



W.P(Crl.) No.440/2025

2025:KER:48477

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

FRIDAY, THE 4TH DAY OF JULY 2025 / 13TH ASHADHA, 1947

WP(CRL.) NO. 440 OF 2025

PETITIONER:

MANJUSHA K.P, AGED 47 YEARS, W/O RAMESHAN,
PULIYULLAPARAMBATHU VEEDU, PUTHOOR AMSOM, KUNNUMEML,
CHENDAYAD, THALASSERY, KANNUR, PIN - 670692

BY ADVS.

SHRI.M.H.HANIS

SMT.T.N.LEKSHMI SHANKAR

SMT.NANCY MOL P.

SHRI.ANANDHU P.C.

SMT.NEETHU.G.NADH

SMT.RIA ELIZABETH T.J.

SHRI.SAHAD M. HANIS

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY TO GOVERNMENT, HOME AND VIGILANCE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR & DISTRICT MAGISTRATE,
CIVIL STATION, KANNUR DISTRICT, PIN - 670002
- 3 THE DISTRICT POLICE CHIEF,
CIVIL STATION ROAD, KANNUR CITY, PIN - 670002
- 4 THE CHAIRMAN, ADVISORY BOARD, KAAPA, SREENIVAS, PADAM ROAD,
VIVEKANANDA NAGAR, ELAMAKKARA, ERNAKULAM DISTRICT - 682026
- 5 THE SUPERINTENDENT OF JAIL,
CENTRAL PRISON, VIYYUR, THRISSUR DIST, PIN - 670004

BY ADVS.

SRI.K.A.ANAS, PUBLIC PROSECUTOR

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
30.06.2025, THE COURT ON 04.07.2025 DELIVERED THE FOLLOWING:



'CR'

JUDGMENT

K. V. Jayakumar, J.

The petitioner is the mother of detenu, Midhun P.P @ Kuttappi ('detenu' for the sake of brevity). The petitioner challenges Ext.P1 order of detention dated 04.02.2025 passed by the 2nd respondent under Section 3(1) of the Kerala Anti-Social Activities (Prevention) Act, 2007 ['KAA(P) Act' for the sake of brevity]. The aforesaid order was approved by the Government vide order No.DCKNR/16026/2024-SSI dated 04.02.2025.

2. The records reveal that a proposal was submitted by the District Police Chief, Kannur City on 26.12.2024 seeking initiation of proceedings against the petitioner's son under the KAA(P) Act before the jurisdictional authority, the 2nd respondent. For the purpose of initiation of the said proceedings, the detenu was classified as a 'known rowdy' as defined under Section 2p(iii) of the KAA(P) Act. The detaining authority has taken into consideration a total of four cases involving the petitioner's son while issuing the impugned order of detention. The details of these cases are provided below:-



Sl.No.	Crime No.	Police Station	Crime Date	Offences Involved under various sections	Present Status of the case
1	257/2020	Kannavam	08.09.2020	143, 147, 148, 109, 120, 120-B, 341, 323, 506(ii), 302, 201 r/w 149 IPC r/w Sec 25(1-B)(b) and 27 of Arms Act	Pending trial
2	1018/2023	Panoor	08.10.2023	341, 323 r/w 34 IPC	Pending trial
3	533/2024	Panoor	05.07.2024	127(2), 115(2), 118(1), 110, 351(2) r/w 3(5) of BNS	Pending trial
4	1009/2024	Panoor	04.12.2024	79, 296, 351(2) r/w 3(5) of BNS	Under investigation

3. The case registered in relation to the last prejudicial activity is Crime No. 1009/2024 of Panoor Police Station, alleging the commission of offences punishable under Sections 79, 296, and 351(2) r/w Section 3(5) of the Bharatiya Nyaya Sanhita (BNS). The detenu is arrayed as the 1st accused in the said case. The detenu was arrested on 07.12.2024 and released on bail on the same day itself.

4. We heard Sri. M.H. Hanis, the learned counsel appearing for the petitioner and Sri. Anas K.A., the learned Government Pleader.



