

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

&

*** THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

+WRIT PETITION No:6859 OF 2026

% 11.08.2026

BOMMALI ASHAJYOTHI

.....Petitioner

And:

\$1. The State of Andhra Pradesh, rep. by its
Chief Secretary, Amaravati and others.

....Respondents.

!Counsel for the petitioner: : Sri D. Purna Chandra Reddy

^Counsel for the respondents : Addl. Advocate General

<Gist:

>Head Note:

? Cases referred:

¹2024 SCC OnLine AP 143

² (2004) 8 SCC 106

³ (2007) 1 SCC 486

⁴ 2024 SCC Online AP 143

⁵ (2007) 1 SCC 486

⁶ 1981 (2) SCC 427

HIGH COURT OF ANDHRA PRADESH

* * * *

WRIT PETITION No:6859 OF 2026

DATE OF JUDGMENT PRONOUNCED: 11.08.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

PURUSHOTTAM KUMAR CHINTALAPUDI, J

APHC010096372026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3601]

TUESDAY, THE 11th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

WRIT PETITION NO: 6859/2026

Between:

1. BOMMALI ASHAJYOTHI,, W/O B. VAMSI KRISHNA, AGED 26 YEARS, OCC. HOUSEWIFE, R/O RAMAPURAM COLONY, GEETHA MANDIRAM, PARVATHIPURAM MANDAL, VIZIANAGARAM DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT BUILDINGS, AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT-522237
2. THE COLLECTOR AND DISTRICT MAGISTRATE, PARVATHIPURAM MANYAM DISTRICT-535501
3. THE SUPERINTENDENT OF POLICE, PARVATHIPURAM MANYAM DISTRICT-535501
4. THE SUPERINTENDENT, CENTRAL PRISON, VISAKAPATNAM, VISAKAPATNAM DISTRICT-530011

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue writ order or direction more particularly one in the nature of writ of Habeas Corpus under Article 226 of the constitution of India

directing the 4th respondent to produce Bommali Vamsi Krishna, who is now detained in Central Prison, Visakhapatnam before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention vide RC.NO.2219/2025/C3, dt.21.08.2025, passed by the 2nd respondent which was confirmed by the 1st respondent vide G.O.Rt.No. 1924, dt. 17.10.2025 General Administration (SC-I) Dept., as illegal and un constitutional and pass

Counsel for the Petitioner:

1.D PURNACHANDRA REDDY

Counsel for the Respondent(S):

1.ADDL ADVOCATE GENERAL

The Court made the following Order:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI

WRIT PETITION NO: 6859 OF 2026

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri D. Purnachandra Reddy, learned counsel for the petitioner and Sri Akula Venkata Sai Jagadish, learned Government Pleader in the office of the learned Additional Advocate General for the respondents.

2. The petitioner by means of this Writ Petition for Habeas Corpus under Article 226 of the Constitution of India is challenging the order of preventive detention *vide* Rc.No.2219/2025/C3, dated 21.08.2025 passed by the 2nd respondent - Collector/ District Magistrate, Parvathipuram, Manyam District, as also the order of confirmation *vide* G.O.Rt.No.1924, dated 17.10.2025 passed by the 1st respondent confirming the order of detention.

3. The same petitioner, challenging the same orders had previously filed W.P.No.25077 of 2025. The same was dismissed by a Coordinate Bench on 05.02.2026 by a detailed order on merits.

4. The point involved is the maintainability of the Habeas Corpus Writ Petition under Article 226 of the Constitution of India, after the dismissal of the previous Writ Petition, challenging the same orders of detention on merits.

5. Learned counsel for the petitioner submits that this petition is being filed on different grounds. Those grounds were not taken in the earlier petition. He submits that, the principles of *res judicata* or constructive *res judicata* would not apply to the writ petition for Habeas Corpus. He places reliance on **Sokkam Sreenivasulu vs. State of A.P.**,¹ The said judgment refers to the judgment of the Hon'ble Apex Court in **T.P. Moideen Koya v. Government of Kerala**² and **Srikanth Vs. District Magistrate, Bijapur**³. He submits that the present Writ Petition, notwithstanding the dismissal of the earlier Writ Petition with respect to the same order by the same petitioner, is maintainable, on different grounds which deserve to be considered on merits.

6. Sri Akula Venkata Sai Jagadish, the learned Government Pleader for the respondents submits that the writ petition has been filed on the same grounds, which were available to the petitioner at the time of the previous writ petition. The challenge is not on new grounds, becoming available after the dismissal of the previous writ petition. There are no changed circumstances. The present writ petition is not maintainable.

