



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2022

PRESENT

THE HON'BLE MR. JUSTICE B. VEERAPPA

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION (HC) No.39/2022

BETWEEN:

1. SHIVARAJA @ KULLA SHIVARAJA

2. KAMALAMMA K.N.

... PETITIONERS

(BY SRI ROHAN VEERANNA TIGADI, ADVOCATE)

AND:

1. COMMISSIONER OF POLICE,
BENGALURU,
NO.1, INFANTRY ROAD,
BENGALURU - 560 001.
2. STATE OF KARNATAKA
VIDHANA SOUDHA,
AMBEDKAR VEEDHI,
SAMPANGI NAGARA, BENGALURU,
KARNATAKA - 560 001
(REPRESENTED BY SECRETARY
HOME DEPARTMENT - LAW AND ORDER).
3. SENIOR SUPERINTENDENT,
CENTRAL PRISON, BANGALORE,
BENGALURU - 560 100. ... RESPONDENTS

(BY SRI V.S. HEGDE, SPP-II A/W SRI THEJESH P., HCGP FOR R-1 TO R-3)

THIS WP(HC) IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, BY THE PETITIONER, WHEREIN HE PRAYS THAT THE HON'BLE COURT MAY BE PLEASED TO (A) ISSUE A WRIT OF HABEAS CORPUS DECLARING THE DETENTION OF THE PETITIONER NO.1 IS ILLEGAL AND SET HIM AT LIBERTY FORTHWITH AFTER QUASHING THE ORDER BEARING REFERENCE NO.26/CRM(4)/DTN/2021 DATED 28.12.2021 (ANNEXURE - A) PASSED BY THE 1ST RESPONDENT UNDER SECTION 3(1) OF THE GOONDA ACT, THE ORDER BEARING NUMBER HD 1 SST 2022 DATED 06.01.2022 PASSED BY THE 2ND RESPONDENT UNDER SECTION 3(3) OF THE GOONDA ACT (ANNEXURE - B) AND ORDER BEARING REFERENCE NO.HD 1 SST 2022 DATED 14.02.2022 (ANNEXURE - C) PASSED BY THE 2ND RESPONDENT UNDER SECTION 12 OF THE GOONDA ACT; AND (B) CALL FOR THE RECORDS OF THE ORDER BEARING REFERENCE NO.26/CRM(4)/DTN/2021 DATED 28.12.2021 (ANNEXURE-A) FROM THE RESPONDENTS.

THIS WPHC HAVING BEEN HEARD AND RESERVED FOR ORDER ON 05/09/2022, COMING FOR PRONOUNCEMENT OF ORDERS THIS DAY, **K.S. HEMALEKHA J.**, MADE THE FOLLOWING:

ORDER

"As the proverb goes, *"use it or lose it"* like unused knowledge becomes a burden, unused time dies, *"what is not used, is abused"*.

Petitioner No.1 being the detinue and petitioner No.2 the wife of the detinue/petitioner No.1 assail the order bearing reference No.26/CRM/(4)/DTN/2021 dated 28/12/2021 (Annexure - A) passed by respondent No.1 under the provision of Section 3(1) of the Goonda Act, the order bearing No.HD 1 SST 2022 dated 06/01/2022 passed by respondent No.2 under Section 3(3) of the Goonda Act (Annexure - B) and order bearing reference No.HD 1 SST 2022 dated 14/02/2022 (Annexure - C) passed by respondent No.2 under the provisions of Section 12 of the Goonda Act and sought to call for records of the order bearing reference No.26/CRM/(4)/DTN/2021 dated 28/12/2021 (Annexure - A) from the respondent.

2. It is stated in the writ petition that petitioner No.1 has been preventively detained from 28/12/2021 for one year under the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video or Audio Pirates Act, 1985 ("Goonda Act" for short) and resulted in the violation of the fundamental rights of petitioner No.1 under Articles 14, 21 and 22 of the Constitution of India being infringed.

I. Facts:

3. The facts leading to the filing of the present writ petition are as under:

(a) Petitioner No.1 is aged 32 years, son of Ravikumar and Bhagyamma and married to one Kamala and he has studied up to IX standard in primary and secondary education, Gangardeshwara School, Kamalanagar. Petitioner No.2 is the wife of petitioner No.1.

(b) One Jagadeesh, Inspector of the Karnataka State Police, who was later posted at Tavarekere Police Station as a Circle Inspector and since 2021 he has been constantly harassing the petitioner and his family members and the said inspector would often come near the house and workplace of petitioners and threatened to eliminate petitioner No.1 in an encounter and further threatened petitioner No.1 with dire consequences if he did not vacate his residential house and move out of Bengaluru City and being aggrieved by the said Act of the inspector, the petitioner complained with the Karnataka State Human Rights Commission on 20/04/2021.

(c) The lodging of a complaint by petitioner No.1 with the State Human Rights Commission came to the knowledge of said inspector Jagadish, who summoned petitioner No.1 and his family members on 21/04/2021 and abused them in filthy language and obtained the identification marks of petitioner No.1. It

is stated that in the presence of the petitioners, the said inspector Jagadish telephoned to the police at Byadarahalli Police Station and directed them to implicate petitioners in 2 to 3 false cases. Further, in blatant abuse of his power, on 23/04/2021, the said inspector coaxed his fellow policemen to seek permission from the higher police authorities for the opening of "A" Rowdy Sheet against the petitioners and on 06/05/2021 permission was granted and apart from this, several false cases came to be registered against petitioner No.1.

(d) On 11/08/2021, the Byadarahalli Police registered Cr. No.329/2021 for the offences punishable under Sections 324, 504, 506 read with Section 34 of the Indian Penal Code, 1860 ("IPC") on the false ground that the petitioner has assaulted one Sri Darmesh and on 12/08/2021 i.e., on the next day Cr. No.331/2021 another case was registered for the offence punishable under Section 353 read with

Section 34 of the IPC on the false ground that petitioner No.1 and his associates sprayed pepper spray in the eyes of the PSI Harish when he attempted to arrest petitioner No.1 and that the police officer Jagadish threatened to lodge additional false cases against petitioner No.1.

