IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 8TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE R.DEVDAS

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

WRIT PETITION NO.108482/2025 (GM-RES)

BETWEEN:

SMT. PRATHIBA TALAPATI W/O. DAVOOD NADAF,
AGED ABOUT 31 YEARS, OCC: HOUSE WIFE,
R/O. PLOT NO.02, KOTHARI NAGAR, GADAD ROAD, HUBLI,
PRESENT ADDRESS AT #1, ARALIKATTI COLONY,
MANTUR ROAD, HUBLI, TQ: HUBLI,
DIST: DHARWAD-580020.

- PETITIONER

(BY SRI. SANDESH CHOUTA SENIOR COUNSEL
FOR SRI. AVINASH M. ANGADI, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY ITS UNDER SECRETARY,
   HOME DEPARTMENT (LAW AND ORDER),
   VIDHANA SOUDHA, BENGALURU-560001.

2. THE COMMISSIONER OF POLICE,
   HUBBALLI-DHARWAD, HUBBALLI-580025.

3. THE DEPUTY COMMISSIONER OF POLICE,
   (LAW AND ORDER), HUBBALLI DHARWAD,
   HUBBALLI-580025.

4. SENIOR SUPERINTENDENT,
   CENTRAL PRISON, MYSORE-570002.

5. THE POLICE INSPECTOR,
   HUBBALLI TOWN POLICE STATION,
   HUBBALLI-580029.

- RESPONDENTS

(BY SRI. P.N.HATTI, HCGP FOR R1 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI TO QUASH THE DETENTION OF SRI.DAWOOD NADAF SON OF DAVALSAB NADAF BY ORDER DATED 03.06.2025 IN NO.CP/MAG-2/HD-11/2025 VIDE ANNEXURE-A1 PASSED BY THE RESPONDENT NO.2 AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 19.11.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE R.DEVDAS
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CAV ORDER

(PER: THE HON'BLE MR. JUSTICE R.DEVDAS)

This writ petition is filed under Article 226 of the Constitution of India by the wife of the detenue challenging the order of detention at Annexure-A dated 03.06.2025 passed by the second respondent Commissioner of Police, Hubballi Dharwad invoking the provisions contained in *The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders,*

Gamblers, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video or Audio Pirates Act, 1985 (for short hereinafter referred to as '***GOONDA Act***').

2. Learned Senior Counsel Sri Sandesh Chouta, appearing for the petitioner submitted that the impugned order does not comply with many of the guidelines issued by a Coordinate Bench of this Court in the case of ***Smt.Jayamma Vs. Commissioner of Police, Bengaluru***[1]. Learned Senior Counsel pointed out from the said judgment, that in paragraph No.49, the Division Bench formulated guidelines for the benefit of the stakeholders having regard to the provisions contained in the *GOONDA Act*. The first guideline issued by the Division Bench is that the detention order should be in writing and should be communicated to the detenue, soon after it is passed. It is submitted that the impugned detention order at Annexure-A was not served on the detenue. On the other hand, the material discloses the

[1] ***ILR 2019 KAR 1543***

fact that the impugned order was served on the brother of the detenue. Secondly, every detention order shall be supplied with the translated legible version of all the scripts and documents relied upon, in the language the detenue understands, so as to enable him / her to effectively give a representation to the concerned. Separate information is furnished by the learned Senior Counsel showing nearly 185 pages of unclear documents out of nearly 800 pages that form the basis of the impugned detention order.

3. It is pointed out from guideline No.4 that the detaining authority shall specify as to which are the documents relied upon and which are the other documents casually or passingly referred to in the course of narration of facts, (including the bail orders) so that at least such of the documents which are relied upon could be furnished to the detenue in compliance of guidelines No.1 and 3. Learned Senior Counsel submits that the second respondent detaining authority has failed to comply with

said guidelines. Nearly 700 pages of documents are furnished to the detenue, of which nearly 185 pages are unclear. At this rate, the detenue will be unable to give a representation to the concerned authority.

