shri. P.

Thejesh, learned High Court Government Pleader appearing for the respondents.

3. The learned counsel appearing for the writ petitioner challenges the Order of Detention on five major grounds. They are as follows:-

"Ground No. 1

The respondent No.3 has relied upon the case registered in Cr No.121/2019 registered by V. Kota (U) P.S Chittoor District at Andhra Pradesh in the grounds of detention. The grounds of detention dated 26/9/2025 specifies that the detainee can read and write only in Kannada and English language. But in the list of documents supplied to the detainee, the third respondent has failed to give a translated copy of the complaint (Page No. 99 of the documents supplied to the detainee) which is in Telugu language in Cr No.121/2019 registered by V. Kota (U) P.S Chittor District since the said complaint relied upon by the third respondent are in Telugu language. The detainee could not make an effective representation since the documents supplied to him were not given to the detainee in the language understandable by the detainee.

The detaining authority has also not supplied the order sheets of the cases to ascertain the status in which the next hearing dates have been mentioned in the case in grounds of detention.

Authority relied upon.

W.P.H.C.No.75/2023 Mohammad Shafiulla vs. State of Karnataka Paragraph No.19

Ground No.2

The detaining authority has not mentioned the next date of hearing in the following cases:-

- *In Cr No.70/2022 registered by Gulpet Police Station.*
- *Cr No.7/2023 registered by Oorgaum Police Station.*
- *Cr No.30/2023 registered by Marathahalli Police Station.*

The detaining authority has mentioned the next date of hearing in the following cases which prior to the order of detention/post the date of detention order dated 26/9/2025:

- *In Cr No.168/2021 registered by Chintamani Police Station (next hearing date 19/9/2025)*
- *In Cr No.188/2021 registered by Chintamani Police Station (next hearing date 2/8/2025)*

The detaining authority has strangely mentioned that the stage of the case in Cr No.26/2020 registered by Robertsonpet Police Station as "Written Arguments" without mentioning the next hearing dates.

Therefore the detaining authority has disabled the detenue from making an effective representation and also the detaining authority has not applied his mind in passing the detention order dated 26/9/2025. Hence, the subjective satisfaction arrived at by the detaining authority suffers from complete non-application of mind.

Authorities relied upon:

(2023) 9 SCC 587 Aameena Begum Vs State of Telangana paragraph No.28

Ground No.3

The activities of the detainee are not prejudicial to public order, as they do not affect the community or the public at large. Mere disturbance of law and order leading to disorder is not a sufficient ground for preventive detention.

Authority Relied Upon:-

Anu @ Aniket vs Union of India, in Criminal Appeal No.2920/2025, dated 27.05.2025, Page No.18, Paragraph No.30.

Criminal Appeal No.18223/2025, Roshini Devi vs State of Telangana, dated 08.01.2026, Paragraph Nos.8 and 10.

Ground No. 4

The detaining authority has failed to inform the time period available to the detainee to make a representation to the Government, though Section 3(3) of the Act mandates that the detention order must be approved by the Government within 12 days. The detention order was passed and served on 26.09.2025, approved by the State Government on 10.07.2025 and the representation was submitted by the detainee to the advisory board on 10.10.2025.

Authorities Relied Upon:

- *2025: JKLHC-JMU: 276, Mohd. Jaffer Sheikh vs Union Territory of J & K, dated 10.09.2025, Paragraph Nos.8, 9 and 10.*

- (2004) Cr LJ 2967, *Jitendra Nath Mishra vs District Magistrate & Another*, Paragraph Nos.9 and 10.

Ground No. 5

The detention order has been passed without considering the lack of proximity, there being a gap of two months from the date of registration of the last crime. The last crime registered against the detenue is dated 18.06.2025, whereas the detention order has been passed on 26.09.2025."

Authority Relied Upon: WP(H.C.) No.111/2024, Sivakumar vs State of Karanataka & Others, Page No.20, Paragraph No.23."

