

Nishitha P vs State Of Kerala on 9 October, 2026

Author: [Anil K.Narendran](#)

Bench: [Anil K.Narendran](#)

CNR : KLHC010597362026

2026:KER:77913

1

WP(CRL.) NO. 1228 OF 2026

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 9TH DAY OF OCTOBER 2026 / 17TH ASWINA, 1948

WP(CRL.) NO. 1228 OF 2026

Crime No.150 of Shornur Police Station

PETITIONER:

NISHITHA P
AGED 41 YEARS
W/O SHAFEER, RAHMAN MANZIL, KINARVAZHI, THOTTAKARA,
OTTAPALAM, PALAKKAD, PIN – 679101

BY ADVS.
SHRI.M.H.HANIS
SMT.T.N.LEKSHMI SHANKAR
SMT.NEETHU.G.NADH
SHRI.SAHAD M. HANIS
SMT.AJINRAJ V.T.
SHRI.MUHAMMAD A. P.

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,
PALAKKAD DISTRICT, PIN – 678001
- 3 THE DISTRICT POLICE CHIEF,

2026:KER:77913

2

WP(CRL.) NO. 1228 OF 2026

PALAKKAD DISTRICT,, PIN - 678001

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

5 THE SUPERINTENDENT OF JAIL,
CENTRAL JAIL, VIYYUR, PIN - 670004

BY ADV.REEHA KHADER K. SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) WAS FINALLY HEARD ON
30.09.2026, THE COURT ON 09.10.2026 PASSED THE FOLLOWING:
CNR : KLHC010597362026

2026:KER:77913

3

WP(CRL.) NO. 1228 OF 2026

JUDGMENT

Muralee Krishna, J.

This W.P.(Criminal) is filed under [Article 226](#) of the Constitution of India by the wife of the detainee, Shafeer, aged 42 years, S/o. Rahman, Rahman Manzil, Kinarvazhi, Thottakkara, Ottapalam, Palakkad who is detained in Central Prison, Viyyur, by virtue of Ext.P1 order dated 14.05.2026 issued by the 2nd respondent District Collector and District Magistrate, Palakkad, under [Section 3\(1\)](#) of the Kerala Anti-Social Activities (Prevention) Act, 2007 ('the KAA(P) Act' for short), which was later confirmed by the Government as per order dated 22.05.2026 under [Section 3\(3\)](#) of the KAA(P) Act, and subsequently held to be continued for a period of six months with effect from the date of detention as per Ext.P2 order of the Government dated 24.07.2026 issued under [Section 10\(4\)](#) of the KAA(P) Act, seeking a writ of Certiorari to quash Exts.P1 and P2 orders. The petitioner has also sought for a writ of Habeas Corpus commanding the respondents to produce the detainee and set him at liberty forthwith, contending that his CNR : KLHC010597362026 2026:KER:77913 4 WP(CRL.) NO. 1228 OF 2026 detention in the Central Prison is illegal.

2. The pleadings and materials would show that for ordering preventive detention of the detainee by classifying him as a 'known Goonda', the authorities have taken into consideration three criminal cases in which the detainee was involved. The last among them is Crime No.150 of 2026 of Shornur Police Station registered for the offences under [Sections 20\(b\)\(ii\)\(C\)](#) and [29](#) of the NDPS Act. The incident in respect of that crime occurred on 25.02.2026. The sponsoring report dated 06.04.2026 was submitted by the 3rd respondent District Police Chief, Palakkad, to the 2nd respondent, on receipt of which, Ext.P1 detention order was issued by the 2nd respondent.

The detainee was in judicial custody in the last prejudicial activity at the time of submitting the sponsoring report and issuing the detention order. Ext.P1 detention order was executed on 17.05.2026. Being aggrieved, the petitioner is before this Court with this writ petition, contending that the detention order is illegal on various grounds.