7. We have considered the aforesaid submissions and perused the material on record.

8. In **T.P.Moideen Koya** (supra), the petition was filed before the Hon'ble Apex Court under Article 32 of the Constitution of India for

¹ 2024 SCC OnLine AP 143

² (2004) 8 SCC 106

³ (2007) 1 SCC 486

quashing and setting aside of the detention order passed under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (for short 'COFEPOSA'). Previously, the writ petition was filed challenging the same detention order in the High Court of Kerala under Article 226 of Constitution of India, which was dismissed. A Special Leave Petition (Criminal) filed against the order of the High Court was also dismissed on merits by the Hon'ble Apex Court. Thereafter, the writ petition under Article 32 of Constitution of India was filed before the Hon'ble Apex Court.

9. The question for consideration was "whether the dismissal by the Apex Court of the Special Leave Petition preferred against the judgment and the order dated 11.02.2023 of the Kerala High Court whereby the Habeas Corpus petition was dismissed, would act as a bar to the maintainability of the petition under Article 32 of Constitution of India".

10. The Hon'ble Apex Court on consideration of its previous pronouncements held that while hearing the Special Leave Petition against the judgment of the High Court dismissing the habeas corpus petition wherein a prayer has been made to set the detenu at liberty, the Court would normally examine the same grounds, namely, whether the detention order is in conformity with Article 22(5) of the Constitution and the provisions of the enactment under which the detention order has

been passed, the procedural safeguards have been observed and also, whether the continued detention of the detenu has not been rendered invalid on account of any breach of the duty cast upon the authorities. It was observed that the decision rendered by the Apex Court in proceedings under Article 136 of the Constitution which attained finality, would bind the parties and the same issue cannot be reagitated or reopened in a subsequent petition under Article 32 of the Constitution. The Hon'ble Apex Court further clarified that the subsequent petition under Article 32 of the Constitution of India seeking a writ of habeas corpus for setting at liberty of a person who has been detained under any of the detention laws would be maintainable if the circumstances have changed. It would also be maintainable on the grounds which were not available when the earlier petition was decided. To illustrate, an illustration was referred that a detenu soon after his detention may file a habeas corpus petition on the ground that the officer concerned of the Government passing the detention order had no authority to do so or the grounds of detention relate to "law and order" and not to "public order" (in a case where detention order has been passed under the National Security Act). If such a petition was dismissed by the High Court and the judgment was affirmed by the Apex Court in a Special Leave Petition under Article 136 of the Constitution, it would always be open to the

detenue to file a petition under Article 32 assailing his continued detention on the ground of inordinate and unexplained delay in consideration of his representation or some procedural infirmity which might have occurred subsequent to the decision of the Apex Court, i.e in S.L.P.or under Article 136 of the Constitution of India.

11. Para Nos.14 to 15 in ***T.P.Moideen Koya*** (supra) reads as under:

“**14.** While hearing a special leave petition against the judgment of the High Court dismissing a habeas corpus petition wherein a prayer has been made to set a detenu at liberty, the Court would normally examine the same grounds, namely, whether the detention order is in conformity with Article 22(5) of the Constitution and the provisions of the enactment under which the detention order has been passed, the procedural safeguards have been observed and also whether the continued detention of the detenu has not been rendered invalid on account of any breach of the duty cast upon the authorities. A decision rendered by this Court in proceedings under Article 136 of the Constitution which has attained finality, would bind the parties and the same issue cannot be reagitated or reopened in a subsequent petition under Article 32 of the Constitution.

15. We would like to clarify here that the subsequent petition under Article 32 of the Constitution seeking a writ of habeas corpus for setting at liberty a person who has been detained under any of the detention laws would be maintainable if the circumstances have changed. It would also be maintainable on the grounds which were not available when the earlier petition was decided. To illustrate, a detenu soon after his detention may file a habeas corpus petition on the ground that the officer concerned of the Government passing the detention order had no authority to do so or the grounds of detention relate to “law and order” and not to “public order” (in a case where detention order has been passed under the National Security Act). If such a petition is dismissed by the High Court and the judgment is affirmed by this Court in a special leave petition under Article 136 of the Constitution, it would always be open to him to file a petition under Article 32 assailing his continued detention on the ground of inordinate and unexplained delay in consideration of his representation or some procedural infirmity which may have occurred subsequent to the decision of this Court.”

