IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P (Cr.) No.255 of 2025

Upendra Yadav @ Bhupendra Yadav @ Bhupesh Ji, aged 31 years, son of Hiranandan Yadav, resident of Pasangan, PO + PS-Manika, District-Latehar **…… Petitioner**

Versus

1. The State of Jharkhand through its Home, Jail and Disaster Management Department.

2. Lakhan Ram Nayak, S/o not known, Under Secretary, Home, Jail and Disaster Management Department, Project Bhawan, P.O. and P.S. Dhurwa, District Ranchi

3. Deputy Commissioner Cum District Magistrate, Latehar, having office at P.O. + P.S. + District- Latehar,

4. Superintendent of Police, Latehar, having office at P.O. + P.S. + District- Latehar,

5. Sub Divisional Police Officer, Latehar, having office at P.O. + P.S. + District- Latehar, …… **Respondents**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner : Miss Sonal Sodhani, Advocate
For the Resp-State of Jharkhand: Mr. Sachin Kumar, AAG-II
Mr. Srikant Swaroop, AC to AAG-II

C.A.V on 14.11.2025 **Pronounced on 17/11/2025**

Per Sujit Narayan Prasad, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India for the following reliefs:

> *"(i). For quashing up of the order dated 18.02.2025 passed vide letter/order no. 05/CCA/01/57/2024-17/CCA (Annexure- 4) passed by Under Secretary, Home, Jail and Disaster Management Department, Government of Jharkhand by which the order of detention has been further extended as against the present petitioner for next three months, from 18.02.2025 to 17.05.2025 without any sufficient cause;*

(ii) For issuance of an appropriate writ(s)/ order(s) / direction(s) for stay of operation of order dated 18.02.2025 passed vide letter/order no. 05/CCA/01/57/2024-17/CCA (Annexure-4) during the pendency of this writ petition;

(iii) the petitioner further prays for quashing of order dated 16.05.25 (Annexure-5) passed vide Memo No.150/CCA by Under Secretary (Home) Jail and Disaster Management Department, Government of Jharkhand (Respondent No.2) by which the 3rd extension for detention has been given i.e. from 18.05.2025 to 17.08.2025.

AND

(iv) Petitioner further prays issuance of the appropriate writ/writs, order or orders, direction or directions to quash the order dated 11.08.2025 issued by the Department of Home, Prison and disaster Management, Government of Jharkhand by which detention of Petitioner was further extended for the period of 3 months from 18.08.2025 to 17.11.2025."

2. The brief facts of the case as per the pleadings made in the writ petition needs to refer herein which reads as under:

i. The present Petitioner is a permanent resident of Latehar.

ii. It is stated that the Superintendent of Police, Latehar, sent a letter vide memo No.425/DCB, dated 04.11.2024 to the Deputy Commissioner-cum-District Magistrate,Latehar recommending initiation of proceeding under Section 12(2) of Jharkhand Control of Crimes Act, 2002, as against the petitioner.

iii. Pursuant to the said memo/letter from the Superintendent of Police, Latehar, the learned Court of Deputy Commissioner-cum-District Magistrate, Latehar initiated a proceeding under Jharkhand Control of Crime Act, 2002 by registering a case as CCA Case No. 03 dated 18.11.2024 and passed an order of detention against the petitioner. However, the duration of detention was not specified.

iv. Thereafter, on 02.01.2025, an order was passed by the respondent no. 02 vide order/letter no. 05/CCA/01/57/2024-382/CCA specified that the petitioner has been detained for 03 months starting from 18.11.2024 till 17.02.2025.

v. The present petitioner was served with a show cause vide letter No.1499 dated 18.11.2024 by the learned Court of Deputy Commissioner-cum-District Magistrate, Latehar, in connection with Jharkhand Control of Crimes Act Case No.03 dated 18.11.2024.