3. Along with a memo dated 20.08.2026, the learned CNR : KLHC010597362026 2026:KER:77913 5 WP(CRL.) NO. 1228 OF 2026 Senior Government Pleader filed a statement of facts dated 19.08.2026, submitted by the 3rd respondent District Police Chief, Palakkad, opposing the averments in the writ petition and detailing the steps taken for issuing the detention order.

4. Heard Sri. M.H. Hanis, the learned counsel for the petitioner and Smt.Reeha Khader K., the learned Senior Government Pleader.

5. The learned counsel for the petitioner raised the following arguments against the detention order:

I. Page Nos.57 and 63 of the documents supplied to the detainee along with Ext.P1 order are in Hindi.

Nowhere in Ext.P1 order it is stated that the detainee knows Hindi. Therefore, the statutory safeguard guaranteed to the detainee to submit a representation before the Government and the Advisory Board was denied to him, which is a violation of fundamental rights guaranteed to him under [Article 22\(5\)](#) of the Constitution of India. In support of the aforesaid CNR : KLHC010597362026 2026:KER:77913 6 WP(CRL.) NO. 1228 OF 2026 argument, the learned counsel relied on the judgments of this Court dated 25.08.2025 in W.P.(Crl.) No.1066 of 2025 [2025:KER:64836] and 28.10.2025 in W.P.(Crl.) No.1368 of 2025 [2025:KER:80803].

II. In the last prejudicial activity, the quantity of contraband article seized was a commercial quantity of narcotic drugs. Therefore, the rigour under [Section 37](#) of the NDPS Act in securing bail was not considered by the authority concerned in Ext.P1 order. In support of his aforesaid argument, the learned counsel relied on the judgments in [Kamarunnissa v. Union of India](#) [(1991) 1 SCC 128], [Rekha v. State of Tamil Nadu](#) [(2011) 5 SCC 244] and the judgment dated 24.06.2025 in W.P.(Crl.) No.416 of 2025 [2025:KER:45234].

III. The petitioner submitted Exts.P3 and P4 representations before the Government and Ext.P5 representation before the advisory board, which were CNR : KLHC010597362026 2026:KER:77913 7 WP(CRL.) NO. 1228 OF 2026 not independently considered and thereby caused prejudice to the detainee.

IV. There is an unexplained and inordinate delay of 80 days from the last prejudicial activity to the date of the detention order, which snapped the live link between the last prejudicial activity and the detention order. In support of the aforesaid argument, the learned counsel relied on the judgment of a Division Bench of this Court headed by the Hon'ble the Chief Justice in [Kunjumol P.G v. State of Kerala](#) [2026 KHC Online 2147].

6. On the other hand, the learned Senior Government Pleader submitted that, apart from the three criminal cases considered for ordering preventive detention, the detainee is involved in another criminal case registered as Crime No.30 of 2024 of Eluru Police Station in Vijayawada district of Andhra Pradesh, which also pertains to the offence under the [NDPS Act](#). Pages 57 and 63 of the documents supplied to the detainee, along with Ext.P1 order, are arrest intimation and arrest memo, CNR : KLHC010597362026 2026:KER:77913 8 WP(CRL.) NO. 1228 OF 2026 respectively, of accused No.2, who is a native of Orissa, in the last prejudicial activity, wherein the detainee was arrayed as accused No.1. Since the accused No.2 knows only Hindi, those documents are prepared in the language known to that accused. Moreover, those documents are not considered for ordering preventive detention of the detainee herein and therefore non-supply of their Malayalam translation is immaterial. In support of the aforesaid arguments, learned Senior Government Pleader relied on the judgments of the Apex Court in [L.M.S. Ummu Saleema v. B.B. Gujral](#) [(1981) 3 SCC 317], [Adishwar Jain v. Union of India](#) [(2006) 11 SCC 339] and also [Powanammal v. State of Tamil Nadu](#) [(1999) 2 SCC 413]. The learned Senior Government pleader further argued that there is no unreasonable and unexplained delay in issuing Ext.P1 order, and the time taken to

issue that order after the last prejudicial activity is clearly explained in Ext.P1 order itself. The possibility of release of the detainee on bail was also considered in Ext.P1 order and therefore it cannot be said that the rigour under [section 37](#) of the NDPS Act CNR : KLHC010597362026 2026:KER:77913 9 WP(CRL.) NO. 1228 OF 2026 was not considered while issuing Ext.P1 order.

