

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

+ WRIT PETITION No.34357 of 2025

% Dated: 01.07.2026

Between:

Cheemparthi Shaheen

.....Petitioner

And

The State of Andhra Pradesh and three others....Respondents

! Counsel for the petitioner : Sri D.Purna Chandra Reddy

^ Counsel for the Respondents : Sri Kirthi Teja Kondaveeti,
Government Pleader

< GIST :

> HEAD NOTE :

? Cases referred:

¹ (1999) 1 SCC 417

² (1980)2 SCC 338

³ (2012) 11 SCC 745

⁴ (2013) 4 SCC 435

⁵ (1991)1 SCC 476

⁶ (1980)4 SCC531

⁷ 2018 SCC OnLine Hyd 515

⁸ (2015) 16 SCC 253

⁹ 2020 SCC Online AP 565

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA
WRIT PETITION No.34357 of 2025

Between:

Cheemparthi ShaheenPetitioner

And

The State of Andhra Pradesh and three othersRespondents

Submitted for approval:

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

RAVI NATH TILHARI, J

SUBHENDU SAMANTA, J

APHC010665832025



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3562]

WEDNESDAY, THE 1st DAY OF JULY 2026

PRESENT

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA
WRIT PETITION NO: 34357/2025**

Between:

1. CHEEMPARTHI SHAHEEN, W/O. FAKURUDDIN, AGED 32 YEARS, R/O. D.NO. 2/218, 2ND WARD, KHADAR PALLE, KADAPA, YSR KADAPA DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT BUILDINGS, AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT
2. THE COLLECTOR AND DISTRICT MAGISTRATE, YSR KADAPA DISTRICT.
3. THE SUPERINTENDENT OF POLICE, YSR KADAPA DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, KADAPA, YSR KADAPA DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of Habeas

Corpus under Article 226 of the constitution of India directing the 4th respondent to produce Cheemparthi Fakruddin S/o Pakru Valli, who is now detained in Central Prison, Kadapa before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention vide REV-CSECOPDL(PRCO)/2/2025-SA(CI)-KDPCO, dt. 02.09.2025, passed by the 2nd respondent which was confirmed by the 1st respondent vide G.O.Rt.No. 1976, dt.24.10.2025 General Administration (Law and Order) Dept., as illegal and un constitutional and pass

Counsel for the Petitioner:

1.D PURNACHANDRA REDDY

Counsel for the Respondent(S):

1.ADDL ADVOCATE GENERAL

The Court made the following:

Date of reserved for orders : -----
 Date of pronouncement : 01-07-2026
 Date of uploading : 08-07-2026

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT PETITION No.34357 of 2025

ORDER: *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri D.Purna Chandra Reddy, learned counsel for the petitioner and Sri Kirthi Teja Kondaveeti, learned Government Pleader, attached to the office of the learned Additional Advocate General, appearing for the respondents.

2. The detenu namely Cheemparthi Fakruddin, is the husband of the petitioner.

3. An order of detention vide File No.REV-CSECOPDL(PRCO)/2/2025-SA(C1)-KDPCO dated 02.09.2025 was passed under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (in short 'the Act, 1986')

by the Collector & District Magistrate, Y.S.R. Kadapa District. The order of detention was passed considering eight criminal cases pending against him. The State Government accorded approval to the detention order vide G.O.RT.No.1675, General Administration (SC-I) Department, dated 11.09.2025. The Advisory Board submitted its report of the meeting dated 26.09.2025 that there was sufficient cause for the detention of the detenu. The detention order was confirmed by the State Government vide G.O.Rt.No.1976, General Administration (SC-I) Department, dated 24.10.2025 for a period of twelve months from the date of detention(Ex.P2).

4. The order of detention, informed that the detenu could make representation, but any representation was not made initially. After the order of confirmation, representation dated 27.10.2025 was made to the Government for release of the detenu with the prayer to set aside the order of detention.

5. The detenu's representation dated 27.10.2025 was rejected by the State Government vide G.O.No.34, General Administration (SC-I) Department, dated 06.01.2026(page No.447 of the counter-affidavit), during pendency of the writ petition.

6. Challenging the aforesaid orders of detention the writ petition for Habeas Corpus has been filed to set aside those orders of detention and to release and set free, the detenu.

