



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 29TH 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.35 OF 2026

BETWEEN:

SMT. MARRY USHA
W/O MR. GNANAPRAKASH,
AGED 44 YEARS,
RESIDING AT ALADAMARA BEML LAYOUT,
BHARATH NAGAR,
KGF, KOLAR DISTRICT 563101.

...PETITIONER

(BY SRI. HASHMATH PASHA, SENIOR COUNSEL FOR
SRI. KARIAPPA N.A., ADV.)

AND:

1. STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BENGALURU 560 001
2. DEPUTY COMMISSIONER
AND DISTRICT MAGISTRATE
KOLAR,
KOLAR DISTRICT 563101





3. SUPERINTENDENT
CENTRAL JAIL
BELLARY-583 103

(ALL ARE REPRESENTED BY
LEARNED GOVERNMENT ADVOCATE,
AG OFFICE, HIGH COURT OF KARNATAKA,
BANGALORE)

...RESPONDENTS

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

THIS WPHC IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF HABEAS CORPUS OR A WRIT OR ORDER OR DIRECTION OF APPROPRIATE IN NATURE TO QUASH THE DETENTION ORDER DATED 11.12.2025 AS PER ANNEXURE-A PASSED BY RESPONDENT NO.2 UNDER REFERENCE NO.MAG/L AND O/05/2025-26 AS ILLEGAL AND ALSO CONSEQUENTLY RELEASE ABHICYRILL @ ABHI FROM DETENTION, CENTRAL PRISON, BELLARY 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 MS. JUSTICE TARA VITASTA GANJU



ORAL JUDGMENT

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

This Writ Petition (Habeas Corpus) is filed seeking the following reliefs:-

- "1) *To quash the detention order dated 11.12.2025 as per Annexure-A passed by Respondent No.2 under reference No.MAG/L & O/05/2025-26 as illegal and also consequently release Abicyrill @ Abhi from Detention, Central Prison, Bellary in the ends of justice.*
- 2) *To quash the order of approval dated 17.12.2025 passed by Respondent No.1 as per Annexure-B under reference No.HD59OSST-2025 AS Illegal and abuse of process.*
- 3) *To Quash the confirmation order dated 27.01.2026 passed by Respondent No 1 as per Annexure-C under Reference No HD59OSST 2025 and consequently release the Abicyrill @ Abhi from detention, central prision Bellary forthwith in the interest of justice"*

2. We have heard Shri. Hashmath Pasha, learned senior counsel as instructed by Shri. Kariappa N.A, learned



counsel appearing for the writ petitioner as well as B.A. Belliappa learned State Public Prosecutor-I along with Shri. P. Thejesh, learned High Court Government Pleader appearing for the respondents.

3. It is submitted by the learned counsel appearing for the writ petitioner that the Order of Detention is passed in view of ten cases that had been registered against the detenu. It is further submitted that the detenu is aged 19 years and that many of the offences taken into account to pass the Order of Detention were committed when he was a juvenile, that is, below the age of 18 years. It is further submitted that in view of provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, specifically Section 24 thereof, there can be no detention based on offences committed by a person below the age of 18 years.

4. The learned High Court Government Pleader appearing for the respondents/State has placed on record statement of objections. It is submitted therein that the Order of Detention dated 11.12.2025 is passed under the provisions 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). It is further stated that the detenu, that is, Sri. Abicyrill. G @ Abhi has been habitually indulging in serious criminal and anti-social activities involving offences of murder, attempt to murder, assault, obstruction of public servants and offences under the Arms Act, thereby disturbing public peace and creating fear and insecurity among the general public. The list of offences are as under:-

Sl. No.	Police Station & Crime No.	Sections	Brief Allegation	Case Status
1	Andersonpet PS – Cr. No. 48/2023	323, 34 IPC	Assault causing injury	Conviction (fine imposed)
2	Andersonpet PS – Cr. No. 89/2023	307, 506, 34, 120(B) IPC	Attempt to murder	Trial pending (S.C. No. 155/2025)
3	Andersonpet PS – Cr. No. 11/2024	307, 323, 324, 143, 144, 148, 504, 506, 149 IPC	Attempt to murder	Trial pending (J.O. No. 09/2025)
4	Andersonpet PS – Cr. No. 05/2025	BNSS provisions	Preventive action	Released on indemnity bond
5	Oorgaum PS – Cr. No. 07/2023	143, 144, 147, 148, 504, 307, 302, 149 IPC	Murder case	Acquitted in S.C. No. 31/2024
6	Oorgaum PS – Cr. No.	143, 144, 147, 148,	Attempt to	Trial pending (S.C. No.