vi. The report made by the Sub Divisional Police Officer, Latehar, specifically mentions that as against the petitioner, five FIRs and six *sanhas* were mentioned. The FIR's registered against the portioner are-Manika PS Case No.15 of 2014 under sections 147, 148, 149, 341, 323, 425 IPC and section 17 CLA; Manika PS Case No.32 of 2016 under sections147, 148, 149, 307, 353 of the IPC and Section 25(1-B) (A)/27/35 of the Arms Act; Manika PS Case No.72 of 2016 under sections 386, 34 IPC, 25(1-B) (A)/26/35 of the Arms Act and section 17 CLA Act; Manika PS Case No.127 of 2022 under section 386/34 of the IPC and section 25(1-B) (A)/26/35 of the Arms Act and section 17 CLA Act and Manika PS Case No.55 of 2024 under sections 25(1-B) (A)/26/35 of the Arms Act and section 17 CLA Act.

vii. It has been pleaded that out of that case only two cases are pending which are Manika PS Case No.32 of 2016 dated 08.05.2016 and Manika P.S Case No.55 of 2024 dated 31.08.2024 under sections 25(1B) (A)/26/35 Arms Act and under section 17 CLA Act.

viii. It is alleged that subsequently after completion of three months of detention, on the same facts with no new grounds and on the same list of

cases, the detention of the petitioner was further extended for next three months i.e. from 18.02.2025 to 17.05.2025 vide order dated 18.02.2025 in order/letter no. 05/CCA/01/57/2024-17/CCA.

ix. Further, from the perusal of the notice dated 18.02.2025, it would be evident that no information with respect to general nature of material allegation as against the present petitioner was ever mentioned in the said notice.

x. Thereafter, vide order dated 16.05.2025 (Annexure-5) passed vide Memo No.150/CCA by Under Secretary (Home) Jail and Disaster Management Department, Government of Jharkhand (Respondent No.2) by which the 3rd extension for detention has been given i.e. from 18.05.2025 to 17.08.2025.

xi. Thereafter again, vide order dated 11.08.2025 issued by the Department of Home, Prison and disaster Management, Government of Jharkhand by which Detention of Petitioner was further extended for the period of 3 months from 18.08.2025 to 17.11.2025.

3. Being aggrieved, the present petitioner approached this Court for quashing the impugned detention orders.

Submission on behalf of the writ petitioner:

4. Miss Sonal Sodhani, the learned counsel appearing for the petitioner has taken the following grounds in assailing the impugned orders:

i. It has been contended that petitioner has been illegally detained on the false allegation as the impugned order has been passed by the same

authority for the same case and facts with there being no addition in any criminal case.

ii. It has been contended that from perusal of the entire records it would be crystal clear that both the proceedings were initiated on same facts and footing.

iii. It has further been contended that the impugned order gives absolutely no finding with respect to the petitioner being an anti-social element.

iv. It has been contended that on same facts and cases with same *sanhas* previously the petitioner was detained for three months and now, without any new grounds and reason for requirement for further detention, detention of the petitioner has been extended by passing the three more extension orders of detention.

v. It has been contended that the term 'anti-social element' has a specific meaning and has been defined under Section 2(d) of the Jharkhand Control of Crimes Act, 2002. The inclusion of the petitioner within the scope of "anti-social element" mandates him habitually committing certain offences.

vi. It has been contended that as per the scope of the expression 'habitual' means something repeated or done persistently. It also connotes frequent commission of acts or omission of same kind referred to in each of the sub-clauses or an aggregate of a similar acts or omission.

vii. Hence, from the scope of this definition of being 'habitual', it would be evident that the petitioner is precluded from the scope of the Act itself as he is not an anti-social element. It has been contended that adding to it

the impugned order is absolutely silent over this finding which is mandatory in nature.

viii. It has been contended that according to the provision under section 12(2) of the Jharkhand Control of Crimes Act, 2002, it is mandatory to record the reason in writing for which it is necessary to extend the detention of the detenu and the same is evidentially missing in the present case. As such, the order of detention has been passed without following the due procedure of law.

ix. It has been contended that the order of extension passed by the respondent no. 2 is *non est* in the eye of law in view of the fact that the approval of the Advisory Board was never taken prior to such extension.

x. It has further been contended that the impugned order gives absolutely no finding with respect to the present petitioner being an anti-social element.

5. The learned counsel, based upon the aforesaid grounds, has submitted that the impugned extension orders therefore, needs interference by this Court and be quashed.