7. Learned counsel for the petitioner, raised the following two grounds:

1) that the representation dated 27.10.2025 was rejected on 06.01.2026 during pendency of the writ petition. There is long delay in deciding the representation by the State Government. The consideration must be with promptness and expeditious. The delay has also not been explained in the counter affidavit; and

2) that the detenu was in judicial custody in Crime No.41 of 2025 of RSASTF Police Station, Tirupati, on the date of passing of the order of detention but no satisfaction has been recorded by the District Collector that there was likelihood of the detenu being released on bail, in that case. There is no such satisfaction recorded which is required to be recorded on the relevant material.

8. In support of the first contention, learned counsel for the petitioner placed reliance in the cases of ***Rajammal v. State of Tamilnadu and another***¹, ***Pabitra N.Rana v. Union of India and others***², ***Rashid Kapadia v. Medha Gadgil and others***³, ***Abdul Nasar Adam Ismail v. State of Maharashtra***⁴, ***K.M.Abdulla Kunhi and B.L.Abdul Khader v. Union of India and others***⁵ and ***lcchu Devi Choraria v. Union of India and others***⁶.

9. In support of the second contention, learned counsel for the petitioner placed reliance in ***Syed Mohiyuddin Vs. State of Andhra Pradesh***⁷, ***Champion R. Sangma Vs. State of Meghalaya***⁸, ***V.Adi Lakshmi Vs. State of A.P***⁹, ***Cheemparthi Parvin v. the State of A.P(W.P.No.1803 of 2021 dated 27.04.2021), W.P.Nos.7335 of 2023 and Batch dated 03.07.2023, and Cheemparthi Salma v. State of A.P (W.P.No.932 of 2025 dated 26.09.2025)***

¹ (1999) 1 SCC 417

² (1980)2 SCC 338

³ (2012) 11 SCC 745

⁴ (2013) 4 SCC 435

⁵ (1991)1 SCC 476

⁶ (1980)4 SCC531

⁷ 2018 SCC OnLine Hyd 515

⁸ (2015) 16 SCC 253

⁹ 2020 SCC Online AP 565

10. Learned counsel for the petitioner submits that the order of detention is unsustainable and deserves to be set aside. The detention is illegal and the detenu deserves to be set at liberty.

11. Per contra, learned Government Pleader appearing for the respondents submits that the representation dated 27.10.2025 was submitted by the petitioner and the same was forwarded to the District Collector, YSR Kadapa District, to furnish remarks, vide Government memo No.2965917/SC-I/A3/2025-4, GA(SC-I) Department, dated 06.11.2025, which were received from the District Collector vide Lr.No.REVCSECOPDL/(PRCO)/2/2025-SA(C1)-KDPCO, dated 03.12.2025. Thereafter, vide G.O.Rt.No.34, General Administration (SC-I) Department, dated 06.01.2026 on consideration representation was rejected.

12. Learned Government Pleader submits that, except the mention of the aforesaid dates, there is no explanation given for the dates in between i.e. from the date of receipt of representation till passing of the G.O.Rt.No.34, dated 06.01.2026 neither in the G.O.Ms.No.34 nor in the counter-affidavit. However, the learned Government Pleader further submits that even if there is unexplained delay in deciding the representation that would not

vitiate the order of detention but it is only the continued detention that may become illegal.

13. We have considered the aforesaid submissions and perused the material on record.

14. In ***K.M.Abdulla Kunhi*** (*supra*), the Hon'ble Apex Court held that the representation relates to the liberty of the individual, the highly cherished right enshrined in Article 21 of the Constitution of India. Clause (5) of Article 22 therefore casts a legal obligation on the Government to consider the representation as early as possible. It is a constitutional mandate, commanding the concerned authority to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words 'as soon as may be' occurring in clause (5) of Article 22 reflects the concern of the framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay.

15. Para No.12 of ***K.M.Abdulla Kunhi*** (*supra*) reads as under:

"The representation relates to the liberty of the individual, the highly cherished right enshrined in Article 21 of our Constitution. Clause (5) of Article 22 therefore, casts a legal obligation on the government to consider the

representation as early as possible. It is a constitutional mandate commanding the concerned authority to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words "as soon as may be" occurring in clause (5) of Article 22 reflects the concern of the Framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard and fast rule in this regard. It depends upon the facts and circumstances of each case. There is no period prescribed either under the Constitution or under the concerned detention law, within which the representation should be dealt with. The requirement however, is that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. This has been emphasised and re-emphasised by a series of decisions of this Court. (See: Jayanarayan Sukul v. State of W.M. [(1970) 1 SCC 219] ; Frances Coralie Mullin v. W.C. Khambra [(1980) 2 SCC 275 : 1980 SCC (Cri) 419] ; Rama Dhondu Borade v. V.K. Saraf, Commissioner of Police [(1989) 3 SCC 173 : 1989 SCC (Cri) 520] and Aslam Ahmed Zaire Ahmed Shaik v. Union of India [(1989) 3 SCC 277 : 1989 SCC (Cri) 554] .)"

