

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION (HABEAS CORPUS) NO.47 OF 2025

BETWEEN:

SMT. H.P. ROHINI
W/O RAMACHANDRA RAO
AGED 58 YEARS
No.3, 7TH CROSS
VICTORIA LAYOUT
BENGALURU-560 047.

...PETITIONER

(BY SRI. KIRAN S. JAVALI, SR. ADVOCATE FOR
SRI. CHANDRASHEKARA K., ADVOCATE)

AND:

1 . JOINT SECRETARY
COFEPOSA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL ECONOMIC INTELLIGENCE BUREAU
6TH FLOOR, "B" WING

JANPATH BHAVAN, JANPATH
NEW DELHI-110 001.
REP. BY SRI. ANUPAM PRAKASH

2 . GOVERNMENT OF INDIA
BY CENTRAL ECONOMIC INTELLIGENCE
BUREAU
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
6TH FLOOR, "B" WING
JANPATH BHAVAN, JANPATH
NEW DELHI-110 001.
REP. BY DIRECTOR GENERAL

3 . SENIOR SUPERINTENDENT
CENTRAL PRISON
PARAPANNA AGRAHARA
BENGALURU-560 100.

...RESPONDENTS

(BY SRI. KULLOOR ARVIND KAMATH, ASGI WITH
SRI. SHANTHI BHUSHAN H., DSGI FOR R1 & R2
SRI. THEJESH P, HCGP FOR R3)

THIS WP(HC) IS FILED UNDER ARTICLE 226 OF
CONSTITUTION OF INDIA, PRAYING TO (a) ISSUE A WRIT
IN THE NATURE OF HABEAS CORPUS OR ANY OTHER
APPROPRIATE WRIT, ORDER OR DIRECTION DECLARING
THE DETENTION OF SMT. HARSHAVARDINI RANYA D/O.
HEGDESH KABBINAHALLI SIDDEGOWDA, BY ORDER
F.No.PD.12001/01/2025-COFEPOSA DATED 22.04.2025
(ANNEXURE-"A") AS ILLEGAL AND VOID ABINITIO AND
ETC.

THIS WP(HC) HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 01.12.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

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

This Writ Petition (Habeas Corpus) has been filed by Smt. H.P. Rohini, the mother of the detainee, Smt. Harshavardini Ranya, seeking issuance of a writ of Habeas Corpus declaring the Order of Detention bearing F.No. PD-12001/01/2025-COFEPOSA dated 22.04.2025 under Section 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 ("COFEPOSA Act" for short), as illegal.

2. We have heard Shri. Kiran S. Javali, learned senior counsel as instructed by Shri. Chandrashekara K, learned Advocate appearing for the petitioner, Shri. Kuloor Arvind Kamath, learned Additional Solicitor General of India, along with Shri Shanthi Bhushan H, learned Deputy

Solicitor General of India appearing for Respondents No.1 and 2 and Shri Thejesh P, learned High Court Government Pleader, appearing for Respondent No.3.

3. The facts of the case are as follows:-

Smt. Harshavardini Ranya, the detinue herein was intercepted on 03.03.2025 at the Green Channel of the Kempegowda International Airport, Bengaluru while attempting to leave the Airport after arrival from Dubai without making any declaration. A personal search revealed that she was attempting to smuggle 17 foreign-marked gold bars weighing approximately 14,213.050 grams of foreign origin gold brought from Dubai into India. A voluntary statement was recorded on 04.03.2025. Thereafter, a search was conducted at her residence and cash of Rs.2,67,00,000/- and jewellery worth Rs.2,06,00,000/- along with two customs declarations were seized. Further, voluntary statements of the detinue, Shri. Tarun Konduru Raju, who was implicated by the detinue and Shri. Sahil Sarkariya Jain and several others were recorded. Based on these and other materials

procured during the course of investigation, a detention order under Section 3(3) of the COFESPOSA Act was passed on 22.04.2025.

4. The detainee was in Judicial Custody. The order of detention was served on her on 23.04.2025. On 27.04.2025, the Grounds of Detention and the list of relied upon documents were served. The detainee filed representations including a representation dated 05.05.2025 to the Joint Secretary (COFEPOSA) which was disposed of on 13.05.2025. Representation dated 08.05.2025 was made to the Government of India which was also disposed of on 14.05.2025 and representation dated 08.05.2025 addressed to the Advisory Board was forwarded along with comments of the Detaining Authority.