4. Learned Senior Counsel also pointed out to the second paragraph of the impugned detention order where the second respondent, Commissioner of Police has exercised powers conferred on him by sub Section (2) of Section 3 of the *GOONDA Act* read with G.O. No. HD/75/ SST/2025 dated 27.02.2025.

5. Learned Senior Counsel submitted that *Sub Section (1) of Section 3* empowers the Government to pass a detention order. However, *Sub Section (2)* enables delegation of the power of detention to the District Magistrates and Commissioners of Police in the State. However, such delegation is permissible only for a period of three months. If such powers are to be extended for a further period of three months, the same can be done by the Government by issuing a notification in that regard. In

that view of the matter, learned Senior Counsel placed a copy of G.O. bearing No. HD 75 SST 2025 dated 30.05.2025 extending the period for three months from 10.06.2025 to 09.09.2025. At the same time it is pointed out from the impugned detention order at Annexure-A dated 03.06.2025, that the Government Order referred to in paragraph No.2 is dated 27.02.2025 and it is submitted that if the Government Order was issued during the end of February, 2025, the three months may end during May, 2025. But, the impugned order is issued on 03.06.2025, which may be an order without authority of law. The notification dated 30.05.2025 extends such power between 10.06.2025 to 09.09.2025.

6. In order to support his contention that if legible copy of the documents are not furnished to the detenue, the detention order is liable to be set aside on that ground alone, learned Senior Counsel placed reliance on two decisions of two Coordinate Benches of this Court in

Smt.R.Ramya Vs. Commissioner of Police & Ors.[2] and ***Smt.Shruti T.K. Vs. Deputy Commissioner and District Magistrate, Davanagere & Ors.***[3]

7. The learned Senior Counsel further submitted that out of 17 cases relied upon by the detaining authority the detenue has been acquitted in seven cases and the detenue has not been convicted till date for any offences under the IPC or under BNS. The detenue has been convicted only for offence *under Sections 79, 80 and 96-B of the Karnataka Police Act*, in two cases and the detenue has paid fine of Rs.200/-. Surely, these cannot be a ground for detention, having regard to the fact that the consistent view of the Hon'ble Supreme Court is that the detaining authorities are required to consider ***whether the activities of the detenue would be prejudicial to 'public order' and affects the public at large?*** and if the answer is in the affirmative, then it would be a

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[2] ***WPHC No. 51/2022 dated 26.08.2022***

[3] ***WPHC No. 39/2023 dated 18.07.2023***

legitimate ground to invoke the provisions of such preventive detention laws.

8. Further, it is contended that there is no live link for passing of such detention order against the detenue. It is pointed out from the cases referred to by the detaining authority that the most recent case registered against the detenue is in *Crime No.64/2025 in Hubballi Town Police Station* for offences *under Sections 353(2) and 351(2) of B.N.S*. This is a case where the allegation against the detenue is that he has uploaded a video in his social media account where he claims that he is a stylish and khadak rowdy. This cannot be a case which falls under 'disruption of public order'. Three cases were registered against the detenue in the year 2024, in Hubballi Town Police Station. In Crime No. 113/2024, although the complainant has complained against the detenue and many other persons of attempt of extortion of money, after investigation the Police have dropped the name of the detenue from the chargesheet. Crime No. 105/2024 again pertains to

Sections 79, 80 of Karnataka Police Act and Section 112 (2) of B.N.S. Further investigation has been stayed at the hands of this Court in Crime No. 107/2024 where the offences are under *Sections 132, 121 (1) of BNS and Section 3 of P.D.P.P. Act*. Learned senior counsel would therefore submit that going by the cases relied upon by the detaining authority, it is clear that no crime which may disturb public order are registered against the detenue in the recent past. There being no live link to any such crime alleged against the detenue in the recent past, there was no reason for passing the impugned detention order.