7. We have considered the materials on record and the rival submissions made at the Bar. In the instant case, the authorities have taken into consideration three criminal cases in which the detainee has been involved. The last among those criminal cases is Crime No.150 of 2026 of Shornor Police Station, the incident of which occurred on 25.02.2026 and the detainee was arrested on the same day. The sponsoring report was submitted by the 3rd respondent to the 2nd respondent on 06.04.2026, which was followed by two additional reports dated 16.04.2026 and 02.05.2026. The detention order was issued on 14.05.2026. While considering the fact that the detainee has been in judicial custody, this period taken after the last prejudicial activity for issuing the detention order cannot be said as unreasonable or inordinate delay.

8. In Kunjumol P.G. [2026 KHC Online 2147], a Division Bench of this Court headed by the Hon'ble the Chief Justice, while considering a writ petition filed against the order of CNR : KLHC010597362026 2026:KER:77913 10 WP(CRL.) NO. 1228 OF 2026 preventive detention issued under [Section 3\(1\)](#) of the PITNDPS Act, held thus;

"33. On consideration of the above explanation, we are unable to accept the contention of the respondents that the delay has been satisfactorily explained. While it is true that some time may legitimately be consumed in collecting the relevant records, processing the proposal at various administrative levels and obtaining the opinion of the Screening Committee, the explanation offered in the present case is only a narration of the procedural steps undertaken by the authorities. It does not disclose any specific or exceptional circumstance which necessitated the considerable time consumed at each stage of the proceedings.

34. Merely narrating the various stages involved in the process of preventive detention is not sufficient to establish the existence of a live and proximate link between the last prejudicial activity and the passing of the detention order. What is required is a specific and satisfactory explanation for the delay at each stage of the proceedings. In the present case, the respondents have failed to furnish any explanation for the delay of 29 days in submitting the proposal for preventive detention from the date of the last prejudicial activity, namely 30th March, 2025. Equally, no CNR : KLHC010597362026 2026:KER:77913 11 WP(CRL.) NO. 1228 OF 2026 satisfactory explanation has been offered for the period of approximately 30 days between 21st July, 2025, when the authenticated report of the Screening Committee was received by the Government, and 20th August, 2025, when the detention order was ultimately issued. In the absence of any specific explanation for these periods of delay, a mere reference to the administrative and procedural steps undertaken by the authorities cannot be regarded as sufficient to sustain the live and proximate nexus between the alleged prejudicial activities and the order of preventive detention". (Underline supplied)

9. In the instant case, as already noticed hereinabove, the detainee was in judicial custody in connection with the last prejudicial activity when the sponsoring report was submitted. Further, there is no delay in issuing that order, as in [Kunjumol P.G.](#)'s case [2026 KHC Online 2147]. Therefore, the judgment in Kunjumol P.G. does not apply to the facts of the case in our hands, and we find no merit in the contention of the petitioner that there is unexplained and inordinate delay in Ext.P1 order.

10. In L.M.S. Ummu Saleema [(1981) 3 SCC 317], in a writ petition filed under [Article 32](#) of the Constitution of India CNR : KLHC010597362026 2026:KER:77913 12 WP(CRL.) NO. 1228 OF 2026 against the order of preventive detention under the provisions of the [Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974](#), the Apex Court held thus;