5. **Submissions of the learned counsel for the writ petitioner:**

- 5.1 Ext. P1 order is passed in a mechanical manner, without due application of mind and in disregard of the procedural safeguards mandated under the KAA(P) Act.
- 5.2 The procedure mandated under Section 7(2) of the Kerala Anti-Social Activities (Prevention) Act has not been strictly followed.
- 5.3 The learned counsel contended that there was a delay of two months between the last prejudicial activity and the issuance of Ext. P1 order, as well as an unexplained delay of eight days in its execution. It was submitted that the absence of any explanation for the delay renders the detention order vitiated.
- 5.4. The documents supplied to the detenu along with the detention order are illegible. It has resulted in grave prejudice being caused to the detenu in availing his right to send a representation to the relevant authorities.
- 5.5 Though separate representations were submitted before both the Government and the Advisory Board on 28.02.2025, as evidenced by Exhibits P3 and P4, highlighting various contentions—including the illegibility of the documents supplied—no remedial action was undertaken. These representations were considered only subsequent to



the issuance of the detention order. Moreover, the representations were not duly or meaningfully considered, as no explanation whatsoever has been offered regarding the supply of illegible documents, thereby rendering the right of effective representation illusory.

6. **Submissions of the Public Prosecutor:**

Sri.K.A.Anas, learned Public Prosecutor, submitted that the order of detention was passed after complying with all the necessary legal formalities and after proper application of mind. Moreover, copies of all the relevant records and the grounds of detention were furnished to the detenu and the detenu was informed of his right to file representation against the detention order before the Government as well as the Advisory Board. The delay occasioned in passing Ext.P1 order from the last prejudicial activity is only reasonable and not inordinate.

7. The first contention of the learned counsel for the petitioner is that Section 7(1) and (2) of the KAA(P) Act is not properly complied with. Even though documents were supplied, a portion of documents were not readable and legible. According to the learned counsel appearing for the petitioner, Section 7(1) and (2) of the KAA(P) Act should be complied stricto sensu. The non-supply of legible copies, specifying the details of cases reckoned for passing an



impugned order is a serious lapse of the detaining authority. Serious prejudice is thereby caused to the writ petitioner for making an effective representation against the detention order before the Advisory Board.

8. Before further discussion, it may be useful to extract Section 7 of the KAA(P) Act.

7. Grounds of order of detention to be disclosed.

(1) When a person is arrested in pursuance of a detention order the officer arresting him shall read out the detention order to him and give him a copy of such order.

(2) The grounds of detention, specifying the instances of offences, with copies of relevant documents, as far as practicable, on the basis of which he is considered as a "known goonda" or "known rowdy" and giving such materials-relating to his activities on the basis of which his detention has been found necessary, shall be furnished to him as soon as possible, nevertheless, in any case, within five days of detention and he shall also be informed in writing, under acknowledgment, of his right to represent to the Government and before the Advisory Board against his detention:

Provided that nothing in this section shall require any authority to disclose to the detained person any fact, the disclosure of which will reveal the identity of any confidential source or the disclosure of which will be against the interests of internal security or national security.

(3) The Superintendent of the Jail where such person is detained shall afford him reasonable opportunity to consult a lawyer and reasonable assistance in making a representation against the detention order to the Government or to the Advisory Board.

(4) The order of detention shall not be deemed to be invalid merely because one or more of the facts or circumstances cited among the grounds are vague, non-existent, irrelevant or invalid for any reason whatsoever and such order shall be deemed to



have been made by the Government or the Authorised Officer after having been satisfied about the need for detention with reference to the remaining facts and circumstances, provided that the minimum conditions for being classified as a known goonda or known rowdy are satisfied."

9. Section 7(2) of the KAA(P) Act specifically states that the grounds of detention, specifying the instances of offences, with copies of relevant documents, based on which the detenu is considered as a "known goonda" or "known rowdy" and giving such materials relating to his activities, shall be furnished to the detenu as soon as possible, at any rate, within five days of detention. The detenu shall also be informed in writing, under acknowledgment, of his right to represent to the Government and before the Advisory Board against his detention. The proviso to Section 7(2) makes it amply clear that the detaining authority need not disclose any fact which would reveal the identity of any confidential source or any fact which would be against the interest of internal security or national security.