16. On the point of delayed consideration of representation, In ***K.M.Abdulla Kunhi (supra)***, the Constitution Bench of the Hon'ble Supreme Court held that if the detenu does not exercise his right to make representation against the order of detention but presents the representation to the Government after the Government has confirmed the order of detention, the Government still has to

consider such representation and release the detenu if the detention is not within the power conferred under the statute. It was held that so long as the representation is independently considered by the Government and if there is no delay in considering the representation, the fact that it is considered after the confirmation of the detention makes little difference on the validity of the detention or confirmation of the detention. The confirmation cannot be invalidated solely on the ground that the representation is considered subsequent to confirmation of the detention.

17. Para Nos.19 and 20 of ***K.M.Abdulla Kunhi (supra)*** read as under:

“19. There is no constitutional mandate under cl. (5) of [Article 22](#), much less any statutory requirement to consider the representation before confirming the order of detention. As long as the Government without delay considers the representation with an unbiased mind there is no basis for concluding that the absence of independent consideration is the obvious result if the representation is not considered before the confirmation of detention. Indeed, there is no justification for imposing this restriction on the power of the Government. As observed earlier, the Government's consideration of the representation is for a different purpose, namely to find out whether the detention is in conformity with the power under the statute. This has been explained in [Haradhan Saha](#) case, where Ray, C.J., speaking for the Constitution Bench observed that the consideration of

the representation by the Government is only to ascertain whether the detention order is in conformity with the power under the law. There need not be a speaking order in disposing such representation. There is also no failure of justice by the order not being a speaking order. All that is necessary is that there should be real and proper consideration by the Government.

20. It is necessary to mention that with regard to liberty of citizens the court stands guard over the facts and requirements of law, but court cannot draw presumption against any authority without material. It may be borne in mind that the confirmation of detention does not preclude the government from revoking the order of detention upon considering the representation. Secondly, there may be cases where the government has to consider the representation only after confirmation of detention. Clause (5) of Article 22 suggests that the representation could be received even after confirmation of the order of detention. The words 'shall afford him the earliest opportunity of making a representation against the order' in clause (5) of Article 22 suggest that the obligation of the government is to offer the detenu an opportunity of making a representation against the order, before it is confirmed according to the procedure laid down under Section 8 of the Act. But if the detenu does not exercise his right to make representation at that stage, but presents it to the government after the government has confirmed the order of detention, the government still has to consider such representation and release the detenu if the detention is not within the power conferred under the statute. The confirmation of the order of detention is not conclusive as against the detenu. It can be revoked suo motu under Section 11 or upon a representation of the detenu. It seems to us therefore, that so long as the representation is independently considered by the government and if there is no delay in considering the representation, the fact that it is considered after the confirmation of detention makes little difference on the validity of the detention or confirmation of the detention. The confirmation cannot be invalidated solely on the ground that the representation is considered subsequent to confirmation

of the detention. Nor it could be presumed that such consideration is not an independent consideration. With all respect, we are not inclined to subscribe to the views expressed in V.J. Jain [(1979) 4 SCC 401 : 1980 SCC (Cri) 4] , Om Prakash Bahl [W.P. No. 845 of 1979, decided on October 15, 1979 (Unreported)] and Khairul Haque cases [W.P. No. 246 of 1969, decided on September 10, 1969 (Unreported)] . They cannot be considered to be good law and hence stand overruled.”