5. The learned senior counsel appearing for the petitioner contended that the order of detention is illegal and suffers from non-application of mind by respondent No.1. The detention order alone was served on 23.04.2025. The relied upon documents were served only on 27.04.2025, that too, without informing the detainee of

her right to make a representation against the detention. This constitutes a violation of Article 22(5) of the Constitution of India and is contrary to Article 21 of the Constitution of India, as the procedure established by law has not been followed.

6. It is further contended that the petitioner has challenged the impugned detention order based on the following grounds and relied upon the following decisions as well:-

I. The order of detention is vitiated due to failure to furnish the relied upon documents in full. The making available of the Pen Drive which is at Sl.No.51 of the documents relied on appended to the detention order to the detainee to merely verify the contents and size of the pen drive and the service to only the mother of the detainee amounts to non-service and is beyond the statutory mandate of 15 days thereby, vitiating the order of detention. In support of these contentions, the following decisions are relied on:-

- ***Smt. Icchudevi Choraria v. UOI and others*** reported in **(1980) 4 SCC 531;**
- ***Shalini Soni v. UOI and others*** reported in **(1980) 4 SCC 544;**
- ***Lallubhai Jogibhai Patel v. Union of India and others*** reported in **(1981) 2 SCC 427;**
- ***Kamala K Khushalani v. State of Maharashtra.***
Kamla K reported in **(1981) 2 SCC 748;**
- ***Kirit Kumar Chaman Lal Kundaliya v. Union of India and others*** reported in **(1981) 2 SCC 436;**
- ***Mehrunissa v. State of Maharashtra*** reported in **(1982) 2 SCC 709;**
- ***Thahira Haris and others v. Government of Karnataka and others*** reported in **(2009) 11 SCC 438;**
- ***Rushikesh Tanaji Bhoite v. State of Maharashtra and others*** reported in **(2012) 2 SCC 72;**
- ***Zakir Khan V/s. Union of India and others*** reported in **2022 SCC Online Del 1284;**
- ***Smitha Gireesh v. Union of India and Others,***
reported in **2016 SCC OnLine Del 3697;**
- ***Hajira N.K. v. Union of India and Others,*** by Order dated **26.11.2019** passed in **WP (Crl.) No.324 of 2019;**

- ***S. Reshmi v. Union of India and Others*** by Order dated **28.01.2016** passed in **WP (Crl.) No.386 of 2015**; and
- ***Shaikh Mohammed Rizwan v. UOI and Another***, reported in **2017 SCC OnLine Del 7887**.

II. The order of detention is vitiated as pages no. 1010 and 1011 being in Kannada language has not been read and understood, affecting the legality of the order of detention. The following decisions are relied on:-

- ***Ibrahim Ahmad Batti alias Mohd. Akhtar Hussain alias Kandar Ahmed Wagher alias Jqbal alias Gulam***, reported in **(1982) 3 SCC 440**;
- ***Narayan Laxmansa Shiralkar v. Government of Karnataka and Others***, by Order dated **09.08.2005** passed in **Writ Petition (HC) No.58 of 2005**;
- ***Smt. Doulat Unnisa v. Commissioner of Police and Others***, by Order dated **09.08.2007** passed in **Writ Petition (HC) No.129 of 2006**;
- ***Smt. P. Vijayalakshmi v. The Commissioner of Police***, reported in **2015 SCC OnLine Kar 9020**;
- ***Sri. Mohammad Shafiulla v. The D.G. and I.G.P. of Police and Others***, by Order dated **07.12.2023** passed in **WPHC No.75 of 2023**; and

- ***Sri. Anil Kumar V. v. Commissioner of Police and Others***, by Order dated **28.02.2025** passed in **WPHC No.4/2025**.

III. The order of detention is vitiated as pages No.1077 and 1099 of the relied upon documents, were furnished in a truncated form. The following decisions are relied on:-

- ***Bhupinder Singh v. Union of India and Others***, reported in **(1987) 2 SCC 234**;
- ***Smt. Dharmista Bhagat v. State of Karnataka and Another***, reported in **1989 Supp (2) SCC 155**;
- ***Smt. Parvathamma v. Commissioner of Police and Others***, by Order dated **26.08.2022** passed in **Writ Petition (HC) No.33/2022**;
- ***Smt. R. Ramya v. Commissioner of Police and Others***, by Order dated **26.08.2022** passed in **Writ Petition (HC) No.51/2022**; and
- ***Smt. Shruthi T.K. v. Deputy Commissioner and Others***, by Order dated **18.07.2023** passed in **W.P.H.C. No.39 of 2023**.