Submission on behalf of the Respondent-State:

6. Per contra, Mr. Sachin Kumar, the learned AAG-II appearing for the respondent-State to defend the impugned orders has raised the following grounds:

i. It has been contended that the impugned detention order is issued under the provision of section 12(2) of Jharkhand Control of Crimes Act, 2002, as the petitioner are involved in five criminal cases as well as five *sanhas* were registered against him in police stations of Latehar District specially for collection of extortion, robbery,

kidnapping, snatching, beating and creating obstruction in government work and other criminal activities and, as such, the present writ petition is not maintainable in the law as well as on facts.

ii. It has been contended that prior to issuance of detention order the petitioner has been given reasonable opportunity to defend himself and, as such, the order impugned is in accordance with law which requires no interference.

iii. It has been contended that the petitioner has been convicted in one case and so far, as the other pending cases are concerned, they are likely to be concluded very soon as they are at the verge of closure and there is strong possibility of conviction of the petitioner.

iv. It has further been contended that in spite of conviction the petitioner is still involved in illegal and unlawful activity with his associates and, thus, the detention order is fully justified in order to maintain law and order situation within the district concerned.

v. It has been contended that it was necessary to extend preventive detention of petitioner in order to control organized crime in the locality as well as in order to reduce the intensity of same.

vi. It has been contended that after giving opportunity of hearing to the petitioner, the impugned order for detention was passed which was extended time to time as the present petitioner is involved in various illegal and criminal activities which is evident from the institution of various FIRs and *sanhas* against him and out of those cased, in one case he has already been convicted.

vii. It has been contended that there is strong possibility of conviction of petitioner in other cases and if he will be released that will adversely affect the public order situation in the locality.

7. The learned State counsel, based upon the aforesaid grounds, has submitted that the impugned orders, thus, need no interference and the present writ petition is fit to be dismissed.

Analysis:

8. We have heard the learned counsel appearing for the parties and gone through the pleadings made in the writ petition and the counter-affidavit along with the relevant documents annexed therewith.

9. It is evident from the factual aspect that the several FIRs and *sanhas* were registered against the petitioner due to his criminal activities and thereafter after giving show cause, detention order was passed by the competent authority which was approved by the respondent no.2 and thereafter time to time it was extended.

10. On the pleadings of both the parties, the issues which require consideration herein are as follows:

i. *Whether the criminal activities of petitioner come under the purview of definition of ''Anti-social Elements" as defined under section 2(d) of the Jharkhand Control of Crimes Act, 2002?*

ii. *Whether the approval of the Advisory Board is required for extending the period of detention?*

Re: First issue

11. Before considering the first issues, the statutory provision as contained under the Jharkhand Control of Crimes, Act, 2002 needs to be referred herein.

12. The relevant provisions which require consideration herein are Section 2(d) and Section 12 of the Jharkhand Control of Crimes, 2002, (referred herein as Act 2002), for ready reference same is being quoted as under:

> *"Anti-social Element" has been defined in section 2(d) of the Act,2002, which reads hereunder as: -*
>
> *2(d) "Anti-social element" means a person who-*
>
> *(i) 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 of the Indian Penal Code;or*
>
> *(ii) habitually commits or abets the commission of offences under the Suppression of Immoral Traffic in Women and Girls Act, 1956; or*
>
> *(iii) who by words or otherwise promotes or attempts to promote, on grounds of religion, race, language, caste or community or any other grounds whatsoever, feelings of enmity or hatred between different religions, racial or language groups or castes or communities; or*
>
> *(iv) has been found habitually passing indecent remarks to, or teasing women or girls; or*
>
> *(v)who has been convicted of an offence under sections 25,26, 27, 28 or 29 of the Arms Act of 1959."*

13. From perusal of Section 2(d) of the Jharkhand Crime Control Act, 2002, it is evident that **"anti-social element"** as a person who habitually commits or abets offenses listed in Chapters XVI or XVII of the Indian Penal Code, or certain other specific crimes. It needs to refer herein that this definition requires a pattern of behaviour, not isolated incidents, and aims to identify individuals whose acts cause alarm or terror among the public, warranting preventive detention to maintain public order.