4. The learned counsel appearing for the writ petitioner placed reliance on the following decisions:-

- ***Suresh B. Shetty v. State of Karnataka by its Secretary*** reported in **(2019) 1 Kant,LJ 552;**
- ***Jitendra Nath Mishra v. Dist. Magistrate & Ors.,*** reported in **(2004) ALL.LJ 1829;**
- ***Mohd Jaffer Sheikh v. Union Territory of J & K & Ors.,*** reported in **2025: JKLHC-JMU:276;**
- ***G. Jyothi v. State of Telangana,*** reported in **(2017) 3 ALT 585;**
- ***Shamas Din v. UT of J&K and Ors.,*** passed in **HCP No.62/2025** by order **dated 01.09.2025;**

- ***Mohammad Shafiulla v. The D.G. & I.G.P. of Police and Others*** passed in ***WPHC No.75/2023*** by order ***dated 07.12.2023;***
- ***The State of Manipur & Ors. v. Buyamayum Abdul Hanan @ Anand & Anr.,*** reported in ***2022 LiveLaw (SC) 862;***
- ***Motilal Jain v. State of Bihar & Ors.,*** reported in ***(1968) AIR (SC) 1509,*** and
- ***Ameena Begum v. The State of Telangana & Ors.,*** reported in ***(2023) 9 SCC 587.***

It is contended that for the grounds mentioned above, the Order of Detention passed on 26.09.2025 is illegal and is liable to be set aside.

5. The learned State Public Prosecutor-1 appearing for the respondents, on the other hand, has placed a detailed statement of objections on record. It is contended that the petitioner's husband, Shri. Babu @ Chittibabu @ Kullababu @ Abhi son of Venkataswamy is a habitual, hardened and dangerous offender, who has been continuously indulging in grave and violent crimes since the year 2011. The consolidated statement of the criminal cases registered against the detainee is given below:-

Sl. No.	Police Station & Crime No.	Sections of Law	Short Description of Incident	Stage / Status
1.	Bangarpet PS Cr. No. 248/2011	Sec. 302 r/w 34 IPC	During Ganesh Visarjan on 01.09.2011, the detenue, in an intoxicated state, picked a quarrel and fatally stabbed Venkatesh with a knife.	Convicted; sentenced to life imprisonment on 29.08.2013 in SC No.206/2011
2.	Bangarpet PS Cr. No. 262/2012	Secs. 341, 504, 506 r/w 34 IPC	Unprovoked assault and criminal intimidation at RR Comfort near Bangarpet Bus Stand, threatening the complainant with death citing his criminal background.	Compromised; disposed on 09.10.2014 in CC No. 18/2013
3.	Bangarpet PS Cr. No. 346/2012	Secs. 143, 144, 323, 324 r/w 149 IPC	Group assault during a dispute at a school playground; detenue attacked victim with a cricket bat causing injuries.	Acquitted in CC No. 590/2013
4.	V. Kota PS (A.P.) Cr. No. 121/2019	Secs. 341, 342, 506, 395 r/w 34 IPC	Involved in a gang dacoity; complainant abducted, confined and threatened for ransom of ₹20 lakhs.	Acquitted on 22.09.2022 in SC No. 86/2020

5.	Robertsonpet PS Cr. No. 26/2020	Sec. 109 Cr.P.C.	Found suspiciously loitering at midnight; failed to give explanation; preventive security proceedings initiated.	Bond executed; released on bail
6.	Chintamani Town PS Cr. No.168/2021	Secs. 457, 380 IPC	House-breaking theft involving cash and gold ornaments while complainant was away from home	Charge Sheet filed; Pending trial in CC No.957/2022
7.	Chintamani Town PS Cr. No. 188/2021	Secs. 457, 380 IPC	Night house- breaking and theft of gold ornaments and silver articles worth 1.5 lakhs	Charge Sheet filed; Pending trial in CC No. 956/2022
8.	Gulpet PS, Kolar Cr. No. 70/2022	Secs. 395, 397 IPC	Armed gang attack, robbery and attempt to murder; victim abducted and assaulted with deadly weapons.	Pending trial in CC No. 780/2022
9.	Oorgaum PS Cr. No. 07/2023	Secs. 143, 144, 147, 148, 504, 307, 302 r/w 149 IPC	Gang assault resulting in murder due to previous enmity; victim succumbed to injuries	Acquitted on 06.04.2024 in SC No. 95/2023
10.	Marathahalli PS, Bengaluru Cr. No.	Secs. 120B, 302 IPC	Criminal conspiracy and contract killing of Narayanaswamy;	Under trial in No. SC 969/2023; released on