(e) When the facts stood thus, it is stated that on 28/12/2021, respondent No.1 passed an order bearing No.26/CRM(4)/DTN/2021 (Annexure -A) invoking power under Section 3(1) of the Goonda Act directing the petitioner's detention in Central Prison, Bengaluru, wherein respondent No.1 *inter alia* falsely alleged that petitioner No.1 along with his associates was engaged in several criminal activities and violated conditions of bail on several occasions.

(f) Thereafter, without giving adequate time to the petitioner to submit his representation, respondent No.1 sought confirmation of the order

dated 28/12/2021 under Section 3(3) of the Goonda Act on 03/01/2022 and after five days after passing the order dated 28/12/2021, under Section 3(1) of the Goonda Act.

(g) It is stated that on 04/01/2022 petitioner No.1 submitted a detailed representation against the order of preventive detention passed by respondent No.1 to the Advisory Committee (Annexure - E).

(h) Without considering the said representation dated 04/01/2022 submitted by petitioner No.1, respondent No.2 confirmed the order dated 28/12/2021 (Annexure - A) passed by respondent No.1 under Section 3(3) of the Goonda Act vide order No.HD 1 SST 2022 dated 06/01/2022, respondent No.2 recorded its subjective satisfaction *inter alia* observed that there were seven criminal cases against petitioner No.1; petitioner No.1 habitually committed offences under Sections XVI, XVII and XXII

of the IPC and therefore qualified as a "goonda" under the Goonda Act; thirdly, the petitioner carried weapons intending to create fear in the general public and that the general public were allegedly fearful of lodging complaints against him and giving evidence in Court; there are two "A" rowdy sheets against petitioner No.1; petitioner No.1 constantly violated the bail conditions imposed by the Courts and that ordinary laws of the land are not sufficient to contain petitioner No.1's activities.

4. According to petitioner No.1, though a detailed representation was submitted and the same was forwarded by respondent No.3 on 10/01/2022 to 2nd respondent and though the said representation was within the knowledge of 2nd respondent as evident from the letter issued by respondent No.2 admitting for having received the representation dated 04/01/2022 by respondent No.2, a final order was passed by respondent No.2.

**III. The statement of objections by State/
respondent Nos.1 to 3:**

5. (a) It is stated that the writ petition is not maintainable and requires to be dismissed *in limine*.

(b) Petitioner No.1 is the son of Ravi Kumar and Bhagya married to Kamala and he has studied up to 9th standard in Primary and Secondary Education at Gangadhareshwara School, Kamala Nagar is not disputed.

(c) It is not in dispute that petitioner No.1 has given complaint before the State Human Rights Commission on 20/04/2021 against a Police Inspector namely Jagadeesh, but denied that the said inspector harassed petitioner No.1 and his family members on regular basis and a false rowdy sheet was also opened against petitioner No.1 on 06/05/2021 and would contend that a false complaint was registered by petitioner No.1.

(d) It is submitted that to keep watch on the unlawful activities of petitioner No.1, a rowdy sheet was opened under the orders of the Deputy Superintendent of Police, Magadi sub-division bearing No.SDPO/Magadi/Rowdy-Permission/09/2021 dated 06/05/2021 as the petitioner was engaged in illegal money lending, gambling, extortion, and murder cases as per the intelligence reports. It is also submitted that petitioner No.1 was warned by the Tavarekere Police to maintain good behaviour in society as petitioner No.1 was actively involved in various criminal activities. To curtail his rowdy activities, P.A.R.No.26/2021 under Section 110 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") was registered on 12/07/2021.

(e) It is submitted that several actions were taken as preventive measures against the said petitioner No.1 as he was actively involved in various

criminal cases. It is submitted that cases were also registered against petitioner No.1 in Cr. No.329/2021 under Sections 324, 504, 506, 34 of the Indian Penal Code ("IPC") and Cr. No.331/2021 for the offences punishable under Sections 354 and 34 of the IPC. Petitioner No.1 has created fear in the minds of the general public on account of which the State/respondent No.1 passed an order of detention.

(f) It is submitted that petitioner No.1 was given adequate time for submitting his representation, respondent No.1 sought confirmation of the order dated 28/12/2021 under Section 3(3) of the Goonda Act on 03/01/2022 as contemplated under the said Act and the representation of petitioner No.1 was forwarded to the Advisory Committee at Annexure – E. After considering the representation by the Advisory Board, the Advisory Board report was forwarded to the State Government and the State Government considered the order passed by the

Advisory Board and confirmed the order of detention at Annexure – A. It is further submitted that the representation dated 04/01/2022 has been considered by the respondent within a reasonable time and therefore, the detention order cannot be said to be vitiated on the said ground and there is no violation of any fundamental right of the petitioner as contemplated under Section 21 of the Constitution of India.

(g) It is stated that all the procedures as contemplated under the Goonda Act have complied and there are no procedural irregularities while passing the final order of confirmation at Annexure – C dated 14/02/2022 to the writ petition.

(h) It is stated that the State Government has failed to consider the representation of the detainee dated 04/01/2022 is not acceptable as respondent No.2 has considered the representation of the detainee

at the earliest point of time after the receipt of the file from the Advisory Board on 28/06/2022, copy of which was also furnished to the detainee.

(i) It is further stated that petitioner No.1 cannot be exonerated as the State Government after applying its mind independently and satisfying itself held that the detention is in order and the Advisory Board has considered the representation of petitioner No.1 and respondent No.2 issued endorsement dated 28/06/2022.

(j) It is further stated that the detention order mentioned that the detainee has a right to make representation to the detailing authority, to the State Government as well as to the Advisory Board and that it cannot be said that the grounds urged for passing the detention order is without application of mind.