"5. Shri Jethmalani's submission was that the detaining authority was under an obligation to supply along with the grounds, copies of all documents to which reference was made in the grounds irrespective of whether such documents were or were not relied upon in making the order of detention. He submitted that the very fact that the documents were mentioned in the grounds

established that the documents were relied upon in making the order of detention. We are unable to agree with the submission of Shri Jethmalani. True, it was observed in some cases that copies of documents to which reference was made in the grounds must be supplied to the detenu as part of the grounds (vide [Smt. Shalini Soni v. Union of India](#) [AIR 1981 SC 431]). But these observations must be read in the context in which they were made. In [Shalini Soni](#)'s case, for example, the observations were made immediately after stating that "grounds" in [Art.22 \(5\)](#) did not mean mere factual inferences but meant factual inferences plus factual material which led to such factual inferences. In [Icchu Devi Choraria v. Union of India](#), AIR 1980 SC 1983 the Court observed (at p. 1989) :

CNR : KLHC010597362026 2026:KER:77913 13 WP(CRL.) NO. 1228 OF 2026 "It is difficult to see how the detenu can possibly make an effective representation unless he is also furnished copies of the documents, statements and other materials relied upon in the grounds of detention."

The stress was upon the words "relied upon". In [Khudiram Das v. State of West Bengal](#) [1975 (2) SCR 832 at pp. 848, 849]: [AIR 1975 SC 550 at pp. 560, 561] the Constitutional requirement of [Art.22 \(5\)](#) was stated as insistence that basic facts and particulars which influenced the detaining authority in arriving at the requisite satisfaction leading to the making of the order of detention must be communicated to the detenu so that the detenu may have an opportunity of making an effective representation against the order of detention. It is, therefore, clear that every failure to furnish copy of a document to which reference is made in the grounds of detention is not an infringement of [Art.22 \(5\)](#), fatal to the order of detention. It is only failure to furnish copies of such documents as were relied upon by the detaining authority, making it difficult for the detenu to make an effective representation, that amounts to a violation of the Fundamental Rights guaranteed by [Art.22 \(5\)](#). In our view it is unnecessary to furnish copies of documents to which casual or passing reference may be made in the course of narration of facts and which are not relied upon by the detaining authority in making the order of detention. In the case before us we are satisfied that such were the two documents, copies of which were not furnished to the detenu. We are satisfied that the documents cannot be said to be documents which were relied upon by the detaining authority in making the order of detention. Therefore, the detenu could not properly complain that he was prevented from making an effective representation. There was no violation of the right guaranteed by [Art.22](#) of the Constitution".

(Underline supplied)

11. In [Powanammal](#) [(1999) 2 SCC 413] a three Judges Bench of the Apex Court, while considering an appeal filed by the mother of the detenu against the judgment of the High Court of Madras, whereby the writ petition filed by the appellant challenging the order of preventive detention of her son under Section 3 of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, and Slum Grabbers Act, 1982, held thus;

"15. Adverting to the facts of this case, the appellant has made a representation for supply of the Tamil version of the copy of the order of remand and specifically stated that the detenu could not understand the English language.

CNR : KLHC010597362026 2026:KER:77913 15 WP(CRL.) NO. 1228 OF 2026 Admittedly, the Tamil version of the order of remand was not furnished to her. A perusal of the grounds shows that the order of remand was relied upon by the second respondent to reach subjective satisfaction, so the detenu need not show that any prejudice was caused to her due to the non supply of the Tamil version of the order of remand. Therefore, the High Court is not correct in holding that the non furnishing of the copy of the order of remand would not in any way prejudice the detenu".

(Underline supplied)

12. In [Adishwar Jain v. Union of India](#) [(2006) 11 SCC 339], while considering the challenge against the order of preventive detention issued under [Section 3](#) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, the Apex Court held thus;

"29. What is, therefore, relevant was as to whether the documents were material. If the documents were material so as to enable the detenu to make an effective representation, which is his constitutional as also statutory right, non-supply thereof would vitiate the order of detention.