	30/2023		detenue directly involved in execution of murder	bail on 10.04.2025
11.	Bangarpet PS Cr. No. 179/2025	Secs. 118(1), 109, 49, 61(2), 3(5) BNS r/w Sec.27 Arms Act	Attempt to murder using deadly weapons; politically motivated attack planned and executed by hired assailants.	Charge sheet filed; Pending trial in CC No. 4066/2025

6. It is submitted that the detenue is a Goonda as defined under Section 2(g) of the 1985 Act and the Order of Detention is passed after considering all relevant aspects in detail. It is further submitted that the Detention Order along with the Grounds of Detention was duly served and communicated to the detenue on the same day and the order along with all relevant records was forwarded to the State Government on 29.09.2025 for approval. The detention was approved on 03.10.2025 and the Order was communicated to the detenue on 04.10.2025. The Detention Order and connected records were placed before the Advisory Board on 08.10.2025. The detenue submitted a representation to the Advisory Board on 10.10.2025. The

representation was considered by the Advisory Board in its Sitting held on 14.10.2025. The opinion of the Advisory Board was made available on 04.11.2025, opining that there was sufficient cause for the continued detention of the detainee. It is submitted that the representation submitted by the detainee was considered and rejected by the State Government on 14.10.2025 and the Order of Detention was confirmed on 12.11.2025.

7. Further, as regards the grounds raised by the petitioner, it is contended that the serving of a few documents in Telugu to the detainee is of no significance whatsoever because the Telugu documents were in respect to Crime No.121/2019 of V. Kota Police Station, Chittoor District, Andhra Pradesh and the said crime had ended in the acquittal of the detainee on 22.09.2022. It is submitted that the said crime is only mentioned to show the number of criminal cases as against the detainee and is not relied on as one of the pending cases as against the detainee. Reliance is placed on the decision of the Apex Court in ***Gautam Jain v. Union of India*** reported in **(2017) 3 SCC 133**.

8. In reply to the contention that the Detaining Authority had not mentioned the next hearing date in three of the cases registered against the detainee, it is contended that since it is not disputed that the criminal cases are pending, the non-mentioning of the next hearing date would make no difference to the subjective satisfaction entered by the Detaining Authority. In reply to the contention that the activities of the detainee are not prejudicial to public order, the learned SPP-1 would contend that the continuous offences committed by the detainee have created a pervasive atmosphere of fear, panic and insecurity among the general public and the offences committed would definitely affect the community and the public at large.

9. Further, the contention that the Detaining Authority had failed to inform the detainee of the time period available to him to make a representation to the Government under Section 3(3) of the 1985 Act, is a completely untenable argument, since the detainee had a right to submit representations before the Detaining Authority, the Advisory Board and the Government and

there is absolutely no limitation on the time within which such a representation ought to have been filed. It is submitted that any mention in the decisions relied on to the effect that a representation before the Detaining Authority can be made only within the time prescribed is factually incorrect and is rendered *per incuriam*.

10. Relying on the decision in ***K.M. Abdulla Kunhi and B.L. Abdul Khader v. Union of India and others*** reported in **(1991) 1 SCC 476**, it is contended that the detainee had all the opportunity to make the representations he wanted before all the three authorities and even if the representation before the Detaining Authority was received after the files were forwarded to the Government, the representation would have been forwarded to the Government and would have been considered by the Government at the time of consideration of the issue of confirmation of the order.

11. Further, with regard to the fifth ground that the Detention Order has been passed without considering the lack of proximity from the date of registration of the last

crime, it is submitted that the last crime was registered against the detainee on 18.06.2025 as Crime No.179/2025 of Bangarpet Police Station and the impugned order has been passed on 26.09.2025. There is no delay involved. It is contended that there is no merit in the challenge raised against the order of detention.