IV. The order of detention is vitiated as there was no subjective satisfaction recorded, because of the following reasons:

- (i) The detaining authority did not consider the prospect of the detainee to be released on bail for issuing an order of detention whilst in judicial custody.
- (ii) No material existed to derive subjective satisfaction that the detainee had traveled 31 times from January 2024 and pages 438, 439, 779 and 780 did not reveal the same, in the absence of the Passport, to support the same.
- (iii) The entire subjective satisfaction has been derived only on the purported statement of the detainee.
- (iv) No subjective satisfaction has been recorded to place reliance on the statement of the detainee by rejecting the retraction.

In support of these contentions the following decisions are relied on:-

- ***N.Meera Rani v.Govt of Tamil Nadu and another*** reported in ***(1989) 4 SCC 418 and***
- ***Kamarunnissa v. Union of India*** reported in ***(1991) 1 SCC 128.***

V. The order of detention is vitiated as no subjective satisfaction has been recorded to the effect that

the passport of the detainee was in court custody and there was no prospect for the detainee to indulge in smuggling in future. The following decisions are relied on:-

- ***Dharmendra Suganchand Chelawat and Another v. Union of India and Others***, reported in **(1990) 1 SCC 746**;
- ***Rekha v. State of Tamil Nadu***, reported in **(2011) 5 SCC 244**;
- ***Huidrom Konungjao Singh v. State of Manipur and Others***, reported in **(2012) 7 SCC 181**;
- ***Rajesh Gulati v. Govt. of NCT of Delhi and Another***, reported in **(2002) 7 SCC 129**;
- ***Gimik Piotr v. State of Tamil Nadu and Others***, reported in **(2010) 1 SCC 609**;
- ***Moulana Shamshunnisa and Others v. Additional Chief Secretary and Others***, reported in **(2010) 15 SCC 72**;
- ***Ameena Begum v. State of Telangana and Others***, reported in **(2023) 9 SCC 587**;
- ***Kashmira v. State of Kerala and Others***, reported in **2022 SCC OnLine Ker 7001**;
- ***Smt. Nafisa Syed Ali v. The State of Maharashtra and Others***, reported in **2013 ALL MR (Cri) 78**;

- **Husainbi Abdulla Ghalamsalam Indian Inhabitant v. State of Maharashtra and Others**, reported in **2013 SCC OnLine Bom 160**; and
- **Shanawaz v. Government of Karnataka and Others**, by Order dated **11.02.2010** passed in **WP No.133/2009 (HC)**.

VI. The order of detention is vitiated for non-application of mind and is not in conformity with the COFEPOSA Act. The following decisions are relied on:-

- **Ram Manohar Lohia v. State of Bihar and others** reported in **1965 SCC OnLine SC 9**;
- **Kishori Mohan Bera v. State of West Bengal** reported in **(1972) 3 SCC 845**;
- **Akshoy Konai v. State of West Bengal** reported in **(1973) 1 SCC 297**;
- **R. Prakash v. State of Karnataka** reported in **1979 SCC OnLine Kar 151**; and
- **Smt. Shashikala K Rana v. Union of India and others** reported in **1986 SCC OnLine Bom 282**;
- **Ayya alias Ayub v. State of U.P. and Another**, reported in **AIR 1989 SC 364**;
- **Tulshi Rabidas v. The State of West Bengal**, reported in **AIR 1975 SC 638**; and

- ***Mohd. Dhana Ali Khan v. State of West Bengal***, reported in ***AIR 1976 SC 734***.

VII. In the matter of detention prejudice cannot be urged and the requirement is strict compliance of the law.

- ***Mrs. Tsering Dolkar v. Administrator, Union Territory of Delhi and Others***, reported in ***(1987) 2 SCC 6***;
- ***State of Punjab v. Sukhpal Singh***, reported in ***(1990) 1 SCC 35***; and
- ***Mangalbai Motiram Patel v. State of Maharashtra and Others***, reported in ***(1980) 4 SCC 470***.

VIII. The order of detention is vitiated inasmuch as neither in the grounds of detention nor in the communication from the Advisory Board had the detainee been appraised of her right of being assisted by a friend before the Advisory Board proceedings.

