

IN THE HIGH COURT FOR THE STATE OF TELANGANA, HYDERABAD

* * *

WRIT PETITION NO.9893 OF 2025

Between:

Aziz Hassan Kotadia, S/o. Hassan Natha Kotadia, aged 65 years, R/o. Flat No.416, Daredia Sky Gardens, Near KVR Gardens, Kompally, Medchal, Hyderabad.

Petitioner

VERSUS

The State of Telangana, Rep. by its Principal Secretary to the Govt., (Spl. Law & Order), GAD, Telangana Secretariat, Hyderabad and Others.

Respondents

ORDER PRONOUNCED ON: 15.10.2025

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR**

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes
3. Whether Her Ladyship wishes to
see the fair copy of the Judgment? : No

MOUSHUMI BHATTACHARYA, J

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

WRIT PETITION NO.9893 OF 2025

Mr. G. Vidya Sagar, the learned Senior Counsel representing Ms.M.Vanajakshi, learned counsel for the petitioner.

Mr.Swaroop Oorilla, the learned Special Government Pleader appearing for the learned Additional Advocate General for the respondents.

ORDER:*(Per Hon'ble Justice Moushumi Bhattacharya)*

1. The petitioner seeks a Writ of Habeas Corpus for setting the detenu at liberty and for declaring the detention order *vide* Order No:04/SB/PD-CELL/CYB/2024 dated 08.11.2024 passed by the respondent No.2 and the approval order *vide* G.O.Rt.No.1510 dated 12.11.2024 passed by the respondent No.1 as illegal and to set aside the said two orders.

2. The petitioner claims to be the father of the detenu. According to the petitioner, the impugned detention order has been passed mechanically only on the basis of two crimes of Robbery registered against the detenu by FIRs dated 14.02.2024 and 20.06.2024 which cannot be made the basis of a preventive detention order.

3. The brief facts leading to the impugned orders are as follows.

- (i) On 14.02.2024, Crime No.65 of 2024 was lodged against the detenu under section 394 read with section 34 of The Indian Penal Code, 1860 ('IPC') at Chaderghat Police Station. The detenu was arrested on 16.02.2024 for the said crime under the charge of Robbery. The detenu was thereafter released on bail on 08.04.2024.
- (ii) A second crime was registered against the detenu *vide* Crime No.604 of 2024 on 20.06.2024 under sections 398 and 307 of the IPC at Medchal Police Station for which the detenu was arrested on 22.06.2024. On 04.10.2024 although the detenu was granted mandatory bail under section 167(2) of The Code of Criminal Procedure, 1973 ('Cr.P.C.') due to non-filing of the Chargesheet, the detenu remained in judicial remand for non-furnishing of sureties.
- (iii) The impugned detention order was passed on 08.11.2024 whereby the detenu was directed to be detained and lodged in the Central Prison, Cherlapally, Medchal-Malkajgiri District. The impugned detention order was approved by an order

dated 12.11.2024 in G.O.Rt.No.1510 and thereafter confirmed by an order *vide* G.O.Rt.No.1645 dated 07.12.2024.

4. Learned Senior Counsel appearing for the petitioner submits that the present Writ Petition for a Writ of Habeas Corpus has been filed to declare the impugned detention order as well as the approval order as illegal and contrary to the detenu's rights guaranteed under the Constitution of India. Counsel submits that a Writ of Habeas Corpus is maintainable when the petitioner establishes that the detention is unlawful. Counsel further submits that the acts of the detenu forming the basis of his detention do not qualify the definition of any act 'prejudicial to maintenance of public order' as given in section 2(a) of The Telangana Prevention of Dangerous Activities of Boot-Leggings, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land-Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986 ('1986 Act').

5. Counsel urges that the offences for which the detenu was arrested affect the maintenance of 'law and order' as opposed to the

maintenance of 'public order' as explained in section 2(a) of the 1986 Act. Senior Counsel submits that the respondent Nos.1 and 2 have illegally invoked the powers accorded under the 1986 Act instead of taking steps to proceed with a petition for cancellation of bail. Counsel argues that preventive detention is an exception to ordinary criminal law and affects the fundamental right of a citizen under Article 21 of the Constitution of India.

