

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

MONDAY, THE 25TH DAY OF MARCH 2024 / 5TH CHAITHRA, 1946

WP(CRL.) NO. 292 OF 2024

PETITIONER:

APARNA P.M, AGED 23 YEARS, W/O AMEER,
THENNAMBARA HOUSE, KADANGODU P.O, THRISSUR
DISTRICT, PIN - 680 584

BY ADVS.
P.MOHAMED SABAH
LIBIN STANLEY
SAIPOOJA
SADIK ISMAYIL
R.GAYATHRI
M.MAHIN HAMZA
ALWIN JOSEPH
RAYEES P.
BENSON AMBROSE

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY THE ADDITIONAL
CHIEF SECRETARY TO GOVERNMENT OF KERALA (HOME
DEPARTMENT), SECRETARIAT, THIRUVANANTHAPURAM,,
PIN - 695 001
- 2 THE DISTRICT MAGISTRATE, THRISSUR DISTRICT,
CIVIL STATION, AYYANTHOLE, THRISSUR,, PIN - 680
003
- 3 THE DISTRICT POLICE CHIEF, THRISSUR CITY ,
THRISSUR DISTRICT ,, PIN - 680 003
- 4 THE SUPERINTENDENT, CENTRAL PRISON, KANNUR,
KANNUR DISTRICT, PIN - 670 005

BY ADVS.
ADVOCATE GENERAL OFFICE KERALA

W.P.(Crl.)No.292 of 2024

..2..

ADDL.DIRECTOR GENERAL OF PROSECUTION (AG-11)
ADDL. STATE PUBLIC PROSECUTOR (AG-28)

SRI. K.A. ANAS PUBLIC PROSECUTOR

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY
HEARD ON 25.03.2024, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

J U D G M E N T

A. Muhamed Mustaque, J.

The petitioner is the wife of the detenu. The petitioner challenges the detention order passed under the Kerala Anti-social Activities (Prevention) Act, 2007. The detenu is involved in the following six crimes:

Sl. No	Police Station	Crime No.	Offences
1	Erumappetty Police Station	703/2020	U/s 341, 323, 324, 506 and 308 r/w 34 of IPC
2	Erumappetty Police Station	49/2021	U/s 447, 427, 294(b) and 506 (i) r/w and 34 of IPC
3	Erumappetty Police Station	1155/2021	U/s 341, 323, 427 and 294(b) of IPC
4	Erumappetty Police Station	195/2022	U/s 143, 147, 148, 341, 323, 324, 326, 308 and 506(i) r/w 149 of IPC
5	Kunnamkulam Police Station	437/2022	U/s 143, 147, 148, 448, 506, 341, 323, 324, 308 and 427 r/w 149 of IPC and 3r/w 4 of Kerala Health Care

***Service Persons and
Health Casre Service
Institutions
(Prevention of
Violence and Damage
to the Propety) Act,
2012
U/s 22 (b) and 29 of
NDPS Act, 1985***

**6 Challissery Police 440/2023
Station**

2. The last prejudicial activity was on 03.06.2023. The sponsoring authority submitted its report on 31.07.2023. The detention order was passed only on 18.10.2023. We note that there is a considerable delay in passing the detention order. If the sponsoring authority submitted its report within the reasonable time, the detaining authority ought to have passed the detention order immediately thereon. The live-link between the last prejudicial activity and the date of detention order must survive and otherwise, if it is snapped between those period, the detention order will cease to have any operative objection in the sense that the very idea of detention order is to prevent the recurrence of commission of offences. The detention order cannot be used to penalise a person. The

intention behind the Act is to prevent a person from repeating the offences.

3. In the light of the fact that more than three months have elapsed after sponsoring authority submitted its reports, we find no justification in passing such detention order. We hold that the live-link between the last prejudicial activity and the detention order have been snapped. Accordingly, the impugned order is set aside. The detenu is ordered to be released forthwith, provided, it he is otherwise not required in any other case under law.

This W.P. Crl. is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE
JUDGE**

Sd/-

**M.A.ABDUL HAKHIM
JUDGE**

PR

APPENDIX OF WP (CRL.) 292/2024

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE REPORT DATED 31.07.2023 SUBMITTED BY THE RESPONDENT NO.3 BEFORE THE RESPONDENT NO.2
Exhibit P2	TRUE COPY OF THE DETENTION ORDER DATED 18.10.2023 PASSED BY THE RESPONDENT NO.2
Exhibit P3	TRUE COPY OF THE REASONS RECORDED FOR PASSING EXHIBIT P2 DETENTION ORDER DATED 18.10.2023
Exhibit P4	TRUE COPY OF THE ORDER DATED 11.12.2023 PASSED BY RESPONDENT NO.1
Exhibit P5	TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 703 OF 2020 OF ERUMAPPETTY POLICE STATION DATED 08.11.2020
Exhibit P6	TRUE COPY OF THE WOUND CERTIFICATE ISSUED FROM TALUK HOSPITAL KUNNAMKULAM