HC-KAR

NC: 2026:KHC:54636-DB
WPHC No. 101 of 2026

CNR: KAHC010666852026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

WRIT PETITION (HABEAS CORPUS) NO. 101 OF 2026

BETWEEN:

SMT. REKHA
W/O SHREENIVASA
AGED ABOUT 41 YEARS
R/O No. 13TH WARD
THOTADA BEEDI ROAD
GUNDLUPET
CHAMRARAJANAGAR DISTRICT-571 111
(DETENUE ABHISHEK .S @ CIGARETTE ABHI)

...PETITIONER

(BY SRI. ANIL SHEKAR K.S., ADVOCATE)

Digitally signed by PAVITHRA N
Location: High Court of Karnataka

AND:

1. STATE OF KARNATAKA
   BY ITS ADDITIONAL CHIEF SECRETARY
   DEPARTMENT OF HOME
   VIDHANA SOUDHA
   BENGALURU-560 001

2. THE DEPUTY SECRETARY
   PERSONAL AND ADMINISTRATIVE
   DEPARTMENT (L AND O)
   VIDHANA SOUDHA, DR. AMBEDKAR VEEDHI
   BENGALURU-560 001

3. THE DEPUTY COMMISSIONER
AND DISTRICT MAGISTRATE
CHAMARAJANAGAR DISTRICT-571 111

4. THE POLICE INSPECTOR
GUNDLUPETE POLICE STATION
CHAMARAJANAGAR-5711 111

5. THE SUPERINTENDENT OF POLICE
CHAMARAJANAGAR
CHAMARAJANAGAR DISTRICT-571 111

6. THE DEPUTY SUPERINTENDENT OF POLICE
KUNIGAL DIVISION, CHAMARAJANAGAR
CHAMARAJANAGAR DISTRICT-571 111

7. THE SUPERINTENDENT
CENTRAL JAIL
BELLARY-583 103

…RESPONDENTS

(BY SRI. B.N. JAGADEESH, SPP-I A/W
SMT. DEEPTHI ALVA, HCGP)

THIS WPHC IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, WHEREIN PETITIONER PRAYS THAT THE HON'BLE COURT BE PLEASED TO GRANT THE WRIT OF HABEAS CORPUS QUASHING THE DETENTION ORDER DATED 03.09.2026 PASSED IN No.ADM0MAG.MLO(2): 166/2026 BY THE RESPONDENT No.3, THE CONFIRMATION ORDER DATED 16.09.2026 IN No.HD 557 SST 2026 PASSED BY THE 1ST RESPONDENT PRODUCED AT ANNEXURE-A AND B AND ETC.

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

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

ORAL JUDGMENT

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

This writ petition is filed challenging an Order of Detention passed under the provisions of the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum-Grabbers Act, 1985 ('Act' for short).

2. The main ground on which the challenge is raised is that the Detention Order passed on 03.09.2026 has been approved by the Government only on 16.09.2026, which is beyond the period of 12 days as provided in Section 3(3) of the Act.

3. It is submitted that it is imperative in the case where an Order of Detention is one made by an Officer as empowered under Section 3(2) of the Act that the Order is to be approved by the State Government within a period of 12 days. The language of the sub-section is that "no such order shall remain in force for more than 12 days after the making thereof, unless in the meantime, it has been approved by the State Government". It is contended by the learned counsel for

the writ petitioner that since the order is one made on 03.09.2026, the 12 days from the said date would expire on 15.09.2026 and the order cannot remain in force thereafter, unless it has been approved by the State Government in the meantime. Therefore, it is contended that the order of approval dated 16.09.2026 can have no bearing in the matter since the 12 days from the date of making the order having expired, the order did not remain in force.

4. The learned State Public Prosecutor appearing for the respondents has placed on record a judgment of the High Court of Punjab and Haryana ***dated 20.12.2024*** passed in ***Writ Petition (Civil) No.18054/2024 (O&M)*** to contend that in a similar situation arising under the National Security Act, 1980 the Division Bench of High Court of Punjab and Haryana has specifically considered the effect of a day's delay in passing of an order of approval and has held that the delay of one day will not *per se* invalidate the order.

5. Having considered the contentions advanced, we are of the opinion that in a challenge as against an Order of Preventive Detention, this Court is expected to consider

whether all procedural aspects have been complied with while passing such Order of Detention.

6. However, it is clear from the decisions of the Apex Court that this Court must be satisfied of the compliance with all procedural requirements, specifically the timelines as provided in the enactment. It is clear from the facts on record, that the Order of Approval is one passed beyond the prescribed time period of 12 days as provided under Section 3(3) of the Act.

7. The decision of the High Court of Punjab and Haryana is not on an identical factual situation and would not be binding on this Court for the purpose of considering the effect of non-compliance with the statutory time limit as prescribed under Section 3(3) of the Act.

8. We are, therefore, of the opinion that the Order of Detention which was not approved within the period of 12 days from the date on which it is passed, cannot remain in force in terms of Section 3(3) of the Act. Accordingly, the writ petition is liable to be allowed.

9. In the result:-

(i) The Writ Petition (Habeas Corpus) is ***allowed***.

(ii) The Order of Detention dated 03.09.2026 as well as the Order of Approval dated 16.09.2026 are quashed.

(iii) The detenue shall be released from detention forthwith, if he is not required to be retained in custody in any other matter.

The Registry shall communicate this order to the Superintendent of Police, Central Prison at Bellary for release of the detenue forthwith.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(K.S.BHARATH KUMAR)
JUDGE

RAK
List No.: 2 Sl No.: 3