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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

TUESDAY, THE 25TH DAY OF FEBRUARY 2025 / 6TH PHALGUNA, 1946

WP(CRL.) NO. 34 OF 2025

PETITIONER:

RADHA T.P., AGED 57 YEARS
W/O T.P.HARIDASAN, THAVUPURATHU VEEDU,
CHAMBAD P.O, PANNIYANNUR ,KOORARA,
KANNUR, PIN - 670694

BY ADVS.
M.H.HANIS
T.N.LEKSHMI SHANKAR
NANCY MOL P.
ANANDHU P.C.
NEETHU.G.NADH
RIA ELIZABETH T.J.
SINISHA JOSHY
SAHAD M. HANIS

RESPONDENTS:

- 1 THE 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, KANNUR CITY,
PIN - 670002



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- 4 THE CHAIRMAN,
ADVISORY BOARD, KAAPA, SREENIVAS, PADAM ROAD,
VIVEKANANDA NAGAR, ELAMAKKARA,
ERNAKULAM DISTRICT, PIN - 682026

- 5 THE SUPERINTENDENT OF JAIL,
CENTRAL PRISON, VIYYUR,
THRISSUR DIST, PIN - 670004

BY ADV.SRI. K.A. ANAS, GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY
HEARD ON 21.02.2025, THE COURT ON 25.02.2025 DELIVERED THE
FOLLOWING:



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JUDGMENT

Jobin Sebastian, J.

This writ petition has been directed against an order of detention dated 30.11.2024 passed against one Priyesh T.P., under Section 3(1) of the Kerala Anti-Social Activities (Prevention) Act, 2007 ('KAA(P) Act' for brevity). The petitioner herein is the mother of the detenu. After considering the opinion of the Advisory Board, the detention order stands confirmed by the Government vide order dated 11.02.2025 and the detenu was ordered to be detained for a period of six months from the date of execution of the detention order.

2. The records available before us disclose that a proposal was submitted by the District Police Chief, Kannur City, on 15.10.2024, seeking initiation of proceedings against the detenu under Section 3(1) of the KAA(P) Act before the jurisdictional authority. For the purpose of initiation of the said proceedings, the detenu was classified as a 'known rowdy' as defined under Section 2(p)(iii) of the KAA(P) Act, and for passing the order of detention the authority reckoned four cases in which the detenu got



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involved.

3. The last case registered against the detenu is crime No.501/2024 of Dharmadom Police Station alleging offences punishable under Section 354, 354(a)(1)(i) of IPC, Section 74, 75(1)(i), 126(2), 115(2) of BNS, Section 75 of the JJ Act and Section 8 r/w 7, 10 r/w 9(m), 9(p) and 10 of POCSO Act. The period of occurrence of the said criminal activity is between 01.01.2024 and 04.09.2024.

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

5. The learned counsel for the petitioner would submit that the impugned order is vitiated, as the same is passed without proper application of mind and disregarding the procedural safeguards envisaged under the KAA(P) Act. The main contention taken by learned counsel for the petitioner is that the detaining authority had not supplied copy of the report of the sponsoring authority dated 15.10.2024 as well as the additional report of the sponsoring authority dated 30.11.2024 mentioned in Ext.P1 order to the detenu even after a specific request. According to the counsel, the said non-supply of relevant records relied on by the



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detaining authority to pass the impugned order itself is a ground to set aside the impugned order.

6. In response, Sri. K.A. Anas, the learned Government Pleader, asserted that, the impugned order was passed after proper application of mind and arriving at the requisite objective as well as subjective satisfaction. According to him, all the procedural formalities necessary in passing an order of detention under KAA(P) Act are scrupulously complied with in this case and there is no reason to interfere with the the order. However, the learned Government Pleader after perusal of the records fairly conceded that copy of the report of the sponsoring authority as well as the additional report were not served on the detenu. But instead what was served on the detenu was the report of the SHO submitted before the Superintendent of Police, Kannur City.

7. We have carefully considered the submissions advanced and have perused the records.

8. The records show that the detenu was classified as a "known rowdy", considering his recurrent involvement in four cases. The case registered against the detenu with respect to the last prejudicial activity is



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crime No.501/2024 of Dharmadom Police Station. The period of occurrence of the said criminal activity is between 01.01.2024 and 04.09.2024. The said crime was registered on 07.09.2024. The records further reveal that the detenu was arrested in connection with the last prejudicial activity on 09.09.2024 and he was released on bail in the said case on 17.10.2024. It was on 15.10.2024, while he was under judicial custody in connection with the last prejudicial activity, the District Police Chief, Kannur City mooted a proposal for initiation of proceedings under Section 3(1) of KAA(P) Act against the detenu. Subsequently, an additional report was also submitted by the sponsoring authority on 30.11.2024 and on the same day, the impugned order of detention was passed by the jurisdictional authority.

9. It is obvious that the report of the sponsoring authority as well as the additional report are crucial documents relied on by the jurisdictional authority in passing the impugned order of detention. In view of Section 7 of the KAA(P) Act, it is obligatory on the part of the officer arresting the detenu in pursuance of a detention order to supply him a copy of the said order. Apart from supplying a copy of the order,



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there is a statutory obligation on the part of the officer executing the detention order to furnish the grounds of detention as well as the copies of the relevant documents relied on to pass the order of detention. Only when the copies of the relied upon relevant documents are served on the detenu, he would get an opportunity to file an effective representation before the Government as well as the Advisory Board. Undisputedly, the report of the sponsoring authority is one of the most relevant documents certainly relied on by the jurisdictional authority while passing an order of detention. The non-supply of a copy of such a crucial document has a significant impact. In the case at hand, the sponsoring report is admittedly not served on the detenu. Therefore, it is apparent that there are serious laches on the part of the authorities in complying with the procedural safeguards provided under the KAA(P) Act, making the impugned order vitiated.

10. 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. Priyesh, forthwith, if his detention is not required in connection with any other case.



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

Sd/-

**P.B. SURESH KUMAR
JUDGE**

Sd/-

**JOBIN SEBASTIAN
JUDGE**

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APPENDIX OF WP (CRL.) 34/2025

PETITIONER EXHIBITS

- Exhibit P1** A TRUE COPY OF THE ORDER NO.DDCKNR/13070/
2024-SS1 DATED 30.11.2024 OF THE 2ND
RESPONDENT
- Exhibit P2** A TRUE COPY OF THE REPRESENTATION DATED
10.12.2024 SUBMITTED BY THE PETITIONER BEFORE
THE 1ST RESPONDENT
- Exhibit P3** A TRUE COPY OF THE ACKNOWLEDGMENT CARD
EVIDENCING THE RECEIPT OF EXT P2 ON
12.12.2024
- Exhibit P4** A TRUE COPY OF THE REPRESENTATION DATED
10.12.2024 SUBMITTED BY THE PETITIONER BEFORE
THE 4TH RESPONDENT
- Exhibit P5** A TRUE COPY OF THE ACKNOWLEDGMENT CARD
EVIDENCING THE RECEIPT OF EXT P4