14. It requires to refer herein that the Act 2002 was meant to make special provisions for the control and suppression of anti-social elements with a view to maintenance of public order. It also needs to refer herein that the “Law and Order” problems typically affect only individuals or small groups, whereas “public order” disruptions affect the community’s normal functioning on a broader scale often generating fear or anxiety among the general public.

15. It is pertinent to mention herein that the primary element with respect to Section 2(d)(i) seems to be the word "habitual". It would thus mean that a person who is frequently engaged in committing or attempting or abating commission of an offence in terms of Chapter XVI or Chapter XVII of the Indian Penal Code would be an anti-social element. In this context, we may refer to the case of ***Vijay Narayan Singh Vs. State of Bihar*** reported in ***(1984) 3 SCC 14*** wherein the word "habitually" has been sought to be enumerated in the following manner:

> *"31. It is seen from* Section 12 *of the Act that it makes provision for the detention of an anti-social element. If a person is not an antisocial element, he cannot be detained under the Act. The detaining authority should, therefore, be satisfied that the person against whom an order is made under* Section 12 *of the Act is an anti-social element as defined in* Section 2(d) *of the Act. Sub-clauses (ii), (iii) and (v) of* Section 2(d) *of the Act which are not quite relevant for the purposes of this case may be omitted from consideration for the present. The two other sub-clauses which need to be examined closely are sub clauses (i) and (iv) of* Section 2(d). *Under sub-clause (i) of* Section 2(d) *of the Act, 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 dealing with offences affecting the human body or Chapter XVII dealing with offences against property, of the Penal Code, 1860 is considered to be an anti-social element. Under subclause (iv) of* Section 2(d) *of the Act, a person who has been habitually passing indecent remarks to, or teasing women or girls, is an anti-social element. In both these sub clauses, the word "habitually" is used. The expression "habitually" means "repeatedly" or "persistently". It implies a thread*

of continuity stringing together similar repetitive acts. Repeated, persistent and similar, but not isolated, individual and dissimilar acts are necessary to justify an inference of habit. It connotes frequent commission of acts or omissions of the same kind referred to in each of the said sub clauses or an aggregate of similar acts or omissions. This appears to be clear from the use of the word "habitually" separately in subclause (i), sub-clause (ii) and sub- clause (iv) of Section 2(d) *and not in sub clauses (iii) and (v) of* Section 2(d). *If the State Legislature had intended that a commission of two or more acts or omissions referred to in any of the sub- clauses (i) to (v) of* Section 2(d) *was sufficient to make a person an "anti-social element", the definition would have run as "Anti-social element" means "a person who habitually is. ..". As* Section 2(d) *of the Act now stands, whereas under sub-clause (iii) or sub-clause (v) of* Section 2(d) *a single act or omission referred to in them may be enough to treat the person concerned as an 'antisocial element', in the case of sub-clause (i), sub-clause (ii) or sub-clause (iv), there should be a repetition of acts or omissions of the same kind referred to in sub-clause (i), subclause (ii) or in sub-clause (iv) by the person concerned to treat him as an "anti-social element". Commission of an act or omission referred to in one of the sub-clauses (i), (ii) and (iv) and of another act or omission referred to in any other of the said sub-clauses would not be sufficient to treat a person as an "anti-social element". A single act or omission falling under subclause (i) and a single act or omission falling under sub-clause (iv) of* Section 2(d) *cannot, therefore, be characterized as a habitual act or omission referred to in either of them. Because the idea of "habit" involves an element of persistence and a tendency to repeat the acts or omissions of the same class or kind, if the acts or omissions in question are not of the same kind or even if they are of the same kind when they are committed with a long interval of time between them they cannot be treated as habitual ones."*

16. Thus, from the aforesaid it is evident that if a person is not an antisocial element, he cannot be detained under the Act. The detaining authority should, therefore, be satisfied that the person against whom an order is made under Section 12 of the Act is an anti-social element as defined in Section 2(d) of the Act. Under sub-clause (i) of Section 2(d) of the Act, 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 dealing with offences affecting the human body or Chapter XVII dealing with offences against property, of the Penal

Code, 1860 is considered to be an anti-social element. Further the expression "habitually" means "repeatedly" or "persistently". It implies a thread of continuity stringing together similar repetitive acts. Repeated, persistent and similar, but not isolated, individual and dissimilar acts are necessary to justify an inference of habit.