IX. The order of detention is vitiated inasmuch as the Advisory Board has not considered the representation dated 09.05.2025 of the detainee, seeking for permission to be represented by a Legal Practitioner before the

Advisory Board proceedings. The following decisions are relied on:-

- ***A.K. Roy v. Union of India and Others*, reported in (1982) 1 SCC 271;** and
- ***State of Andhra Pradesh and Another v. Balajangam Subbarajamma*, reported in (1989) 1 SCC 193.**

7. In response to the grounds raised by the petitioner, the learned ASGI raises the following contentions:-

The material gathered during investigation demonstrates the existence of a well-orchestrated, commercially motivated, transnational smuggling syndicate operated by the detenués over a sustained period. The detaining authority carefully examined the voluminous material, including statements recorded under Section 108 of the Customs Act, 1962 ("Customs Act" for short) documents seized from the residences and business premises, forensic extraction of mobile phones, and statements of various facilitators who enabled the syndicate. On this basis, the authority recorded its

subjective satisfaction that the detenues possess both the propensity and the potentiality to continue engaging in prejudicial smuggling activities unless preventively detained.

8. Section 1(2) of the Customs Act states that the Act extends to the whole of India and extends even to offences committed outside its territory. In the present case, a significant part of the planning, procurement and documentation was carried out in the foreign jurisdiction of Dubai. Section 2(39) of the Customs Act defines smuggling in relation to goods as any act or omission which renders such goods liable to confiscation under Sections 111 or 113 of the Customs Act. The definition is intentionally wide, covering not only physical carriers but also organizers, financiers, handlers and facilitators who orchestrate the process from behind the scenes, ensuring to capture every component of the illicit chain. Section 111(d) of the Customs Act provides that any goods imported or attempted to be imported contrary to

prohibition under any law are liable for confiscation. Under Rule 3 of the Baggage Rules, 2016, gold other than ornaments is prohibited as per Item 5 of Annexure I. Gold bars and biscuits are therefore prohibited goods. The deliberate and repeated import of gold bars and biscuits by the detainees falls squarely within this prohibition. Section 135 of the Customs Act prescribes punishment for evasion of duty and related offences. It forms part of the statutory framework that marks clandestine import activities as serious offences, thereby reinforcing the preventive purpose of COFEPOSA Act. Section 3(1) of COFEPOSA Act extends to preventive detention not only of persons who directly smuggle goods, but also of those who abet, transport, conceal, keep, deal with, or harbor persons engaged in smuggling.

I. On the ground of non-supply of the pen drive in Sl.No.51 of the relied upon documents, the learned ASGI submitted that contents of the pen drive were shown to the detainee on a laptop on 27.04.2025 and the detainee has given an acknowledgement to that effect. Owing to the

rules of the prison, the pen drive could not have been handed over to the detenue as they do not allow handing over electronic devices to the inmates of the prison. Therefore, the detenue directed the sponsoring authority to furnish the pen drive to her Advocate Shri. Shashwath S. Prakash on 28.04.2025. However, multiple attempts were made to contact the authorised person but to no avail. Further, the sponsoring authority furnished the pen drive to the detenue's mother, petitioner in this case. It is submitted that Article 22(5) of the Constitution of India requires grounds of detention to be communicated and the earliest opportunity for representation to be afforded.

Paragraph No.25 of the Statement of Objections reads as follows:-

"25. Re: Para 15, 17 and 19:

With reference to these Paras, save and except what are matters of facts and record, each and every contention is denied. In this regard, it is submitted that at the time of serving the ground of detention together with the relied upon documents to the detenu on 27.04.2025, the detenu was shown all the contents of the pen drive on a Laptop and upon her satisfaction, the detenu gave her written acknowledgement to this effect. The entire proceedings

were witnessed by a lady officer of the prison and the acknowledgement given by the detenu of having seen and verifying the contents of the pen drive has been duly attested by the lady officer.

It is further submitted that the rules of the prison do not allow handing over of any electronic devices to the inmates of the prison. After seeing and watching the contents of the pen drive to her satisfaction, the detenu made a request to the Sponsoring Authority on the same day i.e. on 27.04.2025 to contact Shri Shashwath S. Prakash, the Advocate of the detenu to deliver the said pen drive. Accordingly, the Sponsoring Authority made efforts to hand over the said pen drive to Shri Shashwath S. Prakash, the Advocate and on 28.04.2025, i.e. the immediate next day, the Sponsoring Authority informed about the serving of grounds of detention and also the RUDs to the petitioner through WhatsApp.