18. In **Rajammal (supra)**, it has been held that the delay in considering the representation, for which there was no, explanation vitiates further detention, which becomes illegal and the detenu entitled for the release. Para Nos.9 to 11 in **Rajammal (supra)**, read as under:

9. What happened in this case was that the Government which received remarks from different authorities submitted the relevant files before the Under Secretary for processing it on the next day. The Under Secretary forwarded it to the Deputy Secretary on the next working day. Thus there is some explanation for the delay till 9.2.1998. Thereafter the file was submitted before the Minister who received it while he was on tour. The Minister passed the order only on 14.2.1998. Though there is explanation for the delay till 9.2.1998, we are unable to find out any explanation whatsoever as for the delay which occurred thereafter. Merely stating that the Minister was on tour and hence he could pass orders only on 14.2.1998 is not a justifiable explanation, when the liberty of a citizen guaranteed under Article 21 of the Constitution is involved. Absence of the Minister at the Headquarters is not sufficient to justify the delay, since the file could be reached the Minister with utmost promptitude in cases involving the vitally important fundamental right of a citizen.

10. Mr. V.R. Reddy, learned senior counsel for the State of Tamil Nadu referred to a decision of this Court in Mrs.

U. Vijayalakshmi v. State of Tamil Nadu and another, AIR (1994) SC 165 to contend that it could not be said that there was any delay in considering the representation from 9.2.1998 to 14.2.1998. In that case also the detention was under Section 3(1) of the Act. The detenu made representation against the detention which was received by the State Government which conveyed the rejection of the representation on 23.6.1992. The detenu received the rejection order on 26.6.1992. It was submitted that there was an inordinate long delay in dealing with the representation and that the detenu was entitled to have the detention order quashed. This Court noticed that in the counter affidavit filed by the Deputy Secretary to the State Government the manner in which the representation was dealt with after its receipt on 18.5.1992 had been stated in detail. The Court then observed:

"We have perused the stages through which the file containing the representation was dealt with promptly and there was no indifference lethargy or negligence in dealing with the same. The file was not unnecessarily held up at any level but moved from level to level promptly. We are, therefore, satisfied that the explanation tendered by the Deputy Secretary in this behalf is acceptable and does not betray any lack of sense or urgency in dealing with the representation. We therefore, do not see any merit in the first contention."

In the present case, however, there is no explanation forthcoming as to why the representation could not be dealt with by the Minister concerned from 9.2.1998 to 14.2.1998.

11. We are, therefore, of the opinion that the delay from 9.2.1998 to 14.2.1998 remains unexplained and such unexplained delay has vitiated further detention of the detenu. The corollary thereof is that further detention must necessarily be disallowed. We, therefore, allow this appeal and set aside the impugned judgment. We direct the appellant-detenu to be set at large forthwith.

19. The Apex Court held in **Pabitra(supra)**, that there was unreasonable delay in deciding the representation filed by the detenu, the Hon'ble Apex Court held that, that by itself was sufficient to render the detention void. The relevant part of para No.2 reads as under:

"In this view of the matter, we are satisfied that there has been unreasonable delay in deciding the representation filed by the detenu and that by itself is sufficient to render the detention void. For these reasons we allow this petition, set aside the order of detention and direct that the detenu be released forthwith."

20. In **Rashid Kapadia** (supra), the Hon'ble Apex Court held that the right of a person, who is preventively detained, to make a representation and have it considered by the authority concerned as expeditiously as possible, is a constitutional right under Article 22(5). Any unreasonable and unexplainable delay in considering the representation is to be fatal to the continued detention of the detenu. Para No.13 of **Rashid Kapadia** (supra) reads as under:

"It is well settled that the right of a person, who is preventively detained, to make a representation and have it considered by the authority concerned as expeditiously as possible, is a constitutional right under Article 22(5). Any unreasonable and unexplainable delay in considering the representation is held to be fatal to the continued detention of the detenu. The proposition is too well settled in a long line of decisions of this Court. We do not think it necessary to examine the authorities on this aspect, except to take note of a couple of judgments

where the principle is discussed in detail. They are: *Mohinuddin v. District Magistrate, Beed* ((1987) 4 SCC 58) and *Harshala Santosh Patil v. State of Maharashtra* (2006) 12 SCC 211.”

21. In ***Abdul Nasar Adam Ismail (supra)*** also, the Hon'ble

Apex Court held as follows:

14 We shall now turn to the submission that there is delay in disposal of the detenu's representation by the State Government. Several judgments have been cited by the learned counsel for the appellant. It is not necessary to refer to all of them because they reiterate the same principles. We may begin with the observations of this Court in *Frances Coralie Mullin v. W.C. Khambra* [(1980) 2 SCC 275: 1980 SCC (Cri) 419 : AIR 1980 SC 849] . The relevant portion of the said judgment reads thus: (SCC p. 279, para 5)

“The time imperative can never be absolute or obsessive”.