17. It requires to refer herein that Section 12 of the Act,2002 contains the word “anti-social” which qualifies the section 12 of Act 2002 for passing the order of detention of any individual or others. Section 12 of the Act is the initiation of the process of detaining a person under the Act, for ready reference the same is being quoted herein, which reads as under-

> *“12. Power to make order detaining certain persons. - The State Government may- (1) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order and there is reason to fear that the activities of anti-social elements cannot be prevented otherwise than by the immediate arrest of such person, make an order directing that such anti-social element be detained.*
>
> *(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate, the State Government is satisfied that it is necessary so to do, it may by an order in writing direct, that during such period as may be specified in the order, such District Magistrate may also, if satisfied as provided in sub-section (1) exercise the powers conferred upon by the said sub-section:*
>
> *Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.*
>
> *(3) When any order is made by District Magistrate, he shall forthwith report, the fact to the State Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than 12 days after the making thereof unless, in the meantime, it has been approved by the State Government:*

> *Provided that where under Section 17 the grounds of detention are communicated by the officer making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to the modification that, for the words "twelve days", the words "fifteen days" shall be substituted."*

18. Thus, from the perusal of Section 12 of the Act 2002 it is evident that power to make orders detaining certain persons are provided in section 12 of the Jharkhand Control of Crimes Act, 2002. Section 12(1) provides that if State Government is satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order and there is reason to fear that the activities of anti-social elements cannot be prevented otherwise than by the immediate arrest of such person, make an order directing that such anti-social element be detained.

19. Hence, section 12(1) empowers the State Government to detain anti-social element if there is reason to fear that the activities of anti-social elements cannot be prevented otherwise than by the immediate arrest of such person. The anti-social element has been defined in Section 2(d) of the Jharkhand Control of Crimes Act, 2002 and section 2(d)(i) of the Act provides that "Anti-social element" means a person who either by himself or as a member of or leader of gang habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code.

20. In the backdrop of the aforesaid settled position of law this Court is now, reverting to the first issue whether the criminal activities of petitioner come under the purview of definition of ‘’Anti-social Elements’’ as defined under section 2(d) of the Jharkhand Control of Crimes Act, 2002.

21. On going through the detention order dated 18.11.2024 (Annexure-1), we find that detention order dated 18.11.2024 was passed by

the respondent no.3- District Magistrate, Latehar, on the recommendations made by the Superintendent of Police, Latehar vide Letter No. 425/DCB dated 04.11.2024, wherein involvement of the petitioner in five criminal cases and six cases based on *sanha* is mentioned.

22. We find from recommendations made by the Superintendent of Police, Latehar vide Letter No. 425/DCB dated 04.11.2024, following five FIRs registered against the petitioner in the district of Latehar:

i. Manika PS Case No.15 of 2014 under sections 147, 148, 149, 341, 323, 425 IPC and section 17 CLA;

ii. Manika PS Case No.32 of 2016 under sections147, 148, 149, 307, 353 of the IPC and Section 25(1-B) (A)/27/35 of the Arms Act;

iii. Manika PS Case No.72 of 2016 under sections 386, 34 IPC, 25(1-B) (A)/26/35 of the Arms Act and section 17 CLA Act;

iv. Manika PS Case No.127 of 2022 under section 386/34 of the IPC and section 25(1-B) (A)/26/35 of the Arms Act and section 17 CLA Act, and

v. Manika PS Case No.55 of 2024 under sections 25(1-B) (A)/26/35 of the Arms Act and section 17 CLA Act.

23. Hence, from the FIRs mentioned in the detention order dated 18.11.2024 (Annexure-1), it appears that petitioner has nexus with the extremist organization and crime committed by the petitioner ranges to attempt to murder, extortion etc. and further the several cases under Arms Act has also been registered against the petitioner. Thus, it appears that petitioner habitually commits offences punishable under section Chapter

XVI or Chapter XVII of the Indian Penal Code as defined in section 2(d)(i) of the Act.

24. Further, the detaining authority respondent no.3 while passing the detention order 18.11.2024(Annexure-1), under section 12(2) of the Act was satisfied that dentition of the petitioner was necessary as continuous criminal activities of the petitioner was causing threat to maintenance of public order.