12. In **T.P.Moideen Koya** (supra), the Hon'ble Apex Court found that the similar plea as was taken in the petition under Article 32 of Constitution of India had already been taken in the Special Leave Petition (criminal) filed against the order of High Court dismissing the petition for habeas corpus under Article 226. So, that was not a case of a new plea becoming available after the previous decision. The Hon'ble Apex Court further observed that if the plea raised was not considered, in the previous judgment in Special Leave Petition (Criminal), "it cannot be a ground to entertain a fresh petition under Article 32 of the Constitution". It was further observed that "if a fresh petition under Article 32 is permitted on the ground that certain point has not been dealt with in the judgment, a party can file as many petitions as he likes and take one or two new points every time. Besides, if such a course was allowed to be adopted, the doctrine of finality of judgments pronounced by the Supreme Court would also be materially affected".

13. Para 16 of **T.P. Moideen Koya** (supra), reads as under:

"16. In the light of the principles discussed above the contention of the petitioner may be examined. The only ground urged by learned counsel for the petitioner is that at the time of service of the detention order, the petitioner was already in custody, but the detaining authority had not applied his mind to the aforesaid fact whether still there was any necessity to detain the petitioner. It is also urged that the said fact, namely, that the petitioner was already in custody having not been mentioned in the detention order, the order of detention passed against the petitioner is wholly illegal. In support of this submission reliance has been placed upon *Binod Singh v. District Magistrate* [(1986) 4 SCC 416 : 1986 SCC (Cri) 490 : AIR 1986 SC 2090]

wherein it has been held that if at the time of the passing of the detention order, there is no proper consideration of the fact that the detenu was already in custody or that there was any real possibility of his release, the power of pre-emptive detention should not be exercised. This plea was raised in the habeas corpus petition which was filed in the Kerala High Court. The High Court examined the plea in considerable detail and rejected the same by the judgment and order dated 11-2-2003. Similar plea was also taken in Special Leave Petition (Criminal) No. 1215 of 2003 (vide paras 2.3 and 2.4 and grounds H to L). In fact, in para 7 of the present writ petition it is stated that a contention was raised and was specifically argued before this Court in the special leave petition that the order of detention has been vitiated on account of the fact that the same was served upon the detenu while he was in jail, but the fact of his being in custody was not reflected in the detention order. However, a grievance is raised that the said contention has not been dealt with or decided in the judgment of this Court. It is, therefore, apparent that the only plea raised in the present petition had also been raised in the special leave petition which had been filed earlier seeking quashing of the detention order and the release of the petitioner. It is neither a subsequent development nor a new plea which may not have been available at the earlier stage. If the plea raised has not been considered in the judgment rendered by this Court on 28-7-2003 [(2003) 7 SCC 46 : 2004 SCC (Cri) 920] in Special Leave Petition (Criminal) No. 1215 of 2003, as submitted by the petitioner, it cannot be a ground to entertain a fresh petition under Article 32 of the Constitution on the principles discussed above. In the course of judgment, courts normally deal with only such points which are pressed and argued. If a fresh petition under Article 32 is permitted on the ground that certain point has not been dealt with in the judgment, a party can file as many petitions as he likes and take one or two new points every time.

Besides, if such a course was allowed to be adopted, the doctrine of finality of judgments pronounced by the Supreme Court would also be materially affected. Therefore, having regard to the facts pleaded and the grounds raised, the present petition is not maintainable.”

14. On the point of res judicata or analogous provisions. The Hon’ble Apex Court in **T.P. Moideen Koya** (supra) held that such a bar would not apply to a writ of Habeas Corpus. A writ petition under Article 32 of the Constitution of India would be maintainable even after dismissal of the writ petition under Article 226 of the Constitution of India and even if

the decision of the Habeas Corpus was not challenged in S.L.P. under Article 36 of the Constitution of India.

15. Para Nos. 8 to 11 in **T.P. Moideen Koya** (supra) read as under:

“8. But, the bar of *res judicata* has not been applied in petitions for habeas corpus, as for historical reasons, the writ for habeas corpus has been treated as standing in a category by itself. In *Daryao v. State of U.P.* [AIR 1961 SC 1457 : (1962) 1 SCR 574] the legal position in England as of now has been considered in para 17 of the Report, and after referring to *Hastings (No. 2)*, *Re* [(1958) 3 All ER 625 : (1959) 1 QB 358 : (1958) 3 WLR 768] and *Hastings (No. 3)*, *Re* [(1959) 1 All ER 698 : (1959) 2 WLR 454] it was observed that even in regard to habeas corpus petition it is now settled in England that an applicant cannot move one Divisional Court of the Queen's Bench Division after another.