(k) It is further submitted that petitioner No.1 has violated the bail conditions and threatened the

witnesses and also the general public who feared to lodge any case against the petitioner.

(I) It is submitted that the grounds for passing the detention order in the various cases i.e., seven cases that are pending against petitioner No.1 wherein he has actively involved in the crime against the society were duly furnished to petitioner No.1 and the same reads as under:

Name	Crime No.	Offence	Status
Tavarekere Police Station	479/2015	U/s.5, 38 & 39 of Karnataka Money Lenders Act, 1961 & Sections 3 and 4 of KPCEIA 2004	Pending
Tavarekere Police Station	154/2017	Under Sections 307 and 302 of IPC	Pending
Kumbalgodu Police Station	226/2019	Under Section 395 of IPC	Pending
Byadarahalli Police Station	308/2019	Under Sections 143, 147, 148, 323, 307, 504 r/w. 149 of IPC	Pending
Byadarahalli Police Station	94/2020	Under Sections 399, 402 of IPC	Pending
Byadarahalli Police Station	329/2021	Under Sections 324, 504, 506 r/w. Section 34 of IPC of IPC	Pending
Byadarahalli Police Station	331/2021	Under Sections 353 r/w. Section 34 of IPC	Pending

(m) Respondent No.2 having no other alternative and as per the report, document and material submitted by the Inspector of Police, Byadarahalli, were forwarded to the Assistant Commissioner of Police and subsequently to the Deputy Commissioner of Police West and the same was forwarded to respondent No.1. Having been satisfied with the said report, documents and material on record, the respondent has invoked the provisions of Goonda Act and lawfully confined petitioner No.1 under the preventive detention.

(n) It is submitted that respondent No.1 was convinced to pass an order under the Goonda Act as defined under Section 2(G) of the Goonda Act and the detenu was informed that the State Government shall within three weeks from the date of the detention refer to the Advisory Board constituted under Section 9 of the Goods Act for enabling the

Advisory Board to make a report and it was made clear in the order of detention that if the detainee wish to make any representation to respondent No.1 or the Advisory Board against the detention order, the same may do so by addressing to respondent No.1 and to the Chairman, Advisory Board constituted under the said Act. It was also made clear to the detainee that if he deserves to be heard in the presence of the Advisory Board, he can make a representation to the Superintending of Central Prison where petitioner No.1 is detained and the detainee was produced before the Advisory Board. It was after the opportunity afforded to petitioner No.1, the detention order was confirmed by the State Government and as such, there are no irregularities while passing the detention order or confirmation order.

(o) In support of their contention, State Government has produced the following documents:

a) Copy of the Detention Order dated 28.12.2021 at Annexure – R1.

b) Copy of the communication of the Detention Order at Annexure – R2

c) Copy of the Grounds for Passing Detention Order dated 28.12.2021 at Annexure – R3.

d) Copy of the Communication of the Grounds for passing the Detention Order dated 28.12.2021, on 29.12.2021 at Annexure – R4.

e) Copy of the Detention Order dated 28.12.2021 was approved by the Government on 06.01.2022 at Annexure – R5.

f) Copy of the Detention Order dated 28.12.2021 was approved by the Government on 06.01.2022 and was communicated to the Detenue on 14.02.2022 at Annexure – R6.

g) Copy of the representation dated 10.01.2022 of the Detenue was placed before the Advisory board at Annexure – R7.

h) Copy of the Confirmation of the Detention Order was confirmed by the Government on

14.02.2022 and was communication of the same day to the detention at Annexure – R8.

i) Copy of the representation of the detainee has been considered and rejected by the Government vide GO No.HDH1 SST 2022, Bangalore dated 28.06.2022. The Copy of the same is produced and marked as Annexure – R9.”

6. Stating this in his statement of objections, respondents sought to dismiss the writ petition.

7. Heard learned counsel for the parties to the *lis*.

IV. Arguments advanced by the learned counsel for the petitioners:

8. (i) The respondents failed to consider and communicate the outcome of the representation dated 04/01/2022 submitted by the petitioner within a reasonable time and therefore the detention stands vitiated;

(ii) Contrary to the direction and guidelines of this Court, the respondent failed to indicate the documents underneath each of the grounds of the detention order and thereby violated the fundamental right of petitioner No.1 to make a representation under Article 22 of the Constitution of India.

(iii) Contrary to the directions/guidelines issued by this Court, the respondents failed to indicate the timeline within which the representation has to be considered has not been followed by the respondents.

(iv) The detention order stands vitiated by malice improper exercise of the powers.

(v) The detention orders are based on vague, irrelevant and cryptic grounds and therefore detention is liable to be quashed.

(vi) The detention orders are ultra vires the Goonda Act as the actions of petitioner No.1 are not prejudicial to the maintenance of public order.

(vii) Ordinary laws of the land are sufficient to deal with the situation;

(viii) The detention orders are violative of Articles 14 and 21 of the Constitution.

9. The sum and substance of the arguments canvassed by the learned counsel for the petitioner is that respondent No.1 passed an order under Section 3(1) of the Goonda Act on 28/12/2021 and the same was forwarded to respondent No.2 for confirmation under Section 3(3) of the said Act on 03/01/2022. Learned counsel contends that the representation dated 04/01/2022 was submitted to the Advisory Board and without considering the said representation respondent No.2/State Government confirmed the order of detention under Section 3 of the Goonda Act on 14/02/2022. It is the specific contention of learned counsel for the petitioner that the representation of the petitioner submitted to the Advisory Board was within the knowledge of respondent No.2 as is evident

from Annexure – F, in the letter issued by the Under Secretary on 19/01/2022 admitting having received the representation dated 04/01/2022 by respondent No.2 on 10/01/2022 and the copy of representation was forwarded to the Secretary. It is the specific assertion of the petitioner that respondent No.2 confirmed the order of detention on 14/02/2022 without considering the representation submitted by petitioner No.1 addressed to the Advisory Board on 04/01/2022 though was within the knowledge of respondent No.2 on 10/01/2022. It is the assertion and specific contention of learned counsel for the petitioners that the respondent considered the representation on 28/06/2022 as is evident from Annexure – R9 produced along with the statement of objections by the State and the State Government has failed to consider the representation of the detainee dated 04/01/2022 at the earliest point of time and therefore the detention orders are liable to be

quashed and that the State Government was bound to consider the representation of the detainee and communicate the outcome to the detainee at the earliest point of time, failing which, the detention order stands vitiated as stated by the Apex Court in a catena of judgments. It is further contended that the consideration of the representation by the Advisory Board does not exonerate the State Government of its duty to independently apply its mind and satisfy itself that the detention is in order.