6. The learned Special Government Pleader appearing for the respondent No.2 relies on the confessional statement of the detenu in Crime No.65 of 2024(the first crime) where the detenu categorically admitted the commission of the offence under section 394 read with 34 IPC. Counsel relies on the Medico-Legal Case Record dated 14.02.2024 to place the stab injuries suffered by the victim who was present at the scene of offence. Counsel also places the Telangana State Forensic Science Laboratory Report dated 01.04.2024 with regard to the examination of the Material Objects which records the recovery of a knife pursuant to the additional confessional statement of the detenu. Counsel places emphasis on the fact that the detenu committed a second offence within two months of being released on bail and the fact that the detenu is a 'Goonda' as defined in section 2(g) of the 1986 Act. Counsel further submits that the subjective satisfaction of the detaining authority (the respondent No.2) should

not be interfered with in the present Writ Petition since the Grounds of Detention contain good reasons for placing the detenu under detention.

Habeas Corpus and Preventive Detention:

7. A Writ of Habeas Corpus is an extraordinary remedy under Article 226 of the Constitution of India which empowers a High Court to direct a person or an authority to produce the 'corpus' (body) in the Court and explain the basis of the detention.

8. The object of the Writ is to preserve the liberty of the citizen in a case of 'illegal detention'. Hence, a Writ of Habeas Corpus will not be maintainable where the detention is lawful i.e., in accordance with the decision rendered by a Court of law or by an authority in accordance with law: *Home Secretary (Prison) v. H. Nilofer Nisha*¹. Courts have given varying opinions on the right of a person to maintain a Writ of Habeas Corpus in cases of detention.

9. In *State of Maharashtra v. Tasneem Rizwan Siddiquee*², the Supreme Court took the view that placing a person in Police custody pursuant to a remand order passed by the

¹ (2020) 14 SCC 161

² (2018) 9 SCC 745

jurisdictional Magistrate in connection with the offence under investigation would not be a case of illegal detention and hence a Writ of Habeas Corpus could not be issued. The Court is required to scrutinise the legality of the order of detention and unless the detention suffers from the vice of lack of jurisdiction or absolute illegality, a Writ of Habeas Corpus cannot be granted: *Manubhai Ratilal Patel v. State of Gujarat*.³

10. Hence, the fundamental requirement for the Court is to come to a conclusion that the petitioner is under detention without any authority of law.

11. The law on the maintainability of a Writ of Habeas Corpus with regard to 'preventive detention' occupies a narrower conspectus.

12. There is no bar upon the detaining authority to detain in order to disable the offender from repeating such offences where the authority is satisfied that the offender has a tendency to continue violating the law. The High Court under Article 226 of the Constitution of India does not sit in appeal over preventive detention orders and cannot examine the material on record to

³ 2013 (1) SCC 314

question the subjective satisfaction of the detaining authority with respect to the detention as long as the formalities enjoined by Article 22(5) of the Constitution of India have been complied with: *Hemlata Kantilal Shah v. State of Maharashtra & Ors*⁴.

13. A detention order could be valid even against a person in custody where the Authority is aware of the factum of custody and has reason to believe that there exists reasonable possibility of the detenu being set at large from custody and that the detenu after being released would again indulge in prejudicial activities. If these elements are highlighted in the grounds of detention, reflecting the subjective satisfaction of the Detaining Authority, then the order of detention cannot be interfered with on the premise that the detenu was already in confinement when the detention order was made: *Vijay Rajendra Patil v. Commissioner of Police*⁵.

14. In *Vijay Kumar v. Union of India*⁶, the Supreme Court opined that where a detenu is already in detention or in jail for an offence at the time of his preventive detention, the detention order will not be vitiated, if from the grounds of detention it appears that the

⁴ 1981 (4) SCC 647

⁵ (2021) SCC OnLine Bom 872

⁶ 1988 (2) SCC 57

detaining authority was aware of the fact that the detenu is already in detention and there existed compelling reasons justifying such detention despite this fact. The mere fact that a detenu has been discharged in a criminal case relating to an incident by a Magistrate will not make the order of detention incompetent, baseless or mala fide: *Sahib Singh Dugal v. Union of India*⁷; *Mohd. Salim Khan v. Shri C.C. Bose*⁸.