30. It is a trite law that all documents which are not material are not necessary to be supplied. What is necessary to be supplied is the relevant and the material documents, but, CNR : KLHC010597362026 2026:KER:77913 16 WP(CRL.) NO. 1228 OF 2026 thus, all relevant documents must be supplied so as to enable the detenu to make an effective representation which is his fundamental right under [Article 22\(5\)](#) of the Constitution of India. Right to make an effective representation is also a statutory right. (See [Sunila Jain v. Union of India](#) [(2006) 3 SCC 321 : (2006) 2 SCC (Cri) 90].)" (Underline supplied)

13. In the judgment dated 25.08.2025 in W.P.(Crl.)No.1066 of 2025 [2025:KER:64836], a Division Bench of this Court, while considering a writ petition filed challenging the order of preventive detention issued under the provisions of the KAA(P) Act, held thus;

"6. From the rival contentions raised, it is gatherable that the main contention of the counsel for the detenu is that though a case registered at Tamil Nadu alleging commission of an offence punishable under Section 302 formed the basis for passing the impugned order, the copy of the relied upon documents in the said case served on the detenu were in Tamil language which the detenu is not accustomed to. From a perusal of the documents, we are also convinced that the copy of certain relied upon documents in the said case, served on the detenu, is in Tamil language. Even the respondents do not have a case that the detenu knows CNR : KLHC010597362026 2026:KER:77913 17 WP(CRL.) NO. 1228 OF 2026 Tamil. Given the fact that the detenu knows only Malayalam, it was incumbent upon the jurisdictional authority to serve Malayalam translation of the relied-upon documents to the detenu. Only when the documents relied upon are in a language known to the detenu, then only he can file an effective representation before the Advisory Board as well as the Government. Therefore, we also find some merit in the contention of the learned counsel for the petitioner that the detenu was handicapped from filing an effective representation, which is a constitutional as well as fundamental right of a detenu". (underline supplied)

14. In the judgment dated 28.10.2025 in W.P.(Crl.)No.1368 of 2025 [2025:KER: 80803], a Division Bench of this Court, while considering a writ petition filed challenging the order of preventive detention issued under the provisions of the KAA(P) Act, held thus:

"7. The main contention taken in this writ petition is that since the detenu is a person who cannot read Malayalam, it was incumbent upon the detaining authority to furnish the translated copies of the detention order, the grounds of detention, and all the relied-upon documents in Kannada, the language known to the detenu. According to the writ petitioner, as the translated copies of the aforesaid CNR : KLHC010597362026 2026:KER:77913 18 WP(CRL.) NO. 1228 OF 2026 documents were not served, the detenu was handicapped in filing an effective representation before the Government as well as the Advisory Board. In order to substantiate the plea that the detenu is not proficient in Malayalam, the marksheet of the copy of the SSLC book is produced along with this writ petition as Ext.P2. A perusal of Ext.P2 reveals that the language pursued by the detenu in his tenth standard was Kannada, and Malayalam was not among the subjects that he studied. Moreover, a document has been produced to show that in Sree Gopalakrishna High School, Kasaragod, where the detenu studied, the medium of instruction is Kannada. Apart from this, from a perusal of the records in this case, it is gatherable that at the time of executing the impugned order of detention, the executing authority had read over the order and other connected documents in Malayalam, and translated the same into Kannada to the detenu. In view of the above facts, we find no reason to doubt the case of the detenu that he only knows to speak Malayalam and is unable to read or write Malayalam".

15. From the principles stated in the aforesaid judgments, it is clear that the right of the detenue to submit a proper representation before the authorities concerned can be said to be CNR : KLHC010597362026

2026:KER:77913 19 WP(CRL.) NO. 1228 OF 2026 denied and thereby his fundamental rights guaranteed under [Article 22\(5\)](#) of the Constitution can be said to be breached, only if the documents unserved to him in the language known to him are material documents relied upon by the authorities concerned for passing the detention order. The perusal of two documents in page Nos.57 and 63 supplied to the detenu along with Ext.P1 order would show that those documents are arrest intimation and arrest memo of the 2nd accused, who, according to the prosecution, is a native of Orissa. The said documents in Hindi supplied to the detenu were not at all considered by the second respondent to arrive at the subjective satisfaction of the need of issuing preventive detention order against the detenu. Therefore, we find no merit in the aforesaid contention of the learned counsel for the petitioner.