Further, apart from the above, the Sponsoring Authority also informed the petitioner on 28.04.2025 itself that her daughter i.e. the detenu had authorized her (the detenu's) advocate to collect the same from the Sponsoring Authority's office, Bangalore. In response to the said message, the petitioner, the detenu's mother shared the advocate's contact number and also informed that detenu's advocate would contact the Sponsoring Authority. However, the advocate of the detenu did not contact the Sponsoring Authority.

Further, the sponsoring authority also made efforts to call the detenu's advocate on 01.05.2025. However, detenu's advocate did not attend the call in the first attempt. In

the second attempt, he attended the call and informed the sponsoring authority that he would come and collect the said pen drive, within a couple of days. However, he did not turn up before the Sponsoring authority. Therefore, on 08.05.2025 and 09.05.2025, the sponsoring authority made further attempts to contact the detenu's advocate, but he did not respond to the calls made.

On 09.05.2025, the Sponsoring Authority sent a WhatsApp message to the detenu's advocate requesting him to collect the said pen drive or authorize some other person to collect the pen drive from the sponsoring authority. On 10.05.2025, the detenu's advocate replied through WhatsApp that the pen drive is for the detenu and the same be given to her. Hence, the sponsoring authority wrote a letter dated 10.05.2025 to the detenu requesting her to authorize somebody else to collect the said pen drive failing which the pen drive would be served on detenu's mother i.e. the petitioner.

Accordingly, the sponsoring authority waited till 15.05.2025, but no reply was received from the detenu and hence, the sponsoring authority visited the petitioner's house on 16.05.2025 to serve the pen drive on her. However, the petitioner was not available in the house. Again on 17.05.2025, the sponsoring authority visited the petitioner's house and shown her the contents of the pen drive and handed over to her.

In view of the above, it is clear that in spite of the fact that the detenu had herself seen the contents of the said pen drive to her satisfaction, the sponsoring authority made sincere efforts as per the instructions of the detenu

to hand over the pen drive to the persons designated by her. A copy of the acknowledgement in this regard given by the detenu along with the efforts made to serve the Pen Drive are collectively placed at Annexure R-1. Hence, all the requirements to serve all the relied upon documents along with the pen drive have been duly complied with and no prejudice has been caused to the detenu in this regard." x x x x x

II. On the ground relating to the non supply of Kannada translations, it is contended that the Kannada pages No.1010 and 1011 of relied upon documents related to an unrelated bail petition, was used only as backing sheets and were not relied upon. In ***Jaseela Shaji v. Union of India*** reported in **(2024) 9 SCC 53**, the Apex Court held that the documents must be supplied only if relied upon and casual references do not mandate supply. Since the said Kannada pages were not relied upon while passing the detention order, no prejudice is caused to the petitioner in making an effective representation against the order.

III. In response to the truncated documents in pages No.1077 and 1099, it is submitted that the said documents are annexures to the bail application submitted by the

detenue to this Court. While formulating the Grounds of Detention and arriving at the subjective satisfaction, the detaining authority relied upon the bail application only. The annexures of the said bail applications have been served to the detenue only for the sake of completeness.

IV. In response to the grounds raised against the subjective satisfaction of the detaining authority, it is submitted that when the detention order was passed, the detenue was already in judicial custody and her bail application was pending, which fact was duly considered by the detaining authority. In ***Senthamilselvi v. State of Tamil Nadu*** reported in **(2006) 5 SCC 676**, it was held that the authority's subjective satisfaction regarding the likelihood of release on bail cannot ordinarily be interfered with.

The relevant portion of the Statement of Objections is extracted below:

"With reference to these Paras, save and except what are matters of facts and record, each and every contention is denied. In this regard, it is humbly submitted that the Hon'ble High Court of Karnataka dismissed the bail

application of the detenue on 26.04.2025 while the detention order was issued on 22.04.2025. As such, at the time of issuance of the impugned detention order, the detenue was in judicial custody and her bail application filed in the Hon'ble High Court of Karnataka was pending as elaborated by the detaining authority in the grounds of detention. Hence the contention of the detenue is wrong, baseless and misleading."

Further, regarding the existence of no material relating to the travel of the detenue, it is submitted that all material facts and evidence concerning the 31 trips undertaken by the detenue between India and Dubai since January 2024 were collected by the Sponsoring Authority during investigation and duly placed before the Detaining Authority along with supporting documents. The documents relied upon at pages no. 438, 439, 779 and 780 clearly reflect the detenue's complete travel history between India and Dubai during the said period.