25. This Court, on consideration of the aforesaid factual aspect is of the view that the authority concerned has rightly considered that the act of the petitioner comes under the purview of the ‘’Anti-social Elements” as stipulated under Section 2(d) of the Jharkhand Control of Crimes Act, 2002. This Court, therefore, is of the view that the orders of detention on this score need no interference.

26. Accordingly issue no. (i) is hereby answered.

Re: Second issue

27. The second issue is whether the approval of the Advisory Board is required for extending the period of detention?

28. But before appreciating the said issue, the statutory provision related to Advisory Board and Sections 21 and 22 as stipulated under the Jharkhand Control of Crimes,2002 needs to be referred apart from judicial pronouncement of the Hon’ble Apex court on the said issue.

29. The Jharkhand Control of Crimes,2002 has articulated specific time frame which starts from the moment an order of detention is passed by the District Magistrate under section 12(2) of the Act and Government shall,

within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 18.

30. Section 18 of the Act deals with constitution of Advisory Board and the same reads as follows:-

> *"18. Constitution of Advisory Board.- The State Government shall, whenever necessary, constitute Advisory Board for the purpose of this Act.*
>
> *(2) The Board shall consist of three persons who are or, have been, or are qualified to be appointed as Judges of High Court, and such persons shall be appointed by the Government.*
>
> *(3) The Government shall appoint one of the members of the Advisory Board, who is or has been, a Judge of a High Court to be its Chariman."*

31. An approval of the Advisory Board has to be taken as per Section 19 of the Act which reveals thus: -

> *"19. Reference to Advisory Board.-Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this Act, the Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 18, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by the District Magistrate mentioned in sub-section(2) of section 12 also the report by such officer under sub-section (3) of that section."*

32. Thus, the State Government has to place before the Advisory Board the order of detention along with the grounds and the representation if any filed by the detenu in terms of Section 17 of the Act. The procedure of the Advisory Board has been delineated in Section 20 of the Act which reads as under: -

> *"20. Procedure of Advisory Board.-(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to*

the Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board, as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential."

33. On Perusal of Section 20 of the Act reveals that the Advisory Board has to submit its report within a period of seven weeks from the date of detention of the detenu.

34. The entire process from the date of detention to the submission of the report by the Advisory Board is seven weeks which includes three weeks from the date of detention by which time the State Government is required to refer the matter to the Advisory Board for its approval. After the period enumerated as aforesaid is completed Section 21 of the Act 2002, then comes into operation delegating power to the State Government to confirm the detention and continue the detention for the period it thinks fit. Section 21 of the Act 2002, reads as under-

"21. Action upon the report of the Advisory Board-(1) In any case where the Advisory Board has reported that there is, in its option, sufficient cause for the detention of a person, the Government may conform the detention order and continue the dention of the person concerned for such period as it thinks fit."

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of a person, the Government shall revoke the detention order and cause the person concerned to be released forthwith."

35. The maximum period in which a detenu can be detained under the provisions of the Act 2002 is one year as depicted in Section 22 of the Act. Section 22 of the Act 2002 reads as under-

> *"22. Maximum period of detention-The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 21 shall be twelve months from the date of detention."*

36. Thus, Section 21 of the Act 2002 provides for the action to be taken by the State Government on receipt of the report of the advisory Board, where Board is of the opinion that there is sufficient cause for the detention of the person concerned, the Government may confirm the detention of the person for such period as it deems fit subject to the receipt of the report of the Advisory Board. However, where the Advisory Board has reported that there is no sufficient cause for his detention, the Government shall revoke the detention order and release the detenu forthwith.

37. Now coming to the factual aspect of the issue, detention order dated 18.11.2024 (Annexure-1), was passed by the respondent no.3-District Magistrate, Latehar, which was approved by the Advisory Board and consequently, order for the detention was passed for detaining the petitioner for three months starting from 18.11.2024 till 17.02.2025.

38. Thereafter, from time-to-time detention was extended and for the first time detention was extended from 18.02.2025 to 17.05.2025; second time detention was extended from 18.05.2025 to 17.08.2025 and third time detention was extended from 18.08.2025 to 17.11.2025 and, hence, petitioner has aggrieved by the aforesaid three orders of the extension of detention.