9. Learned Senior Counsel placed reliance on a recent decision of a Coordinate Bench in the case of ***Smt.Sangeeta Sunkrol Vs. The Additional District Magistrate & Police Commissioner, Kalaburgi City & others***[4], where the Coordinate Bench noticed the distinction between 'law and order' and 'public order',

[4] ***WPHC No. 200006/2024 dated 16.10.2024***

lucidly described by the Apex Court in ***Dr. Ram Manohar Lohia Vs. State of Bihar & Ors.***[5] as follows:

> *"54. …Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are.*
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> *55. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State."*

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[5] ***1966 AIR 740***

10. Learned Senior Counsel would therefore submit that the impugned detention order cannot be sustained even for a moment. The learned Senior Counsel once again reiterated the settled position of law that the provisions for preventive detention, is an extraordinary power in the hands of the State and that must be used sparingly. Such laws curtail the liberty of an individual in anticipation of the commission of further offences and therefore, such provisions must not be used in the ordinary course of nature. It was pointed out that the Apex Court, in the case of ***Rekha Vs. State of Tamil Nadu***[6] held that the power of preventive detention is an exception to *Article 21* and therefore they may be applied as such, as an exception to the main rule and only in rare cases.

11. Per contra, learned Additional Government Advocate submitted that the detaining authority has furnished all the relevant information which were considered by the detaining authority and even if a few

[6] ***(2011) 5 SCC 244***

pages were not clear, nevertheless, the detenue is completely aware of the proceedings in all such cases registered against the detenue and the detenue should not be permitted to take advantage of such lapses. It is pointed out that in a recent case registered against the detenue in Crime No. 113/2024 registered in Hubballi Town Police Station, the allegation against the detenue is that the detenue along with his associates threatened the complainant with knife and attempted extortion of money.

12. Learned A.G.A. submitted that in broad day light, if the detenue and his associates have threatened at knife point, a businessman, it is surely an act disturbing public order. Such incidents are published in the newspapers and the public at large will feel threatened at the conduct of the detenue. Moreover, there are cases involving the detenue in serious offences such as *Sec. 307 IPC and 302 IPC*. It is submitted that though such crimes are registered against the detenue, the moment he is out on bail, he continues to involve in such serious crimes and

therefore there is a need to detain the detenue under the preventive detention laws.

13. Heard learned Senior Counsel Sri Sandesh Chouta, for Sri Avinash M. Angadi, learned counsel for the petitioner, learned Additional Government Advocate for the respondents and perused the petition papers.

14. It is a matter of grave concern that the guidelines issued by a Coordinate bench of this Court in the case of ***Smt.Jayamma*** have not reached the government and the detaining authorities. It would be profitable to extract the guidelines issued by the Coordinate Bench, which are as follows:

> *"(1) Detention order in writing, soon after it is passed, should be communicated to the detenu. The detaining authority should also communicate the grounds of detention comprising of basic facts, and relied upon materials, in their entirety with documents, statements, or other materials, not later than 5 days from the date of passing of the detention order.*
> *(2) If two or more grounds are relied upon by the authority, each of the grounds shall be separately and distinctly mentioned in the Detention order, as each one of the ground if valid is sufficient to validate the order even if other grounds are vitiated or invalidated for any reason.*

(3) Every Detention order shall be supplied with the translated legible version of all the scripts and documents relied upon, in the language he understands to make an effective representation.

(4) Detaining authority shall specifically disclose with reference to each of the grounds for detention, which are all the documents relied upon and which are the documents casually or passingly referred to in the course of narration of facts (including the bail orders) and shall furnish the relied upon documents along with the detention order. If the detaining authority prefers to furnish the referred documents also, those materials also to be furnished in compliance with the first and third guidelines noted supra.

(5) So far as bail applications and orders, and violation of bail conditions are concerned, if the detenu is on bail, if the bail application and bail orders, conditions therein are with reference to any vital ground or vital materials, placing of those materials though may not always be mandatory but such requirement depends upon the facts and circumstances of each case, which the detaining authority and later Courts have to very carefully examine whether non placing of those materials in any way prejudiced the detenu. However failure to furnish any or all the referred documents shall not invalidate the order of Detention.

(6) If the order of detention is challenged, the courts also shall have to independently consider each ground, to ascertain on each ground whether the order is sustainable or not with reference to the guidelines herein refereed.