15. An order of preventive detention may be made with or without prosecution and in anticipation thereof or after discharge or even acquittal. The pendency of prosecution is no bar to an order of preventive detention: *Haradhan Saha v. The State of West Bengal*⁹. It is always open to the detaining authority to pass an order of detention if the grounds of detention are germane to the object for which a detention order can legally be made. The fact that the particular act of the detenu, which provides the reason for the making of the detention order, constitutes an offence under The Indian Penal Code, 1860, would not prevent the detaining authority from passing the order for detention instead of

7 1965 SCC OnLine SC 298

8 1972 2 SCC 607

9 (1975) 3 SCC 198

proceeding against him in a Court of law: *Sasti alias Satish Chowdhary v. State of West Bengal*¹⁰.

16. Preventive detention is often described as a “jurisdiction of suspicion”. The primary object of preventive detention is not to punish a person for having done something but to intercept the person before the commission of an offence. It is not a penalty for past activities of an individual but is intended to pre-empt him/her from indulging in future activities which are prohibited in law: *State of Maharashtra v. Bhaurao Punjabrao Gawande*¹¹. Grant of bail would not have a bearing on the impugned detention order: *Vijay Kumar’s case* (supra).

The Telangana Prevention of Dangerous Activities of Boot-Leggings, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land-Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986 (‘the 1986 Act’):

¹⁰(1972) 3 SCC 826

¹¹ 2008 (3) SCC 613

17. The 1986 Act has been pressed into service in the present matter and concerns the captioned categories of persons. The Act aims to prohibit the commission of certain offences particularly where the offences disrupt the maintenance of public order. The Act seeks to prevent commission of dangerous activities which are prejudicial to the maintenance of 'Public Order'. The 1986 Act (as amended in 2018) provides for preventive detention of persons in the categories mentioned in the Act and pre-emption of the activities of anti-social elements who may cause harm and danger to the society at large.

18. Section 2(a) of the 1986 Act defines '*acting in any manner prejudicial to the maintenance of public order*' to cover situations when any person falling under the aforesaid categories is engaged or is making preparations for engaging, in any of his activities as such, which adversely affect or are likely to adversely affect the maintenance of public order. The explanation to section 2(a) of the 1986 Act contemplates that 'public order' shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely *inter alia*, if any of the activities of any of the persons referred to in this Clause directly or indirectly are causing or are calculated to cause any harm, danger or alarm or a feeling

of insecurity among the general public or any section thereof or a grave wide spread danger to life or public health.

The Impugned Detention Order dated 08.11.2024

19. The impugned preventive detention order categorises the detenu as a 'Goonda' under the Act as justification for passing the impugned order. The offence deals with section 2(g) of the 1986 Act which defines 'Goonda' to include habitual offenders. The specific definition thereof is given below:

“goonda” means a person, who either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XVI or Chapter XVII or Chapter XXII of the Indian Penal Code;’

20. The impugned order records the following facts:

- (i) The detenu is a 'Goonda' as defined under section 2(g) of the 1986 Act as the detenu has engaged in unlawful activities by committing Property Offences along with his associates, namely, robberies in jewellery shops and attacking the shop owners with knives, stabbing them brazenly, causing bleeding injuries, under the limits of Cyberabad Police Commissionerate and surrounding area in a manner

prejudicial to the maintenance of public order thereby causing disturbance to the peace and tranquility in the area. These brazen acts of attacking owners of jewellery shops and stabbing them, causing bleeding injuries, done in an organized manner in broad daylight have created panic among the pedestrians, commuters and business community people under the limits of Cyberabad Police Commissionerate.