12. We have considered the contentions advanced. We notice that the first ground is with regard to the supply of documents in Telugu language, which admittedly is not a language known to the detainee. The Detention Order itself says the detainee can read only Kannada, Tamil and English. However, page No.99 of the documents supplied to the detainee is in Telugu. We notice that the Telugu documents supplied is the FIR filed by V. Kota Police Station, Chittoor District, Andhra Pradesh for the offences were under Sections 341, 342, 506, 395 read with Section 34 of Indian Penal Code, 1860. However, in the Detention Order itself, it is clearly stated that the trial was held in the said case as Sessions Case No.86/2020 and the detainee was acquitted on 22.09.2022.

13. The learned SPP-1 clearly contends that the said document is not relied upon to arrive at the subjective satisfaction that the detenue has to be detained under the provisions of the 1985 Act. It is contended that reference was made to the said case only to show the number of criminal cases which had been registered against the detenue from the year 2011 onwards and since the detenue was acquitted in the Sessions Case, there is no reliance placed on the said case at all. It is therefore stated that the supply of the FIR in Crime No.121/2019 in Telugu is totally irrelevant since the detenue was acquitted and no reliance was placed on the said case.

14. The Apex Court in **Gautam Jain's** case (supra), has clearly held at paragraph No.22, which reads as follows:-

"22. From the abovenoted judgments, some guidance as to what constitutes "grounds", forming the basis of detention order, can be easily discerned. In the first instance, it is to be mentioned that these grounds are the "basic facts" on which conclusions are founded and these are different from subsidiary facts or further particulars of these basic facts. From the aforesaid, it is clear that each "basic fact" would constitute a ground

and particulars in support thereof or the details would be subsidiary facts or further particulars of the said basic facts which will be integral part of the "grounds". Section 3 of the Act does not use the term "grounds". No other provision in the Act defines "grounds". Section 3(3) deals with communication of the detention order and states that "grounds" on which the order has been made shall be communicated to the detainee as soon as the order of detention is passed and fixes the time-limit within which such detention order is to be passed. It is here the expression "grounds" is used and it is for this reason that detailed grounds on which the detention order is passed are supplied to the detainee. Various circumstances which are given under sub-section (1) of Section 3 of the Act, on the basis of which detention order can be passed, cannot be treated as "grounds". On the contrary, Chamanlal Manjibhai Soni case clarifies that there is only one purpose of the Act, namely, preventing smuggling and all other grounds, whether there are one or more would be relatable to the various activities of smuggling. This shows that different instances would be treated as different "grounds" as they constitute basic facts making them essentially factual constituents of the "grounds" and the further particulars which are given in respect of those instances are the subsidiary details. This view of ours gets strengthened from the discussion in Vakil Singh case where "grounds" are referred to as "materials on which the order of detention is primarily based". The Court also pointed out that these "grounds" must contain the pith and substance of primary facts but not subsidiary facts or evidential details."

15. The decisions of the Apex Court in the cases of ***Kamrunnisa Badrunnisa Sithya Aysha v. Union of India*** reported in ***(1991) 1 SCC 128*** and ***Union of India v. Mohammed Ahmed Ibrahim*** reported in ***1993 Supp (1) SCC 405***, are authorities on the point that the illegibility of certain documents by itself will not render a detention order invalid. The extent and nature of the illegibility and its effect on the right of representation has to be considered taking note of the nature of the material as well. A co-equal Bench of this Court relying on the said judgments of the Apex Court has held at paragraph No.6 in ***Vijaya v. Commissioner of Police and Others*** reported in ***2018 SCC OnLine Kar 3200*** as follows:-