10. Sri. K.A. Anas, the learned Public Prosecutor, submitted that the detenu had signed a written acknowledgement endorsing that he had received legible copies of all documents. There was indeed an endorsement that the detenu had received the legible copies of all documents.

11. The petitioner has produced copies of the documents which were



provided to him and we have perused the same. We find that Page Nos. 14, 15, 16, 17, 18, 19 are illegible and unreadable. Section 7(2) mandates that the grounds of detention, with all relevant documents and materials, based on which the detention has been found necessary, shall be furnished to the detenu, as soon as possible, at any rate within five days. It is trite law that the procedural formalities concerning the preventive detention shall be strictly followed. The materials to be supplied to the detenu shall be legible and readable. The compliance of subsection (2) of Section 7 is not an empty formality. Only when the legible and readable copies are furnished to the detenu, he could make an effective representation before the Advisory Board and the Government. It is the bounden duty of the detaining authority to ensure that copies furnished to the detenu shall be legible and readable.

12. In **Pramod Singla v. Union of India**¹, it was observed that where illegible documents have been supplied to the detenu, a grave prejudice is caused to the detenu in availing his right to send a representation to the relevant authorities, because the detenu, while submitting his representation, does not have clarity on the grounds of his or her detention. In such a circumstance, the relief under Article 22(5) of the Constitution of India and the relevant statutory provisions allowing for submitting a representation are vitiated, since no man can

¹ 2023 INSC 344



defend himself against an unknown threat.

13. The second submission by the learned counsel for the writ petitioner is that there is a delay of two months in passing Ext.P1 detention order, and the last prejudicial activity alleged against the detenu. Moreover, there is a delay of 8 days in the execution of Ext.P1 order. The learned counsel argued that no explanation is offered for the said delay.

14. In **T.A.Abdul Rahman v. State of Kerala**², the Apex Court observed as under:

"10. The conspectus of the above decisions can be summarised thus: The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the court has to scrutinise whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the court has to investigate whether the causal connection has been broken in the circumstances of each case."

² (1989) 4 SCC 741



15. In the case on hand, altogether four cases were considered for booking the detenu as 'known rowdy' under Section 2p(iii) of the Act. Out of the four cases, three are in the trial stage and one case is under investigation. The last prejudicial activity alleged against the detenu is Crime No.1009/2024 of Pannor Police Station, registered under Sections 79, 296, 351(2) r/w 3(5) of BNS. The date of the alleged occurrence is 04.12.2024. The detenu was arrested and released on bail on 07.12.2024. He was implicated as the 1st accused. The sponsoring authority submitted the proposal on 26.12.2024. In the facts and circumstances, the delay cannot be said to be inordinate snapping the live link.

16. The third submission of the learned counsel for the petitioner is that Exhibit P3 and P4 representations submitted by the detenu dated 28.02.2025 were not considered by the respondents. It is to be noted that one of the main grievances raised in the representation is that some of the documents supplied to the detenu are not legible and therefore he is deprived of making an effective representation.

17. In **State of Manipur v Buyamayum Abdul Hanan @ Anand**³, the Apex Court had occasion to consider the consequences of depriving the detenu of effective representation by denial of supply of relied upon documents

³ [2022 INSC 1115]



by the detaining authority. It was observed as under in paragraph 18 of the judgment

18. What will be the effect when the detenu is deprived of effective representation or denial of supply of relied upon documents by the detaining authority has been considered by this Court in *Ramchandra A. Kamat v. Union of India* (1980) 2 SCC 270 as under:

"6. The right to make a representation is a fundamental right. The representation thus made should be considered expeditiously by the government. In order to make an effective representation, the detenu is entitled to obtain information relating to the grounds of detention. When the grounds of detention are served on the detenu, he is entitled to ask for copies of the statements and documents referred to in the grounds of detention to enable him to make an effective representation. When the detenu makes a request for such documents, they should be supplied to him expeditiously. The detaining authority in preparing the grounds would have referred to the statements and documents relied on in the grounds of detention and would be ordinarily available with him — when copies of such documents are asked for by the detenu the detaining authority should be in a position to supply them with reasonable expedition. What is reasonable expedition will depend on the facts of each case.