10. In support of his contentions, learned counsel for the petitioners relied upon several judgments of the Apex Court contending that there is an inordinate delay in considering the representation vitiates the detention order itself, which is stated as under:

(I) ***Leelavathi vs. Commissioner of Police, Bengaluru & others [ILR 2019 Kar. 4105] (Leelavathi)*** paragraph Nos. 8 and 12.

(II) **Smt. Gracy vs. State of Kerala & another [(1991)2 SCC 1] (Smt. Gracy)** paragraph No.7.

(III) Judgment of Coordinate Bench of this Court in **Makuko Chukwuka Moulowo vs. State of Karnataka [ILR 2020 Karnataka 5447] (Makuko Chukwuka Moulowo)** paragraph Nos.11 to 14, wherein the Division Bench had held that **R.Keshava's** case has no application when the representation is within the knowledge of the Government even if the representation is addressed to the Advisory Board.

(IV) It is also specifically averred by the learned counsel that the detaining authority has not disclosed the documents concerning each of the grounds of detention and relied upon the judgment in **Smt. Jayamma vs. Commissioner of Police, Bengaluru [ILR 2019 Kar. 1543] (Jayamma)** paragraph No.49(4).

(V) The non-compliance with the timeline set out in ***Suresh Shetty vs. State of Karnataka [Manu/KAR/4711/2018](Suresh Shetty)*** at para Nos.13 and 14.

(VI) It is also stated by learned counsel for the petitioner that preventive detention order cannot be invoked to contend "law and order" problem and only to "public order" situations. It is also contended by the learned counsel "those Acts which cause general disturbance of public tranquillity. Example: one person stabbing another person and the ultra vires provisions of Goonda Act have no public order situation and according to the learned counsel "public order situation" is not ultra vires of the provisions of Goonda Act as stated in ***K.K.Saravana Babu vs. State of Tamil Nadu & others [(2008)9 SCC 89]*** (**Saravana Babu**) paragraph No.18.

(VII) In ***Sheikh Naveen vs. State of Telangana [2022 Live Law SC 559]*** (**Sheikh Naveen**) paragraphs Nos.15 and 17.

11. It is further stated that the detention order is passed on vague and cryptic grounds and baseless grounds have been made for detention and there is no proof of detinue has violated the bail conditions and threatened the witnesses. Further vehemently contends that the detention order is vitiated by *mala fides* and the detention order is due to the complaint against one Jagadeesh Inspector to the Human Rights Commission on 20/04/2021. Urging these grounds, the petitioners sought to allow the writ petition.

V. Contentions of the learned SPP-II for respondents:

12. *Per contra*, learned Special Public Prosecutor -II, Sri V.S.Hegde along with Sri Thejas P., High Court Government Pleader for the State would contend that the in addition to the contention raised in the

statement of objections and the additional statement of objections wherein it is stated that the petitioner has not pleaded in his writ petition about the date of knowledge of representation by the State Government and the detaining authority. In light of non-pleading about the knowledge of the State Government about the receipt of the representation submitted on 04/01/2022 addressed to the Advisory Board, it cannot be stated by the petitioner that the respondents have kept the petitioner in dark to advert to a plea of non-consideration of his representation within the reasonable time.

13. It is contended by the learned SPP that the date of receipt of representation by the Government and the consideration of the same by the Government can be duly found by an endorsement dated 28/06/2022 which was served on the petitioner on 29/06/2022 and the same was within the reasonable time and the petitioners cannot take a contention that

despite respondent/State having full knowledge of his representation, the same has not been considered. The representation was addressed only to the Advisory Board and it is the specific assertion of the SPP-II that the petitioner's representation was considered on 28/06/2022 by a reasoned order and thus the contention of the petitioner that his representation was not considered. It is submitted that the petitioner is involved in around seven criminal cases and the same is pending consideration and the following cases are registered against the petitioner:

Sl. Nos.	Police Station, Date of commission of offence & offences	Role of the Petitioner as per the detention orders
1.	Tavarekere Police Station, Crime No.479 of 2015 (13.07.2015) Sections 5, 38 and 39 of the Money Lenders Act and Section 3 & 4 of the Karnataka Prohibition of Charging Exorbitant Interests Act, 2004.	The Petitioner was lending money at high rate of interest without license. Consequently, Petitioner charged with offences under provisions of Karnataka Prohibition of Charging Exorbitant Interests Act, 2004 and Karnataka Money Lenders Act.
2.	Tavarekere Police Station, Cr. No.154 of 2017	The Petitioner was involved in the murder of one Venkatesh and Arun along

	(16.05.2017) Sections 302, 307 IPC	with his accomplices.
3.	Kumbalgodu Police Station Cr. No.226/2019 (17.10.2019) Section 395 IPC	The Petitioner stole 6,00,000/- given by the complainant to one Ravi and Shashidhar.
4.	Byadarahalli Police Station Cr. No.308 of 2019 (17.10.2019) Sections 143, 147, 148, 323, 307, 504 r/w 149 IPC	The Petitioner and his accomplices assaulted one Sri Ramu when the said Ramu asked for a return of the loan that he had given to the Petitioner.
5.	Byadarahalli Police Station Cr. No.94/2020 (17.03.2020) Sections 399, 402 IPC	The Petitioner and his associates were waiting to murder one Sudheendra. The police arrested the Petitioner.
6.	Byadarahalli Police Station Cr. No.329/2021 (12.08.2021) Sections 504, 506 and 34 IPC	The Petitioner assaulted and put death threat to one Dharanesh due to financial issues.
7.	Byadarahalli Police Station Cr. No.331 of 2021 (11.08.2021)	The Petitioner sprayed pepper in the eyes of PSI Harish and tried to escape from the place.