In *L.M.S. Ummu Saleema v. B.B. Gujaral* [(1981) 3 SCC 317 : 1981 SCC (Cri) 720] it was held: (SCC p. 322, para 7)

“The occasional observations made by this Court that each day's delay in dealing with the representation must be adequately explained are meant to emphasise the expedition with which the representation must be considered and not that it is a magical formula, the slightest breach of which must result in the release of the detenu. Law deals with the facts of life. In law, as in life, there are no invariable absolutes. Neither life nor law can be reduced to mere but despotic formulae.

15. It is also necessary to refer to the observations of the Constitution Bench of this Court in *K.M. Abdulla Kunhi v. Union of India*.

“12. Clause (5) of Article 22 therefore, casts a legal obligation on the Government to consider the

representation as early as possible. It is a constitutional mandate commanding the authority concerned to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words 'as soon as may be' occurring in clause (5) of Article 22 reflects the concern of the Framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard-and-fast rule in this regard. It depends upon the facts and circumstances of each case. There is no period prescribed either under the Constitution or under the detention law concerned, within which the representation should be dealt with. The requirement however, is that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal."

16. The principles which have been laid down by the Constitution Bench and the other judgments which we have referred to earlier can be summarised. Article 22(5) of the Constitution casts a legal obligation on the Government to consider the detenu's representation as early as possible. Though no time-limit is prescribed for disposal of the representation, the constitutional imperative is that it must be disposed of as soon as possible. There should be no supine indifference, slackness or callous attitude. Any unexplained delay would be a breach of the constitutional imperative and it would render the continued detention of the detenu illegal. That does not, however, mean that every day's delay in dealing with the representation of the detenu has to be explained. The explanation offered must be reasonable indicating that there was no slackness or indifference. Though the delay itself is not fatal, the delay which remains unexplained becomes unreasonable. The court can

certainly consider whether the delay was occasioned due to permissible reasons or unavoidable causes. It is not enough to say that the delay was very short. Even longer delay can as well be explained. So the test is not the duration or the range of delay, but how it is explained by the authority concerned. If the inter-departmental consultative procedures are such that the delay becomes inevitable, such procedures will contravene the constitutional mandate. Any authority obliged to make order of detention should adopt a procedure calculated towards expeditious consideration of the representation. The representation must be taken up for consideration as soon as such representation is received and dealt with continuously (unless it is absolutely necessary to wait for some assistance in connection with it) until a final decision is taken and communicated to the detenu.”

22. In **Abdul Nasar Adam Ismail (supra)**, the Hon'ble Apex Court found that there was delay in transmitting the representation to the detaining authority as also in disposal of such representation and held that, that vitiated only the continued detention of the detenu and not the detention order. Para Nos. 20 to 24 of **Abdul Nasar Adam Ismail (supra)** read as under:

“20. We would like to make it clear that the delay in disposal of the representation of the detenu has vitiated only the continued detention of the detenu and not the detention order. In [Meena Jayendra Thakur v. Union of India](#)(1999) 8 SCC 177, this Court was considering a case where the detenu was detained under the provisions of the said Act. This Court held that if the detaining authority on the basis of the materials before him did ar-

rive at his satisfaction with regard to the necessity for passing an order of detention and the order is passed thereafter, the same cannot be held to be void because of a subsequent infraction of the detenu's right or of non-compliance with the procedure prescribed under law because that does not get into the satisfaction of the detaining authority while making an order of detention under [Section 3\(1\)](#) of the said Act.. It does not affect the validity of the order of detention issued under [Section 3\(1\)](#) of the said Act.

21. Similar view has been taken by this Court in *Sayed Abdul Ala v. Union of India* (2007(15) SCC 208). In that case, this Court was concerned with an order of detention issued under the [Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988](#). It was argued that there was delay in considering the representation of the detenu. Relying on *Meena Jayendra Thakur*, this Court expressed that even if it is to be assumed that there was some delay in considering the representation, the same would not vitiate the original order of detention. By reason of the delay, only further detention of the detenu will become illegal. The delay in considering the representation does not vitiate the order of detention itself.

22. In *Union of India v. Harish Kumar* (2008) 1 SCC 195, this Court was again considering an order of detention issued under the provisions of the said Act. This Court reiterated the same view and held that:

“14.....The detention orderpassed at the satisfaction of the detaining authority on the basis of the material available in no manner gets vitiated for the reason of non-consideration of the representation made by the (detenu) to the Central Government.”