"6. Therefore, in view of the above said decisions cited on both the side what is relevant is that, whether the illegible portions supplied to the accused was so relevant and because of that particular portion alone the accused/detenué could not able to make proper representation before the Advisory Board or to the Government. Such explanation is conspicuously absent in this particular case. As we have seen the illegible portion in the copies, they are all bail orders passed by the competent authorities to the accused. The other grounds on which the detention order was passed relying upon the conduct of detenué with reference to the pendency of the

cases against the accused which are the main grounds taken for the purpose of passing the order of detention. Further added to the above, when the detainee was produced before the Advisory Board he would have atleast made a representation with regard to non-furnishing of legible copies to him so that he was prevented from making any representation. The Advisory Board would get opportunity to deal with the matter for a period of four weeks from the date of representation by the Government to the Advisory Board. Therefore, in this context also, we find no such strong material to give a definite conclusion here that the illegible portion in the document is the only reason for the detainee not to make effective representation before the Advisory Board or to the Government. Therefore, in view of the above said facts and circumstances, we do not find any strong reasons to interfere with the detention order. Hence, the petition is devoid of merits and the same is liable to be dismissed. Accordingly, dismissed."

16. We notice that the order of detention gives the details of all the cases registered against the detainee from 2011 onwards. The first of the cases is one in which the detainee was sentenced to life imprisonment on 29.08.2013. The second case is one which has been compromised between the parties. The third, fourth and ninth cases are where the detainee has been acquitted after trial. Therefore, pending cases are fifth to eighth and tenth and eleven.

Therefore, it is clear that all the cases registered against the detainee are mentioned in the order of detention. The cases, which have ended in acquittal, cannot be relied on for the purpose of arriving at the subjective satisfaction that the detention is necessary. Therefore, the fact that the cases where the detainee has been acquitted are also mentioned in the order of detention and the FIRs in the said cases have also been included in the supporting documents cannot, by itself, be a reason to state that any deficiency in those materials would vitiate the order of detention. The fact that the FIR in a case where the detainee has already been acquitted is in Telugu or that the supporting document in another case, which has also ended in acquittal, is not fully legible, may not be a reason to set aside an order of detention, which is otherwise legal. The Apex Court in the case of ***Jaseela Shaji v. Union of India and others*** reported in **(2024) 9 SCC 53**, has also held that it is not necessary to furnish copies of each and every document to which a casual or passing reference may be made in the narration of facts and which are not relied upon by the

detaining authority in making the order of detention. Therefore, we are of the opinion that the non-grant of translated version of FIR in one of the cases in which the detainee has been acquitted would not invalidate the order of detention.

17. Further, with regard to the contention that the Detaining Authority has not mentioned the next date of hearing in three of the relied on cases, the learned SPP-1 would contend that since all the details with regard to the criminal cases have been mentioned in the grounds of detention and the fact that the criminal cases are pending trial has also been correctly recorded, nothing turns on the next date of hearing in those cases and the order suffers no infirmity. We notice that the details of all the criminal cases registered against the detainee from 2011 onwards had been stated in the grounds of detention. All supporting documents have also been served on the detainee. In respect of the three cases referred to by the petitioner also, the fact that the cases are pending trial has been clearly mentioned in the grounds of detention. In the above circumstances, we

are of the opinion that the Order of Detention cannot be said to be wanting an application of mind only because the next date of hearing in three of the criminal cases is not mentioned. The mentioning of the next stage of the case in Crime No.26/2020 of Robertsonpet Police Station as written arguments also cannot be a ground to invalidate an Order of Detention, which is otherwise validly issued.

18. Further, the contention with regard to lack of proximity is also not borne out by the records since the last crime committed by the detenue is admittedly on 18.06.2025. The Order of Detention came to be passed on 26.09.2025, since a reasonable time would be taken to collect the details of all the cases registered against the detenue and to get required reports as to the stages of their pendency and for application of mind by the Detaining Authority, we are of the opinion that the three months time taken to pass an Order of Detention from the commission of the last offence cannot be said to be excessive in any circumstances.

19. The final contention raised is with regard to non-mentioning of the time limit for submission of a representation before the Detaining Authority. The specific contention of the writ petitioner is that on account of the fact that the Detention Order does not mention the time period available to the detainee to make a representation to the Detaining Authority, the order is vitiated. The contention is that Section 3(3) of the 1985 Act mandates that the Detention Order must be approved by the Government within 12 days and therefore the 12 days time has to be stated in the Detention Order as the time period within which the detainee can make a representation before the Detaining Authority. We are unable to agree with this proposition.