14. Thus, according to the learned SPP-II, petitioner No.1 was involved in various unlawful

activities and had created fear in the minds of the general public and respondent No.1, being convinced has passed the detention order under the Goonda Act as defined under Section 2(G) and the same is confirmed by communicating the grounds for passing the detention order dated 28/12/2021 and the State Government has approved the order of detention on 06/01/2022 and the same was communicated to the detainee on 14/02/2022. The representation submitted by the detainee was placed before the Advisory Board and the confirmation order of detention was confirmed by the Government on 14/02/2022, the representation of the detainee has been considered and rejected by the Government by its order GO No.HD 1 SST 2022 Bengaluru dated 28/06/2022 and in light of the said contentions, it is urged by the learned SPP-II that the petition filed by the petitioner is devoid of merit and is liable to be dismissed.

15. Having heard learned counsel for the parties, the point that arises for our consideration is:

“Whether, if a representation is submitted to the Advisory Board, and the representation is within the knowledge of the State Government, was it the duty of the State Government to decide on the representation independently with the opinion of Advisory Board as contemplated under Article 22 (5) of the Constitution?

16. We have carefully considered the submissions advanced by learned counsel for the parties and perused the material on record carefully.

VI. Consideration

17. The relevant factual aspect of the case is that respondent No.1 passed an order under Section 3(1) of the Goonda Act by its order dated 28/12/2021 detaining the petitioner for the following criminal cases registered:

(i) Tavarekere Police Station, Cr. No.479/2015 under Sections 5, 38 and 39 Karnataka Money Lenders Act, 1961 & Sections 3 and 4 KPCEIA-2004.

(ii) Tavarekere Police Station, Cr.No.154/2017 under Sections 307 & 302 of IPC.

(iii) Kumbalgodu Police Station Cr. No.226/2019 under Section 395 of IPC.

(iv) Byadarahalli Police Station, Cr.No.308/2019 under Sections 143, 147, 148, 323, 307, 504 R/w.149 IPC.

(v) Byadarahalli Police Station, Cr.No.94/2020 under Sections 399, 402 IPC.

(vi) Byadarahalli Police Station, Cr.No.329/2021 under Sections 324, 504, 506 r/w. 34 IPC.

(vii) Byadarahalli Police Station, Cr.No.331/2021 under Section 353 r/w. 34 IPC.

18. In the argument of learned SPP-II/State would rely upon the judgment of the Apex Court in the case of ***R. Keshava vs. M.B. Prakash and others***

[(2001)2 SCC 145] (Keshava) and substantiate his contention that the Apex Court's decision in the case of **Smt. Gracy** relied upon by the learned counsel for the petitioner has been subsequently explained and the Co-ordinate Bench of the Apex Court has held that if the representation is not addressed to the State Government or the request is not made to the State Government to consider the representation made to the Advisory Board, the failure of the Government to consider the representation is neither unconstitutional nor illegal and relying on **Keshava's** case, would contend that the said precedent is binding on this Court as well as the proposition is on account of failure on the part of the petitioner to forward the representation to the State Government or even to make a request to the State Government to independently consider the representation made to the Advisory Board and non-consideration of the said representation without the same being forwarded to

the State Government, there is no violation of the constitutional laws and no interference can be called for by the petitioner and order of detention passed by the State Government is not vitiated by any constitutional laws.

19. It is the case of the petitioner that the representation submitted to the Advisory Board on 04/01/2022 as stated in his writ petition at para No.10 and the corresponding Annexure - E wherein the representation dated 04/02/2022 is addressed to the Advisory Board. On a reading of the representation, it is evident that the petitioner has furnished a detailed representation stating that the main reason for making false charges and arraying the petitioner as accused by the Tavarekere Police Station in Cr. No.479/2015 is due to the complaint lodged by petitioner No.1 against Inspector Jagadeesh on 23/04/2021 and on that basis having an act of vengeance on petitioner No.1 the said police inspector

instructed the Byadarahalli Police Station to open a rowdy sheet and accordingly, without examining the false claims and recommendations made by the said Jagadeesh and approval were given on 06/05/2021. The detailed representation of the petitioner could be found in Annexure - E, which depicts that the detention of the petitioner under the Goonda Act is false and the representation was submitted on 04/01/2022 itself. This contention of the learned counsel for the petitioner, though was stated in the writ petition in paragraph No.10 was denied by the learned SPP-II by way of an additional statement of objections contending that the petitioner has not pleaded or proved by way of producing documents concerning the dates and the respondents having factually received the representation dated 04/01/2022 addressed to the Advisory Board. This assertion made by the State Government does not find a place for the reason that the petitioner has

categorically stated in his writ petition that the representation submitted to the Advisory Board was within the knowledge of respondent No.2 as is evident from Annexure-R7 produced by the respondent/State along with the statement of objections and though the representation addressed to the Advisory Board was within the knowledge of respondent No.2 from 10/01/2022 as evident from Annexure-F endorsement issued by the State Government which reads as under:

"Subject: Regarding the representation Goonda Detainee Shivraj @ Kulla Shivraj son of Ravikumar, Bangalore City.

Ref: 1) Commissioner of Police, Bengaluru City preventive detention order number 26/CRM(4)/DTN/2021 dated 28/12/2021.

