IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 17TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR JUSTICE K NATARAJAN

AND

THE HON'BLE MR JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION HABEAS CORPUS NO. 200007 OF 2025

BETWEEN:

DEVAKI W/O NINGAPPA
AGE 50 YEARS OCC HOUSEHOLD
R/O WARD NO.105, AURAD POST KELLUR
TQ: JEWARGI, DIST: KALABURAGI-585310.

...PETITIONER

(BY SRI. SANTOSH PATIL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY PRINCIPAL SECRETARY
   GOVERNMENT OF KARNATAKA
   VIDHAN SOUDHA
   BANGALORE-01

2. THE DISTRICT CHILD PROTECTION OFFICER
   WOMEN AND CHILD WELFARE DEPARTMENT
   KALABURAGI
   DIST: KALABURAGI-585102.

3. THE SUPERINTENDENT
   STATE WOMEN HOSTEL WOMEN AND CHILD
   WELFARE DEPARTMENT
   KALABURAGI-585103.

...RESPONDENTS

(BY SRI. SHIVAKUMAR TENGLI, AGA)

Digitally signed by RAMESH MATHAPATI
Location: HIGH COURT OF KARNATAKA

THIS WPHC IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION IN THE NATURE OF HABEUS CORPUS THEREBY DIRECTING THE RESPONDENTS NO.2 AND 3 TO PRODUCE THE DETENUE BY NAME SANGEETA D/O VISHWARADHYA AGE 19 YEARS, WHO IS PLACED WITH RESPONDENT NO.3 SINCE 03.06.2024 BEFORE THIS HON'BLE COURT.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE K NATARAJAN
AND
HON'BLE MR JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

(PER: HON'BLE MR JUSTICE VIJAYKUMAR A. PATIL)

This petition is filed seeking the following prayer:

> *"WHEREFORE, the petitioner most humbly and respectfully prays that this Hon'ble Court may kindly be pleased to issue a writ or order or direction in the nature of HABEUS CORPUS thereby directing the respondents No.2 and 3 to produce the detenue by name Sangeeta D/o. Vishwaradhya, Age:19 years, who is placed with respondent No.3 since 03.06.2024, before this Hon'ble Court, in the interest of justice and equity."*

2. The present petition is filed by one Smt. Devaki W/o. Ningappa claiming to be an Aunt in relation of one Sangeeta, the alleged detenue who is currently detained in

the State Women Hostel maintained by the Women and Child Development Department, Government of Karnataka.

3. Sri. Santosh Patil, learned counsel appearing for the petitioner submits that the petitioner is a relative of the detenue, and detenue had called the helpline No.1098, pursuant to the said call, the detenue is with the respondent-authorities and now she has attained the age of majority. It is submitted that the detenue being a major, the respondent-authorities are not allowing her to go out and have kept her in illegal detention without any authority of law. It is further submitted that the petitioner has given representation dated 21.02.2025 to the Superintendent, State Women Hostel, Kalaburagi, requesting to release the said detenue and give the custody of the said detenue to the petitioner. However, the respondent-authorities have refused to release the detenue. It is also submitted that the Superintendent, State Women Hostel has replied to the petitioner on

25.02.2025 stating that the detenue cannot be released from the custody as the petitioner is a stranger to the detenue. Hence, he seeks to allow the petition by setting the detenue free.

4. Per contra, Sri. Shivakumar Tengli, learned Additional Government Advocate appearing for respondents No.1 to 3 at the outset submits that Smt. Devaki is none other than the mother of the accused in Cr.No.102/2022 and she cannot seek custody of the detenue. It is further submitted that the accused in the aforesaid crime has been convicted by the Additional District and Sessions Judge, FTSC-I (POCSO), Kalaburagi, and sentenced to undergo imprisonment for a period of 20 years with fine along with other punishments under other sections. It is also submitted that the detenue herself had called the helpline and sought help claiming that the mother of the detenue intended to get her married against her will. Hence, the detenue is in the girls hostel as per her request. It is contended that the detenue herself has

stayed as per her wish in the girls hostel. Hence, her continuation in the girls hostel cannot be termed as an illegal detention. Hence, he seeks to dismiss the petition.

5. This Court vide order dated 11.03.2025, directed the detenue to be kept present. Pursuant to the said direction, the detenue was kept present by respondents No.2 and 3. We had a detailed interaction with the detenue in chambers. The detenue has explained under what circumstances, she had called the helpline and where she is presently residing. From the conversation with the detenue, it is clear that the detenue voluntarily went to the girls hostel and stayed with the authority. In view of the specific statement of the detenue in the in-camera proceedings, we are of the considered view that the continuation of stay of the detenue in the girls hostel cannot be termed as illegal detention.