It was held that initial order of detention was not rendered void ab initio.

23. It may be noted that even the Constitution Bench of this Court in *K.M. Abdulla Kunhi*, held that any unex-

plained delay in disposal of representation of the detenu would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal and set aside the continued detention of the detenu.

24. In view of this clear legal position, we hold that the order of detention dated 16/4/2012 is valid. However, on account of delay in disposal of the representation of the detenu by the State Government, the continued detention of the detenu is rendered illegal. We, therefore, direct that the detenu – Abdul Nasar Adam Ismail be released from detention forthwith if he is not already released from detention and he is not required in any other case. The appeal is disposed of accordingly.”

23. It is thus well settled in law that the detenu has a fundamental right to make the representation against his detention order and has a right for its consideration as expeditiously as possible with a sense of urgency without an avoidable delay. Though there is no hard and fast rule with respect to the time and delay but it depends upon the facts and circumstances of each case. In case of delayed disposal of representation the delay must be explained and such explanation must stand the test of reasonableness to the satisfaction of the Court.

24. The representation, even if not filed against the order of detention at the initial stage but is filed after the order of detention has been confirmed by the State still the detenu will have a right to

make the representation which survives even after the confirmation of the detention order. The same principle for expeditious disposal of the representation without delay continues to be the fundamental right of the detenu in terms of the law as laid down in the aforesaid judgments in view of Articles 21 and 22 (5) of the Constitution of India. So delay in disposal of the representation even after the order of detention has been confirmed by the State must be justified by giving proper and sufficient explanation. If there is no sufficient explanation or a Court finds delay unreasonable and is not satisfied on the grounds for delay, the continued detention would become illegal. The order of detention on such ground would not be illegal or void but pursuant to that order of detention, the detenu cannot be detained any further. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal.

25. In the present case, the facts are not in dispute that the representation dated 27.10.2025 was made against the orders of detention after the order of confirmation by the State. Remarks were invited from the District Collector on 06.11.2025, which were

received on 03.12.2025. The order on the representation was passed on 06.01.2026. There is delay of 32 days even from the date of the receipt of the remarks from the District Collector prior thereto from the date of representation considerable time was taken to call for the remarks which remarks were also send taking a long time. Taking such a long time for decision on representation in the matter of detention is most unreasonable. Decision has to be taken with promptness as the personal liberty of an individual is involved which is a fundamental right of an individual of which one cannot be deprived save by authority of law under Article 21 of the Constitution of India. There may be, many times, genuine reasons for delayed decision but for such delays, there should be reasonable explanation to the satisfaction of the Court, which should be set forth in the order deciding the representation or in any case in the counter-affidavit filed with supporting material.

26. So, in the present case, there is unexplained delay from the date of receipt of the remarks from the Collector on the representation of the petitioner. The continued detention of the detenu becomes impermissible pursuant to the order of the detention.

27. Since in our view, this petition deserves to be allowed on the aforesaid ground alone, we need not enter into the other ground of challenge to the order of detention.

28. So far as ground No.(1) in Crime No.41 of 2025 of RSASTF Police Station, Tirupati, is concerned that the detenu was in judicial custody at the time of the detention order, if the judicial custody of the detenu continues in that case subject to that order the detenu shall not be in continued detention pursuant to the orders of detention as impugned in the present writ petition.

29. We hold that the continued detention of the detenu is illegal and he is entitled for release.

30. The writ petition is allowed, setting aside the impugned order of preventive detention dated 02.09.2025 passed against the detenu, and the order of confirmation by the State by G.O.Rt.No.1976, General Administration (SC-I) Department, dated 24.10.2025. The detenu by name Shaik Simpathi @ Cheemparthi Fakuaddin @ Goresab Fakuaddin @ Pongodu @ Bongodu @ Thellodu, shall be released/set free forthwith on receipt of copy of this order.

As a sequel, interlocutory applications pending if any, shall stand closed.

RAVI NATH TILHARI, J

SUBHENDU SAMANTA, J

Date: 01.07.2026

Note:

L.R. copy to be marked.

B/o.

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Whether the order is:

Speaking		Reasoned	☒
Reportable	☒	Non-reportable	

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT PETITION No.34357 of 2025

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