2) Your representation dated 04/01/2022 submitted through Chief Superintendent, Central Prison, Bengaluru

3) Letter dated 11/02/2022.

Your representation addressed to the Advisory Board against the preventive detention order referred at (1) above has been received by this office through the Chief Superintendent, Central Prison Bengaluru on 10/01/2022. Since the proceedings are before the Advisory Board, your representation has been forwarded to the President and other members of the Advisory Board for further action along with document referred at (3) above.

M R Shobha
Under Secretary Government
Interior Department (Law and Order)

To:

1. Shivraj @ Kulla Shivaraj son of Ravikumar, aged 32 years, residing at # 54, 9 th Cross, Priyadarshininagar, BEL Layout, Magadi Road, Bengaluru (Presently at Central Prison, Parapana Agrahara, Bangalore UTP 8401/2021)	Through Chief Superintendent, Central Prison (Issue the order to detenu and submit acknowledgment to the government)
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Copy to: Commissioner of Police, Bengaluru City, Bengaluru."

(Emphasis supplied)

This disproves the contention of the State that they had no knowledge of the representation submitted by petitioner No.1. Therefore, from the

facts of the present case what can be gathered is that there was a representation given by the petitioner on 04/01/2022 and was within the knowledge of the respondent from 10/01/2022 and the consideration on 28/06/2022 after lapse of 168 days is in violation of Article 22(5) of the Constitution of India. Article 22(5) of the Constitution reads as under:

“22. Protection against arrest and detention in certain cases.—(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.”

20. Sub-clause 5 of Article 22, of the Constitution of India does not expressly say to whom the representation should be made and how a detaining authority is to deal with the representation.

But the language of Article 22 (5) implicitly states that the earliest opportunity is to be given to the detenu to make the representation and the said representation should be properly considered by the detaining authority as expeditiously as possible. The Constitution of Advisory Board under Section 8 of the Preventive Detention Act does not relieve the State Government from the legal obligation to consider the representation of the detune as soon as it was received or had come to the knowledge of the State.

21. Our view is fortified by the dictum of the Co-ordinate Bench of this Court in **Jayamma's** case stated supra has issued certain guidelines while initiating Preventive Detention order at paragraph No.49, which reads as under:

"49. Before parting with this judgment, though we cannot exhaustively laid down meticulous guidelines, we prefer to lay down certain guidelines which may be helpful to the Government and the detaining authority while

initiating the proceedings under the Preventive Detention Laws. According to us, the following are the few guidelines framed for passing the preventive detention order under the Act, for the benefit of the state holders:

(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.

(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."

22. Our view is also fortified by the dictum of the Co-ordinate Bench of this Court in the case of **Leelavathi** stated supra, wherein it is held that any delay in considering the representation of the detenu is fatal to the detention order and the detention itself becomes illegal. At paragraph Nos. 7, 8 and 12 it is held as under:

"7. The duty cast on the State to consider the representation of the Detenu is not disputed. It has to be exercised at the earliest point of time. The delay in considering the representation of the Detenu, would constitute a ground to nullify the order of detention.

8. The well settled law is that, whenever a representation is made, the same shall be considered at the earliest point of time. What is the '*earliest point of time*' is necessarily subjective. Assuming that there is a delay, the State is entitled to explain the delay. But however, the principle that the representation has to be considered at the earliest point of time is not disputed. If there is a delay in considering the representation then the entire detention order would have to be set aside on that ground alone.

x x x

12. So far as the facts involved in the present case is concerned, the State has taken 57 days to consider the representation. The judgment of this Court in **KOKILA'S case** involved a delay of 40 days. The judgment of the Hon'ble Supreme Court in **PABITRA N.RANA's case** involved a delay of about two weeks."

23. Thus, the perusal of the judgment would depict that a duty is cast on the State to consider the

representation of the detainee and it has to be exercised at the earliest point of time. The delay in considering the representation of the detainee would constitute a ground to nullify the order of detention. What is the '*earliest point of time*' is necessarily subjective and the settled principle being that the representation has to be considered at the earliest point of time and if there is a delay in considering the representation, then the entire detention order would have to be set aside on that ground alone.

24. Thus, the representation of petitioner No.1 dated 04/01/2022 being within the knowledge of the State Government as early as 10/01/2022 itself and the representation being considered by the State Government on 28/06/2022 would show that much time has been lost to consider the representation and thus non-consideration of the representation had adversely affected the right of petitioner No.1 due to the failure on the part of the

State Government to consider the representation as nearly six months from the date of representation the order at Annexure – R9 has been passed by the State Government. Though the learned SPP-II sought to contend that the same was not within the knowledge of the Government as on the date of passing of the order dated 14/02/2022 which was the confirmation of the detention by respondent No.2, the same cannot be accepted as the endorsement addressed to the detune depicts that the same was within the knowledge of the petitioner at the earliest point of time i.e., on 10/01/2022. It is also evident that the petitioner was not given adequate time to submit his representation as respondent No.1 sought confirmation of the order of detention dated 28/12/2021 on 03/01/2022 i.e., within five days of passing the order of detention dated 28/12/2021, and the representation submitted on 04/01/2022, though was within the knowledge of the State as early as on 10/01/2022, while confirming

the order of detention on 14/2/2022 by respondent No.2 State, is contrary to the guidelines laid down by the Co-Ordinate Bench of this Court, thus the order of the detention passed by the respondent against the petitioner stands vitiated.

25. The Apex Court in the case of **Smt. Gracy** stated supra relied upon by the learned counsel for the petitioners at paragraphs Nos.7 to 10 it is held as under:

"7. The learned Solicitor General, however, contended that in the present case there being no representation addressed to the Central Government, the only representation made by the detenu being addressed to the Advisory Board during pendency of the reference, there was in fact no representation of the detenu giving rise to the Central Government's obligation to consider the same. The question is: Whether this contention can be accepted in the face of the clear mandate in Article 22(5) of the Constitution?