- (ii) The detenu is a dangerous property offender who was involved in two offences within a span of five months i.e., from 14.02.2024 to 20.06.2024 in the limits of Cyberabad and Hyderabad Police Commissionerates.
- (iii) The impugned order records the facts of the detenu's arrest on 16.02.2024, remand in judicial custody and subsequent grant of bail on 05.03.2024.
- (iv) The detenu was released from jail on 08.04.2024 but soon after, the detenu targeted a jewellery shop at Medchal and committed a robbery on 20.06.2024. The detenu was thereafter arrested on 22.06.2024 and was granted mandatory bail on 04.10.2024. The Medchal Police filed an application for cancellation of

the bail granted to the detenu and the same is pending.

The Grounds of Detention

21. The impugned order records the particulars of the offences which have been committed as grounds for detention. The details are summarized below.

- (i) Crime No.65 of 2024 under section 394 read with section 34 of The Indian Penal Code, 1860 ('IPC') on the file of the Chaderghat PS, Hyderabad was registered against the detenu pursuant to an offence committed by the detenu on 14.02.2024 at 13:20 hours at Kiswah Jewellers, Akberbagh, Malakpet. The offence was reported on the same day by the Complainant who runs the said jewellery shop, who stated that on 14.02.2024 at about 11:15 hours, the Complainant's son had opened his shop. After some time three unknown persons entered his shop where one of them attacked his son with a knife, causing bleeding injuries and they also committed theft of eight trays and three boxes of gold ornaments.

- (ii) The statement of the Complainant was recorded in detail by the Chaderghat P.S., including the details of the stolen gold ornaments. Thereafter, the Police visited the scene of offence with two mediators, conducted investigation and then recorded a detailed statement of the victim (son of the complainant). The Police also verified the CCTV footage at the scene of offence which revealed that one person covering his face entered the shop followed by two others carrying a plastic cover and a knife. They attacked the shopkeeper with the knife, took the trays containing gold and silver ornaments and fled the shop by threatening him.
- (iii) The detenu was apprehended by the Chaderghat Police on 16.02.2024 based on credible information, whereby the detenu revealed his name and admitted to having committed the offence. The Chaderghat Police recorded this confessional statement in the presence of two mediators.
- (iv) The detenu confessed that he along with his two associates had identified Kiswah Jewellery Shop

situated at Akberbagh and after conducting a recce two times, proceeded to commit the offence on 13.02.2024. The detenu however did not get a chance to commit theft as there were three persons in the shop. The detenu again went to the shop on 14.02.2024 with the others on three different motorcycles. After one of the detenu's associates entered the shop as a customer, the detenu and his other associate Shoukath, entered the shop, attacked the shopkeeper on his left ear and neck and forced him to sit on the ground. The detenu and his associates then took the gold and silver ornaments and fled the shop. The detenu kept the stolen property at his house which was later seized by the Chaderghat Police. The detenu's associates who were subsequently apprehended by the Police also confessed to having committed this offence along with the detenu. The confessional statements of the detenu's associates were also recorded. The detenu and his associates were arrested on 16.02.2024 at 14:10 hours and duly remanded to judicial custody.

- (v) The detenu and his associates were then taken into Police custody for a period of three days i.e., from 24.02.2024 to 26.02.2024 as per the orders dated 23.02.2024 passed by the VIII Additional Chief Metropolitan Magistrate, Hyderabad vide Dis No.230/2024, whereby an additional confessional statement was recorded on 25.02.2024.
- (vi) In his additional confessional statement, the detenu confessed that after committing the offence on 14.02.2024 the detenu transferred the stolen gold ornaments from the trays into a cover and hid them in his house for disposing of them later. The empty trays and the knife used in the commission of the offence were put in a carry bag and thrown near Fox Sagar Lane road leading to Uma Maheshwar Colony which were later seized by the Police in the presence of two mediators. The knife had brown stains on the blade.
- (vii) On 02.03.2024, the learned VI Metropolitan Magistrate, Hyderabad had conducted a Test Identification Parade of the detenu and his associates

wherein the victim (Complainant's son) correctly identified them.