16. In Kamarunnissa [(1991) 1 SCC 128], in the case of a detention order issued under [Section 3\(1\)](#) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, against three persons with a view to prevent them from CNR : KLHC010597362026 2026:KER:77913 20 WP(CRL.) NO. 1228 OF 2026 smuggling goods, the Apex Court held thus;

"13. From the catena of decisions [referred to above](#) it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition to question it before a higher Court. What this court stated in the case of Ramesh Yadav, (AIR 1986 SC 315) (supra) was that ordinarily a detention order should not be passed merely to pre-empt or circumvent enlargement on bail in cases which are essentially criminal in nature and can be dealt with under the ordinary law. It seems to us well settled that even in a case where a person is in custody, if the facts and circumstances of the case so demand, resort can be had to the law of preventive detention. This stems to be quite clear from the case law discussed above, and there is no need to CNR : KLHC010597362026 2026:KER:77913 21 WP(CRL.) NO. 1228 OF 2026 refer to the High Court decisions to which our attention was drawn since they do not hold otherwise. We, therefore, find it difficult to accept the contention of the counsel for the petitioners that there was no valid and compelling reason for passing the impugned orders of detention because the detenus were in custody." (Underline supplied)

17. In Rekha [(2011) 5 SCC 244], in the case of detention order passed under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders and Slum Grabbers and Video Pirates Act, 1982, on the allegation that the detenu therein was selling expired drugs after tampering with the labels and printing fresh labels showing them as non-expired drugs, the Apex Court held thus;

"7. A perusal of the above statement in para 4 of the grounds of detention shows that no details have been given about the alleged similar cases in which bail was allegedly granted by the concerned court. Neither the date of the alleged bail orders has been mentioned therein, nor the bail application number, nor whether the bail orders were passed in respect of the co - accused on the same case, nor whether the bail orders CNR : KLHC010597362026 2026:KER:77913 22 WP(CRL.) NO. 1228 OF 2026 were passed in respect of other co - accused in cases on the same footing as the case of the accused. All that has been stated in the grounds of detention is that "in similar cases bails were granted by the courts". In our opinion, in the absence of details this statement is mere ipse dixit, and cannot be relied upon. In our opinion, this itself is sufficient to vitiate the detention order." [Underline supplied]

18. In the judgment dated 24.06.2025 in W.P.(Crl.) No. 416 of 2025 [2025:KER:45234], a Division Bench of this Court, while considering a writ petition filed challenging the order of preventive detention issued under the provisions of [Section 3 \(1\)](#) of the PITNDPS Act, held thus;

"11. At this juncture, it is significant to note that the contraband seized, in connection with the last case registered against the detenu under the [NDPS Act](#), is commercial quantity. Therefore, the rigor contained under [Section 37](#) of the NDPS Act to grant bail is squarely applicable in that case. As commercial quantity of contraband is involved, the detenu will get bail only if he satisfies the twin conditions mentioned under [Section 37](#) of the NDPS Act. A plain reading of [Section 37](#) of NDPS demonstrate that a person accused of an offence under CNR : KLHC010597362026 2026:KER:77913 23 WP(CRL.) NO. 1228 OF 2026 [Section 19](#), [24](#) and [27\(a\)](#) of the Act and also for offences involving commercial quantity shall not be released on bail, unless the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence. In the case at hand, as the commercial quantity of contraband is involved, the above rigor contained under [Section 37](#) of the NDPS Act in granting bail is squarely applicable. Moreover, the twin condition mentioned in [Section 37](#) is not disjunctive but conjunctive. Therefore, in order to get bail in a case in which commercial quantity of contraband is seized, an accused should satisfy the court that there are reasonable grounds to believe not only that he is not guilty of such an offence but also that he is not likely to commit any offence while on bail. In the case at hand, the detenu is a history- sheetter registered with five NDPS cases. Therefore, if he is released on bail, there is every likelihood of him repeating similar offence. Therefore, it would be highly unlikely that he would satisfy the court that, if released on bail, he would not commit any offence while on bail. At this juncture, it is appropriate to note that in [Dheeraj Kumar v. State of Uttar Pradesh](#) [2023 (3) SCC online 918], the Hon'ble Supreme Court held that if a person has criminal antecedents, he fails to qualify the second limb under [Section 37](#) of the NDPS Act. Therefore, a bare statement in the impugned order that if CNR : KLHC010597362026 2026:KER:77913 24 WP(CRL.) NO. 1228 OF 2026 the detenu is released on bail, he would involve in criminal activity again is not sufficient to establish that the competent authority has reason to believe that there is a real possibility of the detenu being released on bail in the case last registered against him. If there were cogent materials to arrive at a conclusion that the detenu might be released on bail, then the same should have been clearly indicated in the order. In the absence of the same, we have no hesitation to hold that the objective as well as the subjective satisfaction arrived at by the competent authority to pass the impugned order of detention is vitiated".