8. It is undisputed that if there be only one representation by the detenu addressed to the detaining authority, the obligation arises under Article 22(5) of its consideration by the detaining authority independent of the opinion of the Advisory Board in addition to its consideration by the Advisory Board while giving its opinion. In other words, one representation of the detenu addressed only to the Central Government and not also to the Advisory Board does not dispense with the requirement of its consideration also by the Advisory Board. The question, therefore, is: Whether one of the requirements of consideration by government is dispensed with when the detenu's representation instead of being addressed to the government or also to the government is addressed only to the Advisory Board and submitted to the Advisory Board instead of the government? On principle, we find it difficult to uphold the learned Solicitor General's contention which would reduce the duty of the detaining authority from one of substance to mere form. The nature of duty imposed on the detaining authority under Article 22(5) in the

context of the extraordinary power of preventive detention is sufficient to indicate that strict compliance is necessary to justify interference with personal liberty. It is more so since the liberty involved is of a person in detention and not of a free agent. Article 22(5) casts an important duty on the detaining authority to communicate the grounds of detention to the detenu at the earliest to afford him the earliest opportunity of making a representation against the detention order which implies the duty to consider and decide the representation when made, as soon as possible. Article 22(5) speaks of the detenu's 'representation against the order', and imposes the obligation on the detaining authority. Thus, any representation of the detenu against the order of his detention has to be considered and decided by the detaining authority, the requirement of its separate consideration by the Advisory Board being an additional requirement implied by reading together clauses (4) and (5) of Article 22, even though express mention in Article 22(5) is only of the detaining authority. Moreover, the order of detention is by the detaining authority and so also the order of its revocation if the

representation is accepted, the Advisory Board's role being merely advisory in nature without the power to make any order itself. It is not as if there are two separate and distinct provisions for representation to two different authorities viz. the detaining authority and the Advisory Board, both having independent power to act on its own.

9. It being settled that the aforesaid dual obligation of consideration of the detenu's representation by the Advisory Board and independently by the detaining authority flows from Article 22(5) when only one representation is made addressed to the detaining authority, there is no reason to hold that the detaining authority is relieved of this obligation merely because the representation is addressed to the Advisory Board instead of the detaining authority and submitted to the Advisory Board during pendency of the reference before it. It is difficult to spell out such an inference from the contents of Article 22(5) in support of the contention of the learned Solicitor General. The contents of Article 22(5) as well as the nature of duty imposed thereby on the detaining authority support the view that so long as there is a

representation made by the detenu against the order of detention, the aforesaid dual obligation under Article 22(5) arises irrespective of the fact whether the representation is addressed to the detaining authority or to the Advisory Board or to both. The mode of address is only a matter of form which cannot whittle down the requirement of the Constitutional mandate in Article 22(5) enacted as one of the safeguards provided to the detenu in case of preventive detention.

10. We are, therefore, unable to accept the only argument advanced by the learned Solicitor General to support the detention. On this conclusion, it is not disputed that there has been a breach by the Central Government of its duty under Article 22(5) of the Constitution of India to consider and decide the representation independently of the Advisory Board's opinion. The order of detention dated January 25, 1990 as well as the order dated April 24, 1990 of its confirmation passed by the Central Government are, therefore, quashed. This shall not, however, affect the detenu's prosecution for the alleged offence and it shall also not be construed as a direction to release him in case he is in custody as a

result of refusal of bail. The writ petition is allowed, accordingly.”

26. The judgment relied upon by the respondent/State in the case of **Keshava** stated supra at paragraphs Nos.12 and 17 which read as under:

“12. A perusal of the aforesaid Section and other relevant provisions of the Act makes it abundantly clear that no duty is cast upon the Advisory Board to furnish the whole of the record and the representation addressed to it only to the Government along with its report prepared under Section 8(c) of the Act. It may be appropriate for the Board to transmit the whole record along with the report, if deemed expedient but omission to send such record or report would not render the detention illegal or cast an obligation upon the appropriate Government to make inquiries for finding out as to whether the detenu has made any representation, to any person or authority, against his detention or not. We are of the opinion that in *Gracy case* it was not held that any such duty was cast upon the Board but even if the observations are stretched to that extent, we feel that those observations were

uncalled for in view of the scheme of the Act and the mandate of the Constitution.

x x x

17. We are satisfied that the detenu in this case was apprised of his right to make representation to the appropriate Government/authorities against his order of detention as mandated in Article 22(5) of the Constitution. Despite knowledge, the detenu did not avail of the opportunity. Instead of making a representation to the appropriate Government or the confirming authority, the detenu chose to address a representation to the Advisory Board alone even without a request to send its copy to the concerned authorities under the Act. In the absence of representation or the knowledge of the representation having been made by the detenu, the appropriate Government was justified in confirming the order of detention on perusal of record and documents excluding the representation made by the detenu to the Advisory Board. For this alleged failure of the appropriate Government, the order of detention of the appropriate Government is neither rendered unconstitutional nor illegal."

27. The judgment of the Apex Court in the case of **Smt. Gracy** stated supra is under the circumstances wherein even if a representation is submitted to the Advisory Board, it was the duty of the State Government to decide on the representation independently with the opinion of the Advisory Board as contemplated under Article 22(5) of the Constitution and whereas in **Keshava's** case, the careful perusal of the principles laid down in paragraph No.17 would state that in the absence of representation to the appropriate Government or knowledge of the representation is not within the knowledge of the Government, then the appropriate Government's failure to decide the representation independently is not unconstitutional or illegal. Admittedly, in the present case, the State Government had knowledge of the representation at the earliest point of time on 10/01/2022 before respondent No.2 confirmed the detention order dated 14/02/2022 itself

and the consideration of representation by petitioner No.1 by the respondents on 28/06/2022 is clearly vitiating the detention order passed by the State Government.