- (viii) The detenu filed a bail petition before the learned VIII Additional Chief Metropolitan Magistrate *vide* CrI.M.P.No.155 of 2024 at Hyderabad. He was granted bail on 05.03.2024 and accordingly, released on 08.04.2024. The Assistant Public Prosecutor filed an application for cancellation of bail on 16.10.2024 which is pending.
- (ix) The second offence occurred on 20.06.2024 at about 13:40 hours at Jagadamba Jewellery Shop, Raghavendra Nagar Colony, Medchal and was reported on the same day at about 14:00 hours by the Complainant who runs the said shop with his paternal uncle. According to the Complainant, on 20.06.2024 at about 13:40 hours when the Complainant and his paternal uncle were in the shop, two persons came on a bike one of whom was clad in a burqa with a black cover in his hand while the other wore a helmet. The unknown offenders entered the shop where the person clad in burqa, took out a

knife from the black cover and threatened the Complainant's uncle in Hindi to put all the jewellery into the cover. The offenders then stabbed the Complainant's uncle in his left chest. Upon hearing his uncle's screams, the Complainant came out and beat that unknown person with a chair causing the said offender to drop the silver ornaments collected by him in front of the shop before both the offenders escaped on their black Pulsar bike.

- (x) The Medchal Police registered a criminal case and started investigation. During the course of investigation, the Police collected a blood-stained black cover and blood samples along with CCTV footage.
- (xi) The CCTV footage showed the detenu and his associate entering the shop 'ferociously' and brazenly attacking the victim with a knife.
- (xii) The Police recorded a detailed statement of the victim and other eye witnesses to this incident all of who expressed a feeling of insecurity and panic after

witnessing such a horrific incident in their business locality in broad daylight.

- (xiii) While the investigation was in progress, the detenu and his associate were apprehended near Nampally Railway Station while waiting on their motorbike and contemplating the commission of another offence. Upon interrogation at the Medchal Police Station, the detenu revealed his name and the name of his associate (Shaik Sohail) and admitted to the commission of this offence. The confessional statement of the detenu was recorded in the presence of two mediators whereby the detenu confessed to having planned the crime in the said shop after conducting recce in different areas of Hyderabad targeting jewellery shops. Their plan included stealing a Pulsar bike, purchasing a knife and a full veil (burqa) to conceal their identity while committing the offence. In the morning of 20.06.2024, the detenu clad in burqa and carrying a knife in a black cover along with his associate (Sohail), proceeded to Jagadamba Jewellery shop at Medchal on the stolen bike and at the opportune moment, entered the shop

whereafter the detenu stabbed a person causing bleeding injuries. Meanwhile the detenu's associate collected the ornaments from the shop.

(xiv) While fleeing from the shop, the detenu threw the ornaments near the shop and the knife on the road at Medchal and reached the place where another associate was waiting. Thereafter, the detenu removed his burqa and hand gloves and placed them in a cover which he left on the stolen bike, parking it nearby. The detenu then left with his associate in an auto.

(xv) The detenu and his associate were arrested on 22.06.2024 at 13:00 hours and duly remanded to judicial custody. The detenu and his associate were then taken into Police custody as per orders of the II Additional Junior Civil Judge-cum-IX Additional Metropolitan Magistrate at Medchal from 27.06.2024 to 28.06.2024 whereby their additional confessional statements were recorded in the presence of two mediators, leading to the seizure of the knife used in the offence which contained dark brown stains. The

blood samples were then sent for examination to the
Telangana State Forensic Science Laboratory (FSL).

- (xvi) The detenu was granted mandatory bail on
04.10.2024 by the IX Additional Metropolitan
Magistrate at Medchal vide CrI.M.P.No.842 of 2024.
The Assistant Public Prosecutor filed a petition for
cancellation of the detenu's bail which is pending
orders.

Involvement of the Detenu in the Commission of the Offences:

22. The grounds of detention link the detenu to the crimes by way
of specific evidence which includes:

- (i) Confession-cum-seizure panchanamas,
- (ii) Statements of the complainants and eyewitnesses,
- (iii) Scene of offence panchanamas,
- (iv) CCTV footages of the incidents and
- (v) Medico-Legal Case Records of the victims/shop
keepers.