(7) If any representation is submitted by the detenu before the Detaining Authority, addressing the same to the Detaining Authority, government, or to Advisory Board, irrespective of the fact that, to whom it is addressed, the same shall be as early as possible considered by the appropriate Government, before sending the papers to the Advisory Board. If the appropriate Government revokes the detention order and directs release of

the detenu, there arises no question of sending the case papers to the Advisory Board.

(8) The Government shall within three weeks from the date of the detention order, place the order before the Advisory Board along with all the materials, grounds, representation if any made by the detenu, along with any report by such officer made under sub-sec (3) of section 3 of the Act.

(9) The Advisory Board shall maintain records disclosing the date of receipt of the detention order and other materials, including the representation of the detenu. The Advisory Board shall consider all the materials placed before it, including the representation if any of the detenu, if necessary after calling for such further information as it deems it necessary, and if the person concerned desires to be heard, after hearing him in person and then send its report to the Government within Seven Weeks from the date of detention of the person concerned.

(10) After receipt of the report from the Advisory Board, the Government before passing any order of confirmation under section 12 of the act shall consider the representation of the detenu, if not already considered by it for reasons that, it was either directly submitted before the advisory board or the sub delegated Authority or received later after the Advisory Board's report. Therefore, it is mandatory that appropriate Government shall consider the representation of the detenu, at least once at any stage before passing the final order of confirmation.

(11) The consideration of the representation if received before confirmation, order at any stretch of imagination, cannot be done after the confirmation of the detention order. It amounts to no consideration in accordance with law and procedure.

(12) If the Advisory Board has sent a report, stating that there is sufficient cause for the detention of the person concerned the Government, may confirm or revoke the said order. If the report says that there is no sufficient cause for detention, the

> *Government, shall revoke the detention order and cause the person to be released forth with. It has no discretion to detain such person any more for any reason on the basis of such detention order.*
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> *(13) If the order is revoked either under section 12 or under section 14 as the case may be, or the period of detention under the order is fully undergone by the detenu, in such an event the detaining authority shall forth with release such person from detention. Further the detaining authority shall not pass any extended or further detention order on the same grounds. However, if any subsequent order of detention has to be passed, it shall be by a separate order on fresh grounds after again following the procedure, but not on the grounds on which earlier order was passed."*

15. The guidelines issued by the Coordinate Bench was directed to be circulated to the concerned authorities who are in the helm of affairs, namely, Additional Chief Secretary, Home Department; Principal Secretary, Law Department; D.G. & I.G., Karnataka Police Headquarters; Secretary, Department of Parliamentary Affairs, etc. Unfortunately nothing seems to have changed, despite such guidelines being issued by this Court. Cyclostyled orders are being passed by the detaining authorities. Illegible copies of the documents are furnished without translations. This Court is of the considered opinion that

guidelines No.1 to 4, if followed, chances of the detenue raising objections regarding illegible copies will be considerably reduced. It is noticeable that this Court in the case of ***Smt.R.Ramya*** and in the case of ***Smt.Shruti*** have allowed the writ petitions while setting aside the detention orders only on the ground that legible copies of the documents relied upon by the detaining authority were not supplied to the detenue. The Coordinate Benches have placed reliance on the decision of the Apex Court in the case of ***State of Manipur & Ors. Vs. Buyamayum Abdul Hannan @ Anand & Another***[7] where it was held as follows:

> *"17. It is well settled that right to make a representation implies that the detenu should have all the information that will enable him to make an effective representation. No doubt, this right is again subject to the right or privilege given by clause (6). At the same time, refusal to supply the documents requested by the detenu or supply of illegible or blurred copies of the documents relied upon by the detaining authority amounts to violation of Article 22(5) of the Constitution. Although it is true that whether an opportunity has been afforded to make an effective representation always depends on the facts and circumstances of each case.*