9. This question was examined in considerable detail by a Constitution Bench in *Ghulam Sarwar v. Union of India* [AIR 1967 SC 1335 : (1967) 2 SCR 271 : 1967 Cri LJ 1204] . In this case the petitioner who was detained under Section 3(2)(g) of the Foreigners Act, 1946 filed a petition for issuing a writ of habeas corpus which was dismissed by a learned Single Judge of the High Court and the said judgment was allowed to become final. Thereafter the petitioner filed a writ petition under Article 32 of the Constitution in the Supreme Court praying that he may be set at liberty. Subba Rao, C.J., after referring to *Daryao v. State of U.P.* [AIR 1961 SC 1457 : (1962) 1 SCR 574] , in *Re Hastings (2)* [(1958) 3 All ER 625 : (1959) 1 QB 358 : (1958) 3 WLR 768] , in *Re Hastings (3)* [(1959) 1 All ER 698 : (1959) 2 WLR 454] , and some other English and American cases held as under: (AIR p. 1335)

“The principle of application of *res judicata* is not applicable in writ of habeas corpus, so far as High Courts are concerned. The principles accepted by the English and American Courts viz. that *res judicata* is not applicable in writ of habeas corpus holds good. But unlike in

England, in India the person detained can file original petition for enforcement of his fundamental right to liberty before a court other than the High Court viz. the Supreme Court. The order of the High Court in such a case will not be *res judicata* as held by the English and the American Courts because it is either not a judgment or because the principle of *res judicata* is not applicable to a fundamentally lawless order.”

10. In *Nazul Ali Molla v. State of W.B.* [(1969) 3 SCC 698] the petitioners had challenged their detention under Section 3(2) of the Preventive Detention Act by filing a writ petition under Article 226 of the Constitution before the Calcutta High Court, but the petition was dismissed. Thereafter they filed a writ petition under Article 32 of the Constitution in this Court. The objections raised by the State regarding maintainability of the petition was repelled and it was held that a petition under Article 32 of the Constitution for the issue of writ of habeas corpus would not be barred on the principle of *res judicata* if a petition for a similar writ under Article 226 of the Constitution before a High Court has been decided and no appeal is brought up to the Supreme Court against that decision. Similar view has been taken in *Niranjan Singh v. State of M.P.* [(1972) 2 SCC 542 : 1972 SCC (Cri) 880 : AIR 1972 SC 2215]

11. The principle which can be culled out from these authorities is that the bar of *res judicata* or constructive *res judicata* would apply even to a petition under Article 32 of the Constitution where a similar petition seeking the same relief has been filed under Article 226 of the Constitution before the High Court and the decision rendered against the petitioner therein has not been challenged by filing an appeal in the Supreme Court and has been allowed to become final. However, this principle, namely, the bar of *res judicata* or principles analogous thereto would not apply to a writ of habeas corpus where the petitioner prays for setting him at liberty. If a person under detention files a writ of habeas corpus under Article 226 of the Constitution before the High Court and the writ petition is dismissed (whether by a detailed order after considering the case on merits or by a non-speaking order) and the said decision is not challenged by preferring a special leave

petition under Article 136 of the Constitution and is allowed to become final, it would still be open to him to file an independent petition under Article 32 of the Constitution seeking a writ of habeas corpus.”

16. **T.P.Moideen Koya** (supra), thus lays down the principles of law, with respect to the maintainability of a Habeas Corpus writ petition under Article 32 of the Constitution of India after the dismissal of the petition under Article 226 of the Constitution of India, which inter alia are as follows:

(i) On dismissal of a petition under Article 226 of the Constitution of India by the High Court, a petition under Article 32 of the Constitution of India would be maintainable, even if the order of the High Court is not challenged and it would be so, even on the same grounds of challenge. The question of res-judicata would not arise.

(ii) that even after dismissal of the petition under Article 136 of the Constitution of India against the judgment of the High Court, a petition for Habeas Corpus under Article 32 of the Constitution of India would be maintainable in the Supreme Court

a) if the circumstances have changed since after the dismissal of the petition under Article 136 of the Constitution of India; and

b) on new grounds becoming available, which were not available at the time of dismissal of the writ petition by the High Court or/and the dismissal of the appeal by the Supreme Court against the order of the High Court.