	30/2024	323, 324, 504, 307 r/w 149 IPC	murder	199/2024)
7	Oorgaum PS – Cr. No. 58/2024	109, 189(2), 189(4), 190, 191(3), 324(4), BNS	House attack	Trial pending (S.C. No. 44/2024)
8	Bangarpet PS – Cr. No. 143/2024	224, 353 IPC	Obstruction of duty	Conviction
9	Bangarpet PS – Cr. No. 377/2025	25(1B)(b) Arms Act	Possession of deadly weapons	Under investigation
10	Robertsonpet PS – Cr. No. 54/2025	351(3), 109, 352, 351(2), 3(5) BNS	Attempt to murder	Trial pending (S.C. No. 207/2025)

5. It is further submitted that though the detenue is aged only 19 years he has been involved in criminal activities since his juvenile age. It is further stated that in view of his conduct, a Rowdy Sheet has been opened against him in Andersonpet Police Station on 06.12.2024 and Oorgaum Police Station on 21.11.2024.

6. The learned State Public Prosecutor-I therefore seeks to support the Order of Detention on the ground that the subjective satisfaction arrived at is well founded.



7. We have considered the contentions advanced. The Order of Detention specifically states that the detainee is presently aged 19 years and his date of birth is stated to be 08.10.2006. It is clear that as on the date of passing of the Order of Detention, that is, 11.12.2025 he is aged 19 years. The offences which are relied on to arrive at the subjective satisfaction that an Order of Detention is required to be passed, are those committed in the years 2023, 2024 and 2025. With regard to the first offence, date of commission is admittedly on 24.05.2023. The second offence is one committed on 17.08.2023. The third offence is committed on 30.01.2024. The further offences are on 22.04.2025, 10.02.2023, 01.05.2024, 09.11.2024 and 13.05.2024 etc.

8. Therefore, it is clear that atleast in some of the cases which are admittedly relied upon to arrive at the subjective satisfaction that the preventive detention is required, the detainee was below the age of 18 as on the date of commission of the offence.

9. The Juvenile Justice Act defines 'child' as a person who has not completed 18 years of age. Section 2(12) of the Juvenile Justice Act contains the said



definition. Section 24 of the Juvenile Justice Act reads as under:-

" 24. Removal of disqualification on the findings of an offence.- (1) *Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:*

Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) *The Board shall make an order directing the Police, or by the Children's Court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:*

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court."



10. We notice that the Juvenile Justice (Care and Protection of Children) Act, 2015 is a law made under the provisions of Article 15(3) of the Constitution of India to give effect to Clauses (e) and (f) of Articles 39, 45 and 47 of the Constitution to ensure that the needs of children are met and their basic human rights are fully protected. The enactment is also intended to give effect to the United Nations Convention on the Rights of the Child, 1992 and United Nations Standard Minimum Rules for Administration of Juvenile Justice, 1985 as well as the Hague Convention on Protection of Children and Co-operation of Inter-country Adoption, 1993 and other related international instruments.

11. The intention of Section 24 of the Juvenile Justice Act is to see that a child who has committed an offence does not suffer any disqualification on account of such commission. The only exception is with regard to a child who is tried as an adult under Section 19 of the Juvenile Justice Act. It is therefore clear that it is only in the case of a child who has completed or is above the age of 16 years and has committed a heinous offence and has been tried as an adult, that the details



of the conviction can be retained and that too, only by the Children's Court.

12. In the facts and circumstances of the instant case, where several of the offences which are relied on to justify the preventive detention were committed at a time when the detinue had not attained the age of 18 years and were not cases where he was tried as an adult for heinous offences, we are of the opinion, that the very fact that those offences were taken into consideration for the purpose of arriving at the subjective satisfaction as to the detention of the detinue by itself would vitiate the Order of Detention and will go against the very purpose of the Juvenile Justice Act and Section 24 thereof.

13. 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 detinue shall be enlarged and set at liberty, in case, his detention is not required in any other pending case.



14. The Registry shall immediately communicate the operative portion of this order to the Superintendent of Central Prison, Bellary, today itself, to facilitate the release of the detenu.

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

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

RAK
List No.: 2 Sl No.: 5