18. We find that in the case on hand, the matter was referred for the opinion of the advisory board on 19.2.2025. Based on the opinion, the confirmation order was passed on 24.4.2025. On 29.4.2025, the fate of representation was communicated to the detenu. We have already held that some of the documents supplied to the detenu are illegible. This fact was highlighted by the detenu in Exhibit P3 and P4 representation dated 28.2.2025. However, the above grievance of the detenu was not redressed and he was not



furnished with a readable copy of the illegible documents. Instead, it was only after the confirmation of the order that the representation was taken up and the same was disposed of without addressing the grievances raised there. At any rate the representation was not meaningfully considered and the same was just an empty exercise.

19. In **Ayya v. State of U.P**⁴ the Supreme Court held in paragraph 13 of the judgment as under:

"13. Personal liberty, is by every reckoning, the greatest of human freedoms and the laws of preventive detention are strictly construed and a meticulous compliance with the procedural safeguards, however technical, is strictly insisted upon by the courts. The law on the matter did not start on a clean slate. The power of courts against the harsh incongruities and unpredictabilities of preventive detention is not merely "a page of history" but a whole volume. The compulsions of the primordial need to maintain order in society, without which the enjoyment of all rights, including the right to personal liberty, would lose all their meaning are the true justifications for the laws of preventive detention. The pressures of the day in regard to the imperatives of the security of the State and of public order might, it is true, require the sacrifice of the personal liberty of individuals. Laws that provide for preventive detention posit that an individual's conduct prejudicial to the maintenance of public order or to the security of State provides grounds for a satisfaction for a reasonable prognostication of a possible future manifestations of similar propensities on the part of the offender. This jurisdiction has been called a jurisdiction of suspicion; but the compulsions of the very preservation of the values of freedom, or democratic society and of social order might compel a curtailment of individual liberty. "To

⁴ [(1989) 1 SCC 374]



lose our country by a scrupulous adherence to the written law" said Thomas Jefferson "would be to be lose the law itself, with life, liberty and all those who are enjoying with us; thus absurdly sacrificing the end to the means". This is, no doubt, the theoretical justification for the law enabling preventive detention."

20. On a careful consideration of the materials on record, we are of the view that the petitioner is entitled to succeed. The non-serving of legible copy of the documents and the inordinate delay in meaningfully considering and disposing the representation will vitiate the order of detention.

21. In the result, this Writ Petition is allowed and Ext.P1 order of detention is set aside. The Superintendent of Central Prison, Viyyur, Thrissur, is directed to release the detenu, Sri. Midhun P.P @ Kuttappi. forthwith, if his detention is not required in connection with any other case.

The Registry is directed to communicate the order to the Superintendent of Central Prison, Viyyur, Thrissur, forthwith.

Sd/-

**RAJA VIJAYARAGHAVAN V
JUDGE**

Sd/-

**K. V. JAYAKUMAR
JUDGE**



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APPENDIX OF WP (CRL.) 440/2025

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE ORDER NO.DCKNR/16026/2024-SS1 DATED 04.02.2025 OF THE 2ND RESPONDENT
Exhibit P2	A TRUE COPY OF THE PRELIMINARY ORDER PASSED BY THE SUB DIVISIONAL MAGISTRATE, THALASSERY, DATED NIL DAY OF FEBRUARY,2025
Exhibit P3	. A TRUE COPY OF THE REPRESENTATION DATED 28.02.2025 SUBMITTED BY THE DETENU BEFORE THE 1ST RESPONDENT
Exhibit P4	. A TRUE COPY OF THE REPRESENTATION DATED 28.02.2025 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT
Exhibit P5	A TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE ISSUANCE OF EXT P4