17. **T.P.Moideen Koya** (supra), does not deal with the question whether after dismissal of the writ petition under Article 226 of the

Constitution of India another writ petition under Article 226 of the Constitution of India can be filed for Habeas Corpus and if so as to when?

18. The law laid down that the res-judicata or the analogous provisions do not apply to a writ of Habeas Corpus was in the context of dismissal of a writ petition under Article 226 of the Constitution of India by the High Court, when a petition under Article 32 of the Constitution of India, was filed, maybe after dismissal of S.L.P against the judgment of the Habeas Corpus petition under Article 226 of the Constitution of India by High Court or even without filing S.L.P.

19. We are of the view that applying the principle of law as laid down in ***T.P.Moideen Koya*** (supra) as considered above, it can be held that after the dismissal of the writ petition for Habeas Corpus under Article 226 of the Constitution of India challenging the order of detention, if the judgment of the High Court is not challenged before the Hon'ble Supreme Court or any petition under Article 32 of the Constitution of India has not been filed, then fresh writ petition under Article 226 of the Constitution of India can be maintained in the High Court only if the circumstances have changed or if a new ground becomes available after the decision of the earlier writ petition. Otherwise, the judgment in the previous writ petition under Article 226 of the Constitution of India shall

be final, on the principle of finality attached, though it may not be on the principle of *res judicata* or constructive *res judicata*.

20. In **Sookam Sreenivasulu v. The State of AP**⁴, the writ petition under Article 226 of the Constitution of India was filed challenging the order of preventive detention passed under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (1 of 1986) (in short 'the Act, 1986). There, the petitioner had earlier filed a writ petition challenging the same order of preventive detention on different grounds but not on the grounds taken in the subsequent writ petition. The previous writ petition was dismissed. Subsequent writ petition was filed on the ground that the bail applications and bail orders were not furnished to the detaining authority and to the detenu and thereby the entire detention order was vitiated. The subsequent writ petition was not hit by the principle of constructive *res judicata*.

21. One of the points for consideration before the Co-ordinate Bench in **Sookam Sreenivasulu** (supra) was "whether the writ petition is hit by the principle of *res judicata*/constructive *res judicata*"?

⁴ 2024 SCC Online AP 143

22. This Court referring to the judgement of the Hon'ble Apex Court in **T.P.Moideen Koya** (supra), **Srikant v. District Magistrate, Bijapur**⁵ and **Lallubhai Jogibhai Patel v. Union of India**⁶ held that in substance, the jurisprudence on the applicability of res-judicata/constructive res-judicata in habeas corpus writ petitions is as under:

(a) If a habeas corpus writ petition is dismissed by the High Court under Article 226 of the Constitution, the petitioner can file a writ petition under Article 32 of the Constitution before the Apex Court on same grounds without questioning the order of the High Court in a SLP under Article 136 of the Constitution before Supreme Court.

(b) However, if against the order of the High Court, a SLP was filed and dismissed by the Apex Court, no petition under Article 32 of the Constitution can be filed in the Supreme Court on the same grounds but a separate petition under Article 32 can be filed with new grounds.

(c) Constructive *res judicata* has no application to Habeas Corpus petitions where liberty of an individual is involved.

23. We are in agreement with the view taken in **Sookam Sreenivasulu** (supra), that the *res judicata* or the constructive *res*

⁵ (2007) 1 SCC 486

⁶ 1981 (2) SCC 427

judicata has no application to the writ of habeas corpus where a liberty of an individual is involved under Article 21 of Constitution of India or for that reason in case of violation of the fundamental right of the detenu under Article 22 of the Constitution of India.

24. In **Sookam Sreenivasulu** (*supra*), a perusal of paras -14 &15 shows that, in the previous writ petition, the petitioner had taken a plea that the bail orders granted in his favour were not considered by the detaining authorities. That plea i.e non consideration of the bail orders was not addressed by the Division Bench. The Co-ordinate Bench considered that plea, observing that the principle of *res judicata* or constructive *res judicata* does not apply to writ petition for habeas corpus under Article 226 of Constitution of India.