It is further submitted that preventive detention under COFEPOSA Act rests on the subjective satisfaction of the detaining authority that a person is likely to engage in prejudicial activities in the future. The Apex Court has

consistently held that this assessment includes the propensity, potentiality, and likelihood of the detainees engaging in smuggling or its allied acts. The Court's jurisdiction is limited to examining whether relevant material existed and whether the decision was based on that material and it cannot substitute its own opinion for the satisfaction of the detaining authority. The petitioner's attempt to challenge the merits of the detaining authority's assessment is contrary to settled legal principles. Once the subjective satisfaction is formed on the basis of relevant material, the Court cannot be drawn into second-guessing that satisfaction or substitute its own opinion for that of the detaining authority.

The learned ASGI submitted that the court cannot go into correctness or otherwise of facts stated or allegations levelled in the grounds of detention. Permissible grounds of the challenge include:-

- i) order is not made by competent authority;
- ii) condition precedent for exercise of power does not exist;

- iii) subjective satisfaction arrived at by detained authority is irrational;
- iv) order is *mala fide*;
- v) there is non-application of mind;
- vi) grounds are vague, indefinite, irrelevant, extraneous, non-existent or stale;
- vii) order is belated;
- viii) person detained is already in jail;
- ix) order is punitive in nature;
- x) order is not approved by government as required by law; and
- xi) failure to refer the case to the Advisory Board.

It is submitted that none of the above grounds are raised by the detainees and as such, the challenge is not under any of the permissible grounds. It is further submitted that the grounds of detention describe, the following:

- i) the nature of roles played by each detainee with reference to the material evidence gathered during investigation;
- ii) the nature of roles played by facilitators, with specific referenced to evidence on record;

- iii) recording of satisfaction, based on material evidence on record, of the potentiality and propensity of the detenues to continue the commission of gold smuggling activities;
- iv) recording of awareness of the detenues being in judicial custody and their likelihood of being released, and
- v) intimating the detenues about their right to make representation against the order of detention.

It is submitted that this shows that the order is passed by the competent authority, gives detailed reasons for detention, reflects thorough analysis of evidence and application of mind, is based on valid grounds and provides definite attribution of roles of all the detenues. Further, it is made in time, no extraneous materials were considered and no *mala fides* are alleged.

V. In response to the ground of impoundment of passport of the detinue acting as a deterrent to any future prejudicial activity, it is submitted that the material on record demonstrates that the detenues were operating a

structured and well-planned smuggling syndicate. Their conduct reflects a detailed understanding of regulatory controls, deliberate and systematic efforts to circumvent customs and baggage rules, coordinated roles in procurement, transport, disposal of goods, and clandestine remittances, and an operational framework intentionally designed to avoid detection and leave no trace. These features indicate not an isolated or spontaneous act but the functioning of a pre-existing, well-organized network. The evidence shows that their enterprise does not require their personal movement abroad. The arrangements in Dubai, the use of carriers, coded communication, the Hawala link, and the disposal mechanism in India all demonstrate that the syndicate can function even without any of them travelling internationally.

Relevant portion from the Statement of Objections addressing the specific ground reads as follows:

"31. Re: Para 26 & 27: *With reference to these Paras, save and except what are matters of facts and record, each and every contention is denied. In this regard, it is humbly submitted that there are sufficient grounds against the detenu with regard to her potentiality*

and propensity of inter-alia concealing and keeping the smuggled goods for which passport is not required. Paras 1(xlvi), 2, 6 and 7 of the Grounds of Detention read together provide the subject satisfaction of the detaining authority. It has been clearly elaborated in the Grounds of Detention that the detenu is the kingpin of a smuggling network and has the resources to orchestrate and execute smuggling activities even without traveling abroad. The detenu's involvement is not limited to physical smuggling but extends to planning, organizing, and coordinating the smuggling operations through associates and intermediaries. The absence of a passport does not impede the detenu's potentiality and propensity to continue these illegal activities. Hence, the contention of the detenu is misconceived, wrong and untenable."

Further, Section 3 of COFEPOSA Act is preventive rather than punitive, with its focus on neutralizing the likelihood and continuing potential of a person engaging in or abetting acts of smuggling. Therefore, the mere impounding of their passports does not obviate the need for preventive detention under COFEPOSA Act.