23. None of the evidentiary material has been disputed by the
detenu. The only point raised is that the Test Identification
Parade ("TIP") was conducted only with reference to the first

offence and not with regard to the second offence. The detailed material placed on behalf of the State respondents include the evidence relied upon in the 'Grounds of Detention'.

24. The Confessional Panchanama of the detenu dated 16.02.2024 outlines his background. The petitioner (detenu's father) returned to India after having worked in New York, United States of America (USA). The detenu was born and brought up in Mumbai. After completing his graduation from the Delhi National School in 2011, he secured employment in Africa. Thereafter, he stayed in China from 2012 for two years and returned to India in 2014. The detenu states that he then went to USA in 2015 for employment and stayed there for seven years before returning to India in 2022. The detenu got married in Hyderabad and had a prematurely born son in August, 2023 whereby he incurred huge losses for treatment.

25. The detenu had been working as a Rapido driver for six months prior to the recording of the confessional panchanama. The statement of the detenu reflects that the detenu 'hatched a plan' and assigned roles to his accomplices, Mr. Shoukat and Waris for the purpose of committing theft in Kiswah Jewellery shop at Akbarbagh. The detenu confesses that the detenu

instructed Mr. Waris to pretend to be a customer and Mr. Shoukat to ride a bike to the shop and suitably assist in committing the crime. On 13.02.2024, the detenu also kept a knife with him to threaten the shopkeeper. On that date, the detenu stood at a distance and observed the shop for half an hour for the right moment to commit the offence but did not get a chance as there were three persons in the shop. As per their 'plan', the detenu returned on 14.02.2024 while carrying a knife and parked his bike at Abids and Shoukat's bike near Malakpet Station. The detenu thereafter went to the shop with Shoukat on Waris' bike while Waris took a passenger auto. They entered the shop, where the detenu attacked the shopkeeper with a knife. They took trays of gold rings and other jewellery from the shop and fled. The confessional statement records the crime in detail and more crucially, in pursuance of a 'detailed plan' which was executed by the detenu and his two accomplices.

26. We have also considered the other material placed before us including the Medico-Legal Case Records dated 14.02.2024 and 20.06.2024 showing the assault and injury suffered by the victim/s in both the incidents.

27. The Remand Case Diary dated 16.02.2024 records the items recovered from the detenu pursuant to his confessional panchanama dated 16.02.2024 including the jewellery stolen from the shop. The Seizure Report dated 25.02.2024 by the Chaderghat Police Station filed pursuant to the detenu's additional confessional statement dated 25.02.2024 which includes a knife with a black handle with brown stains on the blade is also part of the records. The FSL Report dated 01.04.2024 also mentions detection of human blood on item Nos.1, 2, 4 and 5 i.e., 2 gauze cloths, a white T-shirt and a knife respectively. The second confession-cum-seizure panchanama of the detenu dated 22.06.2024 is also on record. The detenu's confession details the second crime on 22.06.2024 committed at Jagadamba Jewellers by the detenu and his associates. The Seizure Report dated 27.06.2024 filed herein includes a knife with dark brown stains. The FSL Report dated 26.07.2024 also mentions detection of human blood on item Nos.1, 2, 3, 5 and 6 i.e., 3 gauze cloths, a black plastic cover and a knife respectively.

Conclusions from the Material relied on by the Respondents.

28. The material placed before the Court raises the unavoidable spectre of the detenu being a 'habitual offender' thereby placing

him squarely within the category of a 'Goonda' under section 2(g) of the 1986 Act. One of the hallmarks (in a negative sense) of a Goonda is being a habitual offender. The words '*...habitually commits...*' is peculiar to the definition of a 'Goonda' as opposed to the other classifications of offenders as defined under section 2 of the 1986 Act. The inclination to 'repeatedly' commit or attempt to commit or abet the commission of offences punishable under Chapters XVI, XVII, and XXII of The Indian Penal Code, 1860, would qualify a person, whether acting by himself or as a member of or leader of a gang, as a Goonda.