25. In the case of **T.P. Moideen Koya** (*supra*) as also in the case of **Srikanth** (*supra*), the facts reveal that the coordinate Bench in **Sookam Sreenivasulu** (*supra*) found that the grounds which were raised in the earlier petition were not addressed in the second writ petition and consequently, on different grounds, the second petition was maintainable and was entertained. However, at this stage we may refer to para 16 of **T.P. Moideen Koya** (*supra*) one again as under:

“16.....In fact, in para 7 of the present writ petition it is stated that a contention was raised and was specifically argued before this Court in the special leave petition that the order of detention has been vitiated on account of the fact that the same was served upon the detenu

while he was in jail, but the fact of his being in custody was not reflected in the detention order. However, a grievance is raised that the said contention has not been dealt with or decided in the judgment of this Court. It is, therefore, apparent that the only plea raised in the present petition had also been raised in the special leave petition which had been filed earlier seeking quashing of the detention order and the release of the petitioner. It is neither a subsequent development nor a new plea which may not have been available at the earlier stage. If the plea raised has not been considered in the judgment rendered by this Court on 28-7-2003 [(2003) 7 SCC 46 : 2004 SCC (Cri) 920] in Special Leave Petition (Criminal) No. 1215 of 2003, as submitted by the petitioner, it cannot be a ground to entertain a fresh petition under Article 32 of the Constitution on the principles discussed above. In the course of judgment, courts normally deal with only such points which are pressed and argued. If a fresh petition under Article 32 is permitted on the ground that certain point has not been dealt with in the judgment, a party can file as many petitions as he likes and take one or two new points every time.....”

The aforesaid shows that even if a plea taken in a petition under Article 32 of the Constitution of India was not considered, it cannot be a ground to maintain another Article 32 writ petition on some grounds. The point that may then arise if it cannot be a ground under Article 32 of the Constitution of India, can it be a ground to maintain second writ petition under Article 226 of the Constitution of India before the High Court? However, such a point need not be gone into, as in the present case, it is not a case of taking same ground in the 2nd writ petition which was taken but not considered in the 1st writ petition under Article 226 of the Constitution of India.

26. We are of the view that **Sookam Sreenivasulu** (supra) is distinguishable on facts. In the present case, the learned counsel for the petitioner submitted that the new ground which has been taken in this writ petition was not taken in the earlier writ petition. This is also not a

ground becoming available after the decision of the previous Writ Petition No.25077 of 2025.

27. We may not be understood as applying the principles of res judicata or constructive res judicata to a writ of Habeas Corpus.

28. What we apply is, the principle of finality attached to the judgment in the previous writ petition. That finality cannot be reopened or disturbed, except on a new ground becoming available after the previous decision or under the changed circumstances. Otherwise, what may happen in so many cases is that, in the first writ petition some of the grounds though available, may be omitted or reserved for the second petition. This may result in taking a chance again in the second Habeas Corpus petition if the first petition fails. This cannot be permitted. At the cost of repetition in ***T.P.Moideen Koya*** (supra), the Hon'ble Apex court clearly observed that "if a fresh petition under Article 32 was permitted on the ground that certain ground has not been dealt with in the judgment, a party can file as many petitions as he likes and take one or two new points every time." The same may also be the situation in case of the successive Habeas Corpus petitions under Article 226 of the Constitution of India, in the same High Court.

29. **Lallubhai Jogibhai Patel** (supra) was considered in **T.P.Moideen Koya** (supra) and **T.P. Moideen Koya** (supra) was followed in **Srikant** (supra). In **Srikant** (supra), the Hon'ble Apex Court held that whether any new ground has been taken has to be decided by the court dealing with the application. Para 8 of **Srikant** (supra) reads as under:

"8. Whether any new ground has been taken, has to be decided by the court dealing with the application and no hard-and-fast rule can be laid down in that regard. But one thing is clear, it is the substance and not the form which is relevant. If some surgical changes are made with the context, substance and essence remaining the same, it cannot be said that challenge is on new or fresh grounds.

30. The judgment dated 05.02.2026 passed in the previous Writ Petition No 25077 of 2025 has attained finality. The present writ petition, on a fresh ground which was available at the time of decision in the previous writ petition, would not be maintainable as it cannot be a case of changed circumstances or of a new ground becoming available after the decision of the previous writ petition. We are of the view that the finality attached to the judgment dated 05.02.2026 cannot be upset by this Court by a Co-Ordinate Bench, on the same grounds or the grounds which were available at the time of decision in the writ petition but not raised.

31. Writ petition is not maintainable and is accordingly dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

Dated:11.08.2026

Note:

L.R copy to be marked.

B/o.

KPV/AG/GK.

201

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI

WRIT PETITION NO: 6859/2026

Dated: 11.08.2026
KPV/AG/GK