VI. In response to the non-application of mind by the detaining authority while passing the order of detention is in contravention to the COFEPOSA Act, it is submitted that the phrase "*smuggling goods, transporting, concealing*

and keeping smuggling goods” in the detention order is referable to Sections 3(1)(i) and 3(1)(iii) of the COFEPOSA Act and, by reason of the commas used, is to be read conjunctively. The use of a comma instead of the word “or” signifies that the detention is based on cumulative involvement in multiple activities, namely smuggling goods as well as transporting, concealing and keeping smuggled goods, rather than on any single act. This drafting reflects the detaining authority’s satisfaction that the detenue is engaged in all such activities, and therefore the relevant provisions of the COFEPOSA Act have been lawfully invoked.

9. The learned for ASGI rebuts the citations relied upon by the petitioner for the following reasons:-

Sl. No.	Citation	Reason for inapplicability
1.	Gracy v. State of Kerala	Distinguished in Jasbir Singh v. Lt. Governor, Delhi, (1999) 4 SCC 228 (Annexure 1)
2.	Mortuza Hussain Choudhary v. State of Nagaland	when the detenue is in custody Detention Order should indicate awareness of the fact that detenues is actually in custody. Mere reading out the grounds without

		translation script in language understood by the detainee is not sufficient.
3.	Jaseela Shaji v. Union of India	Not all documents casually referred to be given to the detainee. Due & timely consideration of representation to Appropriate Authority.
4.	Pramod Singla v. Union of India, and Kenneth Jideofor v. Union of India	Delay in Consideration of representation
5.	Joyi Kitty Joseph v. Union of India	If Bail already granted before passing of Detention Order, it should reflect why Bail conditions are not sufficient for preventing detainee from further indulgence in smuggling activities.
6.	Ankit Ashok Jalan v. Union of India	Four basic principles of Consideration of representation by Appropriate Authority: opportunity of representation; consideration of representation by Appropriate Authority is independent of action by Advisory board; timely consideration of representation; & exercise of opinion & judgment by Appropriate government before forwarding the case to Advisory Board.
7.	Kamleshkumar Ishwardas Patel v. Union of India	Failure to inform the right to representation causes denial of the right u/ Art 22.
8.	Shabana Abdulla v. Union of India	WhatsApp chats of Four accused were relied upon but were not furnished to them. Writ filed by three accused was allowed by High Court but dismissed the Petitioner's Writ. It was reversed by Supreme Court
9.	Vihaan Kumar v. State of Haryana, Prabhir Purkhyastha v. State of Haryana,	Relates to arrest and communication of grounds of arrest under Prevention of Money Laundering Act (PMLA)

	and Pankaj Bansal v. Union of India	
--	--	--

10. Having considered the contentions advanced, we notice that the major contention on which the order of detention is challenged is that the copy of the pen drive which is one of the relied on materials had not been made available to the detinue along with the other relied on documents.

11. We notice that in the Statement of Objections, it has been clearly stated by the learned ASGI that the pen drive was taken to the prison where the detinue was housed and was played on a laptop and the detinue was shown the entire contents of the pen drive. She duly acknowledged this fact on 27.04.2025 and also specifically asked for the pen drive to be delivered to her lawyer-Shri. Shashwath S. Prakash. It is specifically pleaded that repeated attempts were made to deliver the pen drive either to the lawyer or to the detinue's mother, that is, the petitioner herein. Eventually, the petitioner-mother accepted the pen drive on 17.05.2025 at 6:20 p.m.

12. We have given our anxious consideration to the decisions on the point which are relied on by the learned senior counsel for the petitioner. We notice that the providing of copies of all relied on materials, which are taken into account by the detaining authority for passing the order of detention is *sine qua non* for the passing of a valid detention order.

13. It is not in dispute that the pen drive would also be one of the relied on materials. However, in the instant case, it is clear that the detenue was in judicial custody when the detention order and the relied on materials were served on her. It is clear that the serving of a pen drive without the hardware required to play the same would have served no purpose at all. It is clearly contended that an Officer of the respondents had gone to the prison with a laptop and had played the entire contents of the pen drive to the detenue in her presence which she acknowledges in writing. She thereafter required the pen drive to be handed over to her lawyer.

14. The Statement of Objections also speaks about the repeated attempts made by the respondents to serve the pen drive on the lawyer as required by the detinue. However, the lawyer refused to accept the pen drive. Ultimately, the pen drive was made available to the petitioner herein, who is the mother of the detinue.