39. Learned counsel for the petitioner has emphatically submitted that aforesaid three extension orders i.e. 18.02.2025 to 17.05.2025, 18.05.2025 to 17.08.2025 and 18.08.2025 to 17.11.2025 were never

confirmed by the Advisory Board which is a mandate as per sections 19 and 21 of the Jharkhand Control of Crimes Act and since the mandate of the Act 2002 has not been followed as such detention order of the petitioner is not legally sustainable.

40. In the aforesaid context, it needs to refer herein that the period of three months mentioned in Section 12 (2) of the Act 2002 which is pari materia with Section 3 of the **Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1985** which was a subject matter before the Hon'ble Full Bench of the Karnataka High Court which had decided the issue in the case of ***Abdul Razak v. State of Karnataka*, 2017 SCC OnLine Kar 2855,** the Relevant paragraph of the aforesaid order of the Full Bench is being quoted as under:

> *16. Also having regard to the aforesaid discussion, we are inclined to follow the judgment of the Hon'ble Supreme Court in T. DEVAKI's case, which is also a decision of three Hon'ble Judges, as discussed in detail above to hold that the period specified in Section 3(2) of the Act does not relate to the period of detention, but to the period of delegation made by the State Government in favour of the District Magistrate or the Commissioner of Police.*
>
> *17. On a careful reading of the recent judgment of the Hon'ble Supreme Court in CHERUKURI MANI, in light of the previous decision in T. DEVAKI, it becomes clear that there is a dichotomy or conflict of opinion between the two decisions. It is clear that in CHERUKURI MANI, there is no reference made to the judgment of the Hon'ble Court in T. DEVAKI. Further, T. DEVAKI is a dictum of three Judge Bench while CHERUKURI MANI is a decision of the two Judge Bench. Obviously, the decision in T. DEVAKI has, not been brought to the notice of the two Judge Bench, which rendered the decision in CHERUKURI MANI. Significantly, the provision of law under consideration in the aforesaid cases namely, Section 3 of the Andhra Pradesh Act, the Tamil Nadu Act and the Karnataka Act, are in pari materia."*

41. Here, it is pertinent to note that the aforesaid judgment of the Full Bench of the Karnataka High Court has been approved by the Hon'ble Apex

Court in the case of ***Pesala Nookaraju v. State of A.P., (2023) 14 SCC* 641**. In this case Hon'ble Apex Court was hearing the appeal filed by the detenu, who was preventively detained under section 3(2) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act,1986(for short 'the 1986 Act'). Section 3 of the said Act provides power to make orders detaining certain persons. Section 12 of the Act provides for the action upon report of the Advisory Board, which provides for passing confirmatory order by the State Government and as per Section 13 maximum period of detention can be 12 months. At paragraph-45, Hon'ble Apex Court laid down that if any period is specified in the confirmatory order, then the period of detention would be up to such period, if no period is specified, then it would be for a maximum period of twelve months from the date of detention. The State Government, in our view, need not review the orders of detention every three months after it has passed the confirmatory order and further, at paragraph-46 Hon'ble Apex Court has held that if the order of detention is confirmed, then the period of detention can be extended up to the maximum period of twelve months from the date of detention. Lastly, at paragraph-47, the Hon'ble Apex Court held that the Act does not contemplate a review of the detention order once the Advisory Board has opined that there is sufficient cause for detention of the person concerned and, on that basis, a confirmatory order is passed by the State Government to detain a person for the maximum period of twelve months from the date of detention. Paragraph-45,46 and 47 of the judgment is quoted herein below for ready reference-

> *"45. We reiterate that the period of three months stipulated in Article 22(4)(a) of the Constitution is relatable to the initial period of detention up to the stage of*

receipt of report of the Advisory Board and does not have any bearing on the period of detention, which is continued subsequent to the confirmatory order being passed by the State Government on receipt of the report of the Advisory Board. The continuation of the detention pursuant to the confirmatory order passed by the State Government need not also specify the period of detention; neither is it restricted to a period of three months only. If any period is specified in the confirmatory order, then the period of detention would be up to such period, if no period is specified, then it would be for a maximum period of twelve months from the date of detention. The State Government, in our view, need not review the orders of detention every three months after it has passed the confirmatory order.