29. The detenu's proclivity to be a repeat offender is clear from his confessional panchanamas. The detenu was arrested on 16.02.2024 for the first offence and remanded to judicial custody whereby the detenu confessed to having committed the offence on 14.02.2024. A Test Identification Parade (TIP) was conducted on 02.03.2024 where the detenu was identified by the victim (complainant's son). The detenu was then granted bail on 05.03.2024.

30. However, notwithstanding the commission of the first offence and the subsequent arrest and bail, the detenu committed the second offence on 20.06.2024 in the identified shop after

meticulous planning for the same along with his accomplices. The detenu carried out the plan with precision including wearing a Burqa to conceal his identity and carrying a knife. The detenu's associate also stole a motorcycle for the purpose of the offence. Hence, the conduct of the detenu reflects a person who is not only a habitual offender but also one who is reckless and un-afraid of the consequences of breaking the law. The detenu's conduct of planning the second offence in total disregard of his past criminal history and prior arrest reveals a person who has the inclination to commit repeat offences.

31. The explanation to section 2(a) of the 1986 Act contemplates that 'public order' shall be deemed to have been adversely affected or is likely to be adversely affected *inter alia*, if any of the activities of any of the persons classified as offenders in this provision, directly or indirectly cause or are calculated to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave widespread danger to life or public health. In the present case, the detenu's reckless conduct of attacking shopkeepers in busy areas in broad daylight for committing robbery of gold and silver ornaments raises a high

likelihood of panic being caused amongst the general public including jewellery shop owners.

32. Both the jewellery shops, namely Kiswah Jewellers, Akberbagh at Malakpet and Jagadamba Jewellers at Medchal, are located in thoroughfares and the robberies were committed in full view of passers-by present in the two locations. The very fact that the detenu contemplated such crimes, especially the second one, in utter disregard of the safety and security of shopkeepers and those present in the locality, shows that the detenu has scant regard for the law or the consequences thereof. The activities of the detenu are sufficient to give rise to a feeling of alarm and insecurity amongst the general public hampering free movement in the localities which would squarely render these activities prejudicial to the maintenance of public order as defined under section 2(a) of the 1986 Act.

The Petitioner's Cases

33. The Supreme Court in *Ameena Begum v. State of Telangana*¹² came to a specific finding that the subjective satisfaction of the detaining authority can be interfered with

¹² (2023) 9 SCC 587

where the grounds of such satisfaction are irrational or vague. Further, the Supreme Court quashed the detention order therein by holding that the detention order failed to appreciate the difference between the maintenance of 'law and order' and maintenance of 'public order'.

34. In *Shaik Nazneen v. State of Telangana*¹³, the Supreme Court set aside the detention order by holding that a law and order situation which can be dealt with under the ordinary law of the land would not require invocation of the extraordinary powers accorded under the law of Preventive Detention. It was observed that "law and order" involves disorders of lesser gravity than those affecting "Public Order". In *Khaja Bilal Ahmed v. State of Telangana*¹⁴, the Supreme Court noted that the order of detention may refer to the previous criminal antecedents only if there is a direct nexus with the immediate need to detain an individual. It was observed that the order of detention therein had been passed on stale grounds which could not have been considered as relevant for the subjective satisfaction of the detaining authority.

13 (2023) 9 SCC 633

14(2020) 13 SCC 632

35. *Ram Manohar Lohia v. The State of Bihar and Others*¹⁵ contains the classic exposition of the difference between ‘Law and Order’ and ‘Public Order’ with respect to the Defense of India Rules, 1962. The Supreme Court opined that ‘maintenance of public order’ means prevention of disorder of a grave nature while ‘maintenance of law and order’ means prevention of disorder of comparatively lesser gravity and of local significance only.