15. In the facts and circumstances of the instant case, we are of the opinion that the contents of the pen drive having been clearly shown to the detinue, the fact that the person designated by her to accept the pen drive, refused to do so, cannot be relied on by the petitioner to contend that the order of detention was vitiated.

16. In the peculiar facts and circumstances of the instant case, we are of the clear opinion and the contention that the pen drive was not served on the detinue cannot be a reason to invalidate the order of detention.

17. The next serious ground urged is that pages No.1010 and 1011 of the materials supporting the

detention being in Kannada language and the detenue being unable to read Kannada, the order of detention was vitiated on that count also. However, the objections clearly show that the writing in Kannada language related to an unrelated bail petition and the said pages were used only as backing sheets in the relied on documents by mistake and were not relied upon at all.

18. That specific statement in the Statement of Objections regarding the provision of translated documents reads as follows:-

"40. x x x x x It is humbly submitted that the bail application vide Crl. Misc. No. 2598 of 2025 submitted by Shri Tarun Konduru Raju to Hon'ble Sessions Court, Bengaluru (CCH-64) as received by the Sponsoring Authority were furnished to the Detaining Authority. These documents also included two pages which happened to be in Kannada Language. These two pages were given to the Sponsoring Authority as part of the bail application by Shri Tarun Konduru Raju's Advocate and the same were attached by them to shield the documents from mutilation of the main documents. Hence, these two pages were not relevant to the present case. However, for the sake of completeness, the said two pages were also provided to the Detaining Authority who, while formulating the grounds of detention, has not relied on these two pages but only on the bail application, objection to the said bail application filed by DRI, BZU and the order passed by the Hon'ble Court rejecting the said bail application." x x x x x

19. We have perused the relied on documents and we also find that pages No.1010 and 1011 in the relied on documents written in Kannada are only used as backing sheets and are not actually a part of the relied on documents. Further, in the case of **Jaseela Shaji** (supra) the Apex Court has observed as follows:

"28. There can be no doubt that it is not necessary to furnish copies of each and every document to which a casual or passing reference may be made in the narration of facts and which are not relied upon by the Detaining Authority in making the order of detention. However, failure to furnish copies of such document/documents as is/are relied on by the Detaining Authority which would deprive the detenu to make an effective representation would certainly amount to violation of the fundamental right guaranteed under Article 22(5) of the Constitution of India.

31. It could thus be seen that though this Court held that a copy of every document mentioned in the order is not required to be supplied to the detenu, copies of only such of those documents as have been relied on by the detaining authority for reaching the satisfaction

that preventive detention of the detenu is necessary are required to be supplied to him."

20. In the above view of the matter, we are clear in our minds that the non-supply of the translations of pages No.1010 and 1011 cannot be fatal to the Detention Order since the said two pages in Kannada language are not part of the relied upon materials at all. Further, with regard to the contention that pages No.1077 and 1099 of the relied on documents were furnished in a truncated form. We notice that the truncation was only due to a faulty Photostat copy and that the relied upon documents have been served in their full form along with the detention order to the detenu. The said ground also therefore cannot be relied on.

21. Further, the order of detention specifically records that the detenu is suffering imprisonment and that her applications for bail have been rejected. However, the detention order also records that there is every possibility of the detenu being released on bail and that the detention of the passport of the detenu in Court

custody would not be sufficient in the nature of the offences committed by her to deter her from committing similar offences of smuggling in the future as well. Further, the contention that she has not been informed of her right to submit the representations is also incorrect since the order of detention specifically contains such information. Further, the contention that the detainee has a right to be represented by Legal Counsel is also absolutely incorrect since there is no such right provided under Section 8(e) of the COFEFOSA Act. Further, the representations submitted by the detainee have been placed before the Advisory Board and have been considered and rejected by the Central Government. The contention raised that there is a delay in serving the grounds of detention also cannot be accepted since Section 3(3) of the COFEPOSA Act provides that the grounds of detention shall be communicated to the person detained as soon as may be after the detention but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen

days, from the date of detention. In the instant case, the grounds of detention supporting the detention order dated 22.04.2025 has admittedly been served on 27.04.2025.

22. We therefore come to the conclusion on a consideration of the materials placed on record and the pleadings of the parties that the order of detention has been passed after considering all the relevant aspects of the matter. We also notice that the representations submitted by the detainee have been duly considered.

23. In the above situation, we are of the opinion that the challenge raised as against the order of detention cannot be sustained. The writ petition fails and the same is accordingly ***dismissed***.

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

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

cp*