6. Insofar as the contention with regard to the maintainability of the petition raised by the learned AGA is

concerned, it is evident from para-1 of the petition that the petitioner claims to be an aunt of the detenue. It is not forthcoming in the pleadings, as to how the petitioner is related to the detenue. The material relied by the AGA with regard to the criminal proceedings against the accused in Cr.No.102/2022 shows that the accused is none other than the son of the petitioner. We have perused the records, it is evident that the accused in Special Case(POCSO) No.56/2022 has been convicted by the Sessions Court, vide judgment dated 22.12.2023 for the offences punishable under Sections 354(D), 363, 506, 343 of IPC and under Sections 6 and 12 of the POCSO Act, 2012 and has been sentenced to undergo imprisonment for 20 years with fine along with other punishments under other sections. He has challenged the said judgment in Crl.A.No.200085/2024 before this Court which is pending for consideration.

7. We have also taken note of the pendency of the criminal appeal filed by the son of the petitioner and

keeping in mind that the petitioner being a stranger to the detenue, we are of the considered view that the present petition is not maintainable, more particularly when the mother of the convict herself is seeking release of the victim from the custody of the State-authorities. We are of the further view that entertaining the petition at the behest of the petitioner who is the mother of the convict in POCSO case, would be detrimental to paramount interest of detenue who has just attained the age of majority and would also be detrimental to the criminal proceeding pending against the son of the petitioner. It would be useful to refer to the decision of the Hon'ble Supreme Court in the case of ***Kishore Samrite v. State of U.P. and others***[1]**,**

> "***52.*** *On the analysis of the above principles, it is clear that a person who brings a petition even for invocation of a fundamental right must be a person having some direct or indirect interest in the outcome of the petition on his behalf or on behalf of some person under a disability and/or*

[1] (2013) 2 SCC 398

unable to have access to the justice system for patent reasons. Still, such a person must act bona fide and without abusing the process of law. Where a person is a stranger/unknown to the parties and has no interest in the outcome of the litigation, he can hardly claim locus standi to file such petition. There could be cases where a public-spirited person bona fide brings petition in relation to violation of fundamental rights, particularly in habeas corpus petitions, but even in such cases, the person should have some demonstrable interest or relationship to the involved persons, personally or for the benefit of the public at large, in a PIL. But in all such cases, it is essential that the petitioner must exhibit bona fides, by truthful and cautious exercise of such right. The courts would be expected to examine such requirement at the threshold of the litigation in order to prevent abuse of process of court. In the present case, both the appellant and Respondent 8 are total strangers to the three mentioned petitioners. The appellant, in fact, is a resident of Madhya Pradesh, belonging to a political party and was elected from Constituency Tehsil Lanji in District Balaghat at Madhya Pradesh. He has no roots in Amethi and, in fact, he was a stranger to that place. The appellant as well as Respondent 8 did not even

know that the persons on whose behalf they have acted as next friend had shifted their residence in the year 2010 to Hardoia in District Faizabad. They have made false averments in the petition and have withheld true facts from the Court."

[Emphasis supplied]

8. Further, the petitioner has suppressed the material fact that petitioner is the mother of the convict and she is seeking release of the victim of the crime. It is necessary that the party invoking extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India must come with clean hands and disclose all correct and material facts in the writ petition. If it is brought to the notice of the court that the petition has been guilty of suppression of material and relevant facts, or has not come with clean hands, such conduct must be seriously viewed by the Courts as an abuse of the process of law. This view of ours gains support from the

recent decision of the Hon'ble Supreme Court in the case of ***The Auroville Foundation vs. Natasha Storey***[2]***.***

9. For the aforesaid reasons, we do not find any justifiable reason to entertain the petition under Article 226 of the Constitution of India seeking to exercise extraordinary jurisdiction at the behest of petitioner.

10. In view of the same, the writ petition is devoid of merits and deserves to be rejected. The State-authorities are directed to continue the detenue in the care of the State by providing necessary counseling and if required as per her wish, she may be provided with formal education by admitting her in a college. We have also interacted with the mother of the detenue who was present during the proceeding. It is always open for the mother of the detenue to seek remedy available as per law.

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[2] (2025) Live Law (SC) 313

11. With above observations, the writ petition is ***dismissed***.

Sd/-
(K NATARAJAN)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

MCR
List No.: 1 Sl No.: 16
CT: PS