20. Section 3(3) of the 1985 Act specifically provides that when an order is made by an Officer exercising the powers conferred under sub-section 3(2) of the 1985 Act, he shall forthwith report the fact to the State Government and the order shall not remain in force for more than 12 days

after the making thereof, unless, in the meantime, it has been approved by the State Government.

21. The Apex Court in ***Kamleshkumar Ishwardas Patel v. Union of India and others*** reported in **(1995) 4 SCC 51**, has clearly held that the time period of 12 days is only provided for the Detaining Authority to obtain the approval of the State Government, failing which, the Order of Detention would not be operative. We find that the 12 days time period does not apply for the making of a representation by the detenue. The detenue is free to make the representation at any time before the order of detention is confirmed. If the representation is received by the Detaining Authority after a period of 12 days, then, the representation has to be forwarded to the State Government for its consideration. Moreover, if a representation is made to the Advisory Board or to the Government, the same also have to be independently considered. In the case of the Advisory Board, no order will be passed on the representation. But, it has to be placed before the Advisory Board who will consider the representation while giving the

opinion as to whether the detention is liable to be continued or not. The representation preferred before the State Government also has to be independently considered.

22. The Apex Court in ***K. M. Abdulla Kunhi***'s case (supra), has clearly held at paragraph No.12, which reads as follows:-

"12. *The representation relates to the liberty of the individual, the highly cherished right enshrined in Article 21 of our Constitution. Clause (5) of Article 22 therefore, casts a legal obligation on the government to consider the representation as early as possible. It is a constitutional mandate commanding the concerned authority to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words "as soon as may be" occurring in Clause (5) of Article 22 reflects the concern of the Framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard and fast rule in this regard. It depends upon the facts and circumstances of each case. There is no period prescribed either under the Constitution or under the concerned detention law, within which the representation should be dealt with. The requirement however, is that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued*

detention impermissible and illegal. This has been emphasized and re-emphasised by a series of decisions of this Court." (emphasis supplied)

23. In the instant case, the Detention Order specifically recorded as under:-

"x x x x x

If you desire to make any representation against the said order of detention to me you may do so and submit it through the superintendent, Central prison Bangalore.

If you deserve to make any representation against the said order of detention to the Government of Karnataka, you may do so under address it to the superintendent, Hindalaga Central prison, Belagavi District, Belagavi.

You are informed that the state government shall within three weeks from the date of your detention make a reference to and place the requisite material before the Advisory Board, constituted under section 9 of the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Gamblers, GOONDAS, Immortal Traffic Offenders, Slum Grabbers, Act 1985 (Karnataka Act No.12 of 1985), to enable the advisory board to make a report whether in its opinion there is sufficient cause for your detention.

You are also here by informed that if you want to submit any representation to the Advisory

Board against the detention order you may do so and address it to the Chairman Advisory Board Constituted under the said Act, and submit it through the superintendent, Hindalaga Central prison, Belagavi District, Belagavi, where you are detained.

x x x x x"

24. The fact that the detenue was not told that the Order would be placed for approval before the State Government within a period 12 days, cannot make any difference to the situation. In the instant case, the detenue did not choose to file a representation before the detaining authority even though the order of detention specifically informed him that he had the right to make such a representation. He filed a representation only before the Advisory Board. The learned SPP-1 submits that the representation preferred by him was placed before the Advisory Board and had been considered.

25. In the above circumstances, we are of the opinion that the contentions raised in the writ petition are devoid of merits. We find that the Detaining Authority has considered the relevant aspects of the matter and has come to an

informed decision that the detenue is to be kept under detention for the reasons stated. We are of the opinion that the order has been passed after complying with legal procedure. The Writ Petition (Habeas Corpus) therefore fails and the same is accordingly ***dismissed***.

All pending interlocutory applications shall stand *disposed of*.

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

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

cp*