(Underline supplied)

19. The last prejudicial activity in which the detenu was involved is admittedly of a commercial quantity of narcotic drug. A Rowdy history sheet is also opened against him in Shornur Police Station. Though in Ext.P1 order, it is stated that there is a possibility of releasing the detenu on bail in the last prejudicial activity, and if he is released on bail, there is a possibility of his further involvement in similar criminal activity, the rigour under [Section 37](#) of the NDPS Act is not considered in Ext.P1 order. Therefore, the observations in judgment dated 24.06.2025 in CNR : KLHC010597362026 2026:KER:77913 25 WP(CRL.) NO. 1228 OF 2026 W.P. (Crl.) No.416 of 2025 [2025:KER:45234] are squarely applicable to the present case. The impugned Ext.P1 order is therefore liable to be set aside on that ground.

20. Apart from the above, from Ext. P2 order, we notice that Exts. P3 to P5 representations submitted by the petitioner were though referred in that order, the said representations were not independently considered in that order.

21. In [S.K. Abdul Karim v. State of West Bengal](#) [(1969) 1 SCC 433], which was a writ of habeas corpus filed under [Article 32](#) of the Constitution of India by the petitioners seeking their release from the detention which was ordered under [Section 3\(2\)](#) of the Preventive Detention Act, 1950, the Apex Court held thus:

"12. Faced with this difficulty, counsel on behalf of the respondent conceded that in a case where the detention is for a period of less than three months or in a case contemplated by [Article 22\(7\)](#), the State Government will be legally obliged to consider the representation of the detenu. But it was suggested that in a case where a CNR : KLHC010597362026 2026:KER:77913 26 WP(CRL.) NO. 1228 OF 2026 reference has to be made to the Advisory Board it was not necessary for the State Government to consider the representation. We are unable to accept this argument as correct. There

is no such dichotomy in the scheme of [Article 22\(5\)](#) of the Constitution and there is no reason why it must be interpreted in a different manner for the two classes of detainees. It is manifest that the right under [Article 22\(5\)](#) to make a representation has been guaranteed independent of the duration of the period of detention and irrespective of the existence or non-existence of an Advisory Board. The constitution of an Advisory Board for the purpose of reporting whether a person should or should not be detained for a period of more than three months is a very different thing from a right of consideration by the State Government whether a person should be detained even for a single day. The obligation of the detaining authority to consider the representation is different from the obligation of the Advisory Board to consider the representation later on at the time of hearing the reference. It follows, therefore, that even if reference is to be made to the Advisory Board under [Section 9](#) of the Act, the appropriate government is under legal obligation to consider the representation of the detenu before such a reference is made.