46. Thus, in our view, the period of three months specified in Article 22(4)(a) of the Constitution of India is relatable to the period of detention prior to the report of the Advisory Board and not to the period of detention subsequent thereto. Further, the period of detention in terms of Article 22(4)(a) cannot be in force for a period beyond three months, if by then, the Advisory Board has not given its opinion holding that there is sufficient cause for such detention. Therefore, under Article 22(4)(a), the Advisory Board would have to give its opinion within a period of three months from the date of detention and depending upon the opinion expressed by the Advisory Board, the State Government can under Section 12 of the Act, either confirm the order of detention or continue the detention of the person concerned for a maximum period of twelve months as specified in Section 13 of the Act or release the detenu forthwith, as the case may be. If the order of detention is confirmed, then the period of detention can be extended up to the maximum period of twelve months from the date of detention.

47. With respect, we observe that it is not necessary that before the expiration of three months, it is necessary for the State Government to review the order of detention as has been expressed by this Court in Cherukuri Mani [Cherukuri Mani v. State of A.P., (2015) 13 SCC 722 : (2016) 2 SCC (Cri) 345] . The Act does not contemplate a review of the detention order once the Advisory Board has opined that there is sufficient cause for detention of the person concerned and on that basis, a confirmatory order is passed by the State Government to detain a person for the maximum period of twelve months from the date of detention. On the other hand, when under Section 3(2) of the Act, the State Government delegates its power to the District Magistrate or a Commissioner of Police to exercise its power and pass an order of detention, the delegation in the first instance cannot exceed three months and the extension of the period of delegation cannot also be for a period exceeding three months at any one time. [See : Abdul Razak v. State of Karnataka [Abdul Razak v. State of Karnataka, 2017 SCC OnLine Kar 2855 : ILR 2017 Kar 4608] (FB).]"

(emphasis supplied)

42. Herein it is evident from the detention order dated 18.11.2024 (Annexure-1) which was passed by the respondent no.3 District Magistrate, Latehar, and was approved by the Advisory Board and consequent thereto, order for the detention was passed for detaining the petitioner for three months starting from 18.11.2024 till 17.02.2025.

43. Thereafter, from time-to-time detention was extended and for the first time detention was extended from 18.02.2025 to 17.05.2025; second time detention was extended from 18.05.2025 to 17.08.2025 and third time detention was extended from 18.08.2025 to 17.11.2025 and, hence, petitioner has aggrieved by the aforesaid three orders of the extension of detention.

44. Thus, taking into consideration the factual aspects of the instant case with the legal issues dealt with in the preceding paragraphs which would reveal that the State Government has extended the period of detention of the petitioner for a period of three months and the original order of detention also is confined to a period of three months.

45. Hence, on the basis of the discussion made herein above it is considered view of this Court that no approval of the Advisory Board is required for extending the period of detention in the light of the judgment rendered by the Hon'ble Apex Court in the case of ***Pesala Nookaraju (supra)*** wherein it has been observed that if once the Advisory Board has opined that there is sufficient cause for detention of the person concerned and, on that basis, a confirmatory order is passed by the State Government to detain a person for the maximum period of twelve months from the date of detention, then review of the detention order is not required by the State Government.

46. More, specifically in the present case, once the proposal for detention was approved by the Advisory Board and thereafter, confirmatory order was passed by the respondent no.2 vide Memo no. 382/CCA/ Ranchi, dated 02.01.2025 *(Annexure-2)* then as per ratio laid down in ***Pesala Nookaraju (supra)*****,** no approval of the Advisory Board is required for extending the period of detention.

47. Accordingly, issue no. (ii) is hereby answered.

48. Accordingly, the order dated 18.02.2025 passed by the respondent no. 2 (Annexure-4) extending the detention order and subsequent orders of extension of detention dated 16.05.2025(Annexure-5) and 11.08.2025 extending the period of preventive detention need not require to interfere with.

49. Consequent thereto, the instant writ petition stands dismissed.

50. Pending I.As, if any, stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree.

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Sudhir
Dated: 17/11/2025
Jharkhand High Court, Ranchi
AFR

Uploaded on 17./11/2025