36. *Sakina v. The State of Telangana*¹⁶, passed by a Co-ordinate Bench of this Court, contains a specific finding that the detention order therein was liable to be quashed as it lacked substantial justification and was arbitrary in nature. The Division Bench was also of the view that the alleged offences in the matter would not disrupt public order and there was no compelling evidence to suggest that the detenu posed an imminent threat to society. The other decision cited of a Co-ordinate Bench in *Jahangir Bee v. The State of Telangana*¹⁷ contained the view that the reasons given by the ‘Detaining Authority’ while passing the impugned order of preventive detention were not justifiable and the order of detention was hence liable to be set aside.

15 AIR 1966 SUPREME COURT 740

16 W.P.No.23925 of 2024

17 W.P.No.32727 of 2024

37. The cases cited by Senior Counsel appearing for the petitioner would hence show that the Court came to the considered view that the detentions in these cases were illegal as they did not come within the ambit of maintenance of 'Public Order'. The Court also found the reasons given by the detaining authority to be arbitrary. However, each case must be decided on its particular facts. The facts in the present case are completely different from those in the cases which have been stated above. We are hence inclined to hold that the cases cited by the learned Special Government Pleader are more aligned to the facts of the present case.

Conclusion

38. We therefore do not find any reason to differ from the subjective satisfaction of the Detaining Authority as expressed in the Grounds of Detention dated 08.11.2024 or the approval order dated 12.11.2024, or the confirmation order passed by the Advisory Board on Preventive Detention Cases dated 07.12.2024, whereby the detenu was ordered to be detained from 09.11.2024 for the maximum period under section 13 of the 1986 Act, i.e., twelve months from the date of detention.

39. In essence, the jewellery shops are located in a public place which may be frequented by the general public. The repeated and well-planned acts of the detenu are sufficient to raise the presumption of a feeling of threat and alarm amongst the general public. Besides the offence of daylight robbery, the detenu caused bodily harm to the victims which amounts to a grave offence.

40. Hence, the detenu qualifies as a 'Goonda' under section 2(g) of the 1986 Act. The impugned order dated 08.11.2024 along with the approval order dated 12.11.2024 are found to be in accordance with the statutory requirements of the Act. We also find that the Detaining Authority has considered the entire material placed before it to come to a subjective satisfaction that the detenu's case would fall within the purview of section 3 of the Act which deals with the power to make an order directing a classified offender to be detained for the purpose of preventing the offender from acting in a manner prejudicial to the maintenance of public order.

41. Moreover, the fact that the Test Identification Parade was satisfactorily carried out by following due procedure, obliterates the issue of ascertaining the identity of the detenu in committing

the said offences: *Nenavath Bujji Vs. State of Telangana*¹⁸. The conclusion summarised in *Nenavath Bujji* in paragraph 43 of the Judgment, particularly points (v), (vi) and (ix) thereof necessitates a categorical subjective satisfaction on the part of the detaining authority which is to be reflected clearly in the order of detention and must include an examination of pertinent material to determine that the detenu has been acting in a manner prejudicial to the maintenance of public order with there being a likelihood of him continuing to indulge in such activities unless prevented by an order of detention. These conditions have been complied with in the present case.

42. The argument that the detenu is unfamiliar with the English language is belied by the confessional statement of the detenu which clearly discloses that the detenu is fluent and well aware of the English language. However, the most important factor is that the detenu reflects the mental propensity to commit one offence after another which satisfies the essential criterion for being classified as a 'habitual offender' under section 2(g) of the 1986 Act.

¹⁸ 2024 SCC OnLine SC 367

43. It is well settled that the Court will not interfere with the subjective satisfaction of the Detaining Authority unless the findings are vitiated by arbitrariness or the absence of evidence or any form of perceived or actual bias. In the present case, the evidence is clearly detailed in the grounds of detention.

44. We accordingly do not find any scope for interference in the impugned orders of detention, i.e., orders dated 08.11.2024, 12.11.2024 and consequential orders.

45. W.P.No.9893 of 2025, along with all connected applications, is accordingly dismissed. There shall be no order as to costs.

MOUSHUMI BHATTACHARYA, J

GADI PRAVEEN KUMAR, J

DATE: 15.10.2025
BMS/NDS