[7] ***(2022) SCC Online SC 1455***

> *18. What will be the effect when the detenue is deprived of effective representation or denial of supply of relied upon documents by the detaining authority has been considered by this Court in Ramchandra A. Kamat v. Union of India and Others as under:*
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> > *"6. The right to make a representation is a fundamental right. The representation thus made should be considered expeditiously by the government. In order to make an effective representation relating to the grounds of detention. When the grounds of detention are served on the detenu, he is entitled to ask for copies of the statements and documents referred to in the grounds of detention to enable him to make an effective representation. When the detenue makes a request for such documents, they should be supplied to him expeditiously. The detaining authority in preparing the grounds would have referred to the statements and documents relied on in the grounds of detention and would be ordinarily available with him -- when copies of such documents are asked for by the detenue the detaining authority should be in a position to supply them with reasonable expedition. What is reasonable expedition will depend on the facts of each case."*

16. This Court is therefore of the considered opinion that the detaining authorities should preclude from listing out all the cases for reliance. They would do better if they place reliance on the recent crimes registered against the detenue. If the detention order is based on the recent crimes registered against the detenue, it will satisfy the

requirement of having live link or close proximity to the conduct of the detenue, which could be a good ground for passing such orders of detention. Secondly, it will reduce the number of documents which would be required to be furnished to the detenue. The lesser the documents, the lesser would be the chances of furnishing illegible copies. It is with this wisdom that the Coordinate Bench issued meticulous guidelines to the detaining authorities in the case of ***Smt.Jayamma***. Unfortunately, neither the Government nor the concerned authorities have heeded to the directions issued by this Court. What we see as a consequence of such failure is that similar grounds are raised in every writ petition challenging such detention orders, viz., supplying illegible copies to the detenue.

17. We have gone through the documents furnished to the detenue, albeit through his brother. The learned Senior Counsel is right in his submissions that nearly 185 pages of 800 pages of documents supplied to the detenue

are illegible. This writ petition should succeed only on that ground.

18. It would be profitable to notice the observations of the Apex Court in the case of ***Mortuza Hussain Chaudhary Vs. State of Nagaland & Ors.***[8], where it was held that *preventive detention is a draconian measure whereby a person who has not been tried and convicted under a penal law can be detained and confined for a determinate period of time so as to curtail the persons anticipated criminal activities*. Relevant paragraph is extracted herein below:

> *"2. Preventive detention is a draconian measure whereby a person who has not been tried and convicted under a penal law can be detained and confined for a determinate period of time so as to curtail that person's anticipated criminal activities. This extreme mechanism is, however, sanctioned by Article 22(3)(b) of the Constitution of India. Significantly, Article 22 also provides stringent norms to be adhered to while effecting preventive detention. Further, Article 22 speaks of the Parliament making law prescribing the conditions and modalities relating to preventive detention. The Act of 1988 is one such law which was promulgated by the Parliament authorizing preventive detention so as to curb illicit trafficking of narcotic drugs and psychotropic*

[8] ***(2025) SCC online SC 502***

> *substances. Needless to state, as preventive deprives a person of his/her individual liberties by detaining him/her for a length of time without being tried and convicted of a criminal offence, the prescribed safeguards must be strictly observed to ensure due compliance with constitutional and statutory norms and requirements."*

19. The need for strict compliance of the provisions thereof cannot be understated.

20. Further, the State Government is required to take note of the contentions of the learned Senior Counsel that the impugned detention order may be without any authority of law. The discrepancy in the Government Orders or notifications as quoted in the impugned detention order should be taken note of. No room should be given to point out to such discrepancies, in future.

21. For the reasons stated above, this Court is of the considered opinion that the impugned detention order at Annexure-A cannot be sustained.

Accordingly the writ petition is allowed. The impugned detention order at Annexure-A dated 03.06.2025 is hereby quashed and set aside.

The consequential orders at Annexures B and C are also quashed and set aside.

The 4th respondent Senior Superintendent, Central Prisons, Mysuru is hereby directed to immediately release the detenue *Sri Dawood Nadaf son of Davalasab Nadaf* from detention.

Copy of this order shall be furnished to the Chief Secretary, Government of Karnataka to ensure that the guidelines issued by this Court in the case of ***Smt.Jayamma*** are brought to the notice of all concerned, including the District Magistrates and Commissioners of Police in the State, for strict compliance.

Ordered accordingly.

Sd/-
(R.DEVDAS)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

Bvv/CT: VH