28. The Co-ordinate Bench of this Court has distinguished the judgment of **Smt. Gracy** supra and **R.Keshava's** case stated supra in the matter of **Makuko Chukwuka Moulowo** at paragraph Nos.10 to 13 read as under:

"10. The law laid down by the Apex Court in the case of **SMT. GRACY (supra)** is to the effect that even if a representation is made by the detainee to the Advisory Board, it is the duty of the appropriate Government to decide the same independently and uninfluenced by the views/opinion expressed by Advisory Board. Careful perusal of the principles laid down in paragraph 17 of the decision of the Apex Court in the case of **R. KESHA****V****A (supra)** will show that in absence of a representation addressed to the appropriate Government or absence of the knowledge of

the representation having been made by the detainee, the appropriate Government's failure to decide the same independently is not unconstitutional or illegal. However, in the present case, we are dealing with the case where the State Government had a clear knowledge of the representation made by the detainee. Firstly, the representation dated 6th May, 2020 was sent to the Advisory Board through the Chief Superintendent of the Central Prison. Secondly, there is an endorsement appearing on the covering letter of the Chief Superintendent of the Central Prison, Bengaluru enclosing therewith a copy of the representation made by the detainee. The endorsement is admittedly by a Section Officer of the Government. In the statement of objections filed by the Detaining Authority, it is admitted that the Advisory Board heard the petitioner on his representation. In paragraph 30, there is a specific admission to that effect. The only contention raised in paragraph 31 is that the representation was not given before the first meeting of the Advisory Board. Paragraph 17 of the statement of objections filed by the State Government, it is admitted that the petitioner had made a representation

on 6th May, 2020. Paragraph 17 of the statement of objections reads as under:

"17. It is submitted that consequently, the Advisory Board has fixed the date of hearing on 04.05.2020 through video conference vide Letter dated 30.04.2020. A copy of the notice 30.04.2020 is produced herewith and marked as **ANNEXURE-R9**. It is further submitted that the petitioner had made a Representation on 05.05.2020 to the Advisory Board, Government and other through the Superintendent of Central Prison, Bengaluru against the Detention Order. The Advisory Board has heard the Petitioner in respect of the Representation filed by the Petitioner."

(Underline supplied)

This clearly indicates that the State Government, despite having a knowledge and having a copy of the representation having been made by the petitioner-detenué, failed to consider the representation. It is admitted by the State Government that the representation was also made to it. Moreover, the Detaining Authority was represented before the Advisory

Board by an officer of the rank of the Deputy Commissioner of Police who was subordinate to the Detaining Authority. Therefore, the State Government cannot plead ignorance about the knowledge of the representation made by the petitioner-detenu.

11. In the decision in ***SMT. GRACY (supra)***, the representation of the detenu was addressed to the Advisory Board. The Advisory Board considered the representation and enclosed the same along with its report to the Central Government. In that case, the Central Government accepted the report of the Advisory Board, without independently applying its mind to the representation of the detenu that was found in the file. It was in this backdrop that the Apex Court held that, the Central Government was under a constitutional duty under Article 22(4) and (5) to consider the representation which was part of the report of the Advisory Board, though the representation was not addressed to the Central Government.

12. In the case of ***R. KESHA***
VA (supra), the representation of the detenu was though addressed to the Advisory Board, the

representation did not form part of the report of the Advisory Board to the State Government and the State Government had no knowledge of the representation. The argument of the State Government that the Advisory Board was required to forward the representation of the detenu to the State Government was rejected by the Apex Court in the following words:

"In the absence of constitutional or statutory provisions, we are unable to observe that the Advisory Board was under an obligation to forward the whole of the record of its proceedings to the State Government. The State Government while confirming the order of detention has to peruse the report of the Advisory Board along with other records, if any, in its possession, and cannot determine the legality of the procedure adopted by the Advisory Board."

13. Thus, this Court is of the considered view that the facts of the case before the Apex Court in the case of **R. KESHA****VA** (*supra*) were entirely different from the facts of the case in the case of **SMT.**

GRACY (supra). In the case of **R. KESHAVA**, the Government had no knowledge of the representation. It is in the light of this factual position that the Apex Court held that the decision in the case of **SMT. GRACY (supra)** had no application to the facts of the case before it. The other two decisions relied upon by the State are not on the point involved. It must be noted here that the right conferred upon the detainee under Clause (5) of Article 22 of the Constitution of India is to ensure that a representation made by the detainee is considered at the earliest.

29. Thus, in light of the judgment of the Apex Court in the case of **Smt. Gracy** and the judgment of the Co-ordinate Bench in the case of **Makuko Chukwuka Moulowo** stated supra wherein the judgment of **Smt. Gracy** and **R.Keshava** were distinguished and is squarely applicable to the facts of the present case and the representation dated 04/01/2022 was very well within the knowledge of the State Government and the non-consideration of the said representation which was received by the State

on 10/01/2022, the detaining authority cannot plead ignorance of the representation and accordingly, the principles laid down in the judgment of the Apex court in the case of **Smt. Gracy** is squarely applicable to the present facts and circumstances of the case and therefore, the rights of the detenu has been violated as conferred upon the petitioner under clause 5 of Article 22 of the Constitution and hence, the order of detention to be continued is rendered illegal and the point framed for consideration is answered in favour of the petitioner.

30. In the result, we pass the following:

ORDER

- (i) The writ petition is **allowed**.
- (ii) The impugned order passed by respondent No.1 under No.26/CRM/(4)/DTN/2021 dated 28/12/2021 passed by the Commissioner of Police/respondent No.1 vide Annexure-A is hereby set aside and the consequent order

passed by respondent No.2 bearing No.HD 1 SST 2022 dated 06/01/2022 under Section 3(3) of the Goonda Act and the order No.HD 1 SST 2022 dated 14/02/2022 (Annexure – C) is hereby set aside.

- (iii) We direct respondent No.3/Senior Superintendent Central Prison, Bangalore to set at liberty petitioner No.1/detenuue forthwith, if he is not required in any other case.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

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