13. In the present case, Sk. Abdul Karim has alleged that his representation was not considered by the State CNR : KLHC010597362026 2026:KER:77913 27 WP(CRL.) NO. 1228 OF 2026 Government before it was forwarded to the Advisory Board. This allegation is not controverted in the counteraffidavit filed on behalf of the respondent. What is at stake in this case is the issue of personal freedom which is one of the basic principles of a democratic State. A predominant position and role is given in our Constitution to human personality and human freedom as the ultimate source of all moral and spiritual values. Preventive detention is a serious invasion of personal liberty, and, therefore, the Constitution has provided procedural safeguards against the improper exercise of the power of preventive detention. All the procedural requirements of [Article 22](#) are in our opinion mandatory in character and even if one of the procedural requirements is not complied with, the order of detention would be rendered illegal. Accordingly, the order of detention, dated 17.02.1968, made against Petitioner 2, Sk. Abdul Karim and the subsequent order of the Governor of West Bengal, dated 24th April, 1968, confirming the order of detention must be held to be illegal and ultra vires and Petitioner 2, Sk. Abdul Karim was entitled to be released."

(Underline supplied)

22. In [Jayanarayan Sukul v. State of West Bengal](#) [(1970) 1 SCC 219], which was a writ petition filed under [Article 32](#) of the Constitution of India requiring the respondent to show CNR : KLHC010597362026 2026:KER:77913 28 WP(CRL.) NO. 1228 OF 2026 cause as to why the petitioner therein who has been under preventive detention should not be released, the Apex Court held thus:

"20. Broadly stated, four principles are to be followed in regard to representation of detenus. First, the appropriate authority is bound to give an opportunity to the detenu to make a representation and to consider the representation of the detenu as early as possible. Secondly, the consideration of the representation of the detenu by the appropriate authority is entirely independent of any action by the Advisory Board including the consideration of the representation of the detenu by the Advisory Board. Thirdly, there should not be any delay in the matter of consideration. It is true that no hard and fast rule can be laid down as to the measure of time taken by the appropriate authority for consideration, but it has to be remembered that the Government has to be vigilant in the governance of the citizens. A citizen's right raises a correlative duty of the State. Fourthly, the appropriate Government is to exercise its opinion and judgment on the representation before sending the case along with the detenu's representation to the Advisory Board. If the appropriate Government will release the detenu the Government will not send the matter to the Advisory Board. If however the Government will not CNR : KLHC010597362026 2026:KER:77913 29 WP(CRL.) NO. 1228 OF 2026 release the detenu the Government will send the case along with the detenu's representation to the Advisory Board. If thereafter the Advisory Board will express an opinion in favour of release of the detenu the Government will release the detenu. If the Advisory Board will express any opinion against the release of the detenu the Government may still exercise the power to release the detenu."

(Underline supplied)

23. In [Haradhan Shah v. State of West Bengal](#) [(1975) 3 SCC 198], while considering the constitutional validity of the [Maintenance of Internal Security Act, 1971](#), the Apex Court held thus:

"29. Principles of natural justice are an element in considering the reasonableness of a restriction where [Article 19](#) is applicable. At the stage of consideration of representation by the State Government, the obligation of the State Government is such as [Article 22\(5\)](#) implies. [Section 8](#) of the Act is in complete conformity with [Article 22\(5\)](#) because this section follows the provisions of the Constitution. If the representation of the detenu is received before the matter is referred to the Advisory Board, the detaining authority considers the representation. If a representation is made after the matter has been referred CNR : KLHC010597362026 2026:KER:77913 30 WP(CRL.) NO. 1228 OF 2026 to the Advisory Board, the detaining authority will consider it before it will send representation to the Advisory Board."

(Underline supplied)

24. In [Dr. Rahamatullah v. State of Bihar](#) [(1981) 4 SCC 559], while considering a writ petition filed under [Article 32](#) of the Constitution of India, against the detention of the petitioner therein under [Section 3\(2\)](#) of the National Security Act, 1980, the Apex Court held thus;

"7. The law is well-settled that in case of preventive detention of a citizen, the obligation of the appropriate government is two-fold: (i) to afford the detenu the opportunity to make a representation and to consider the representation which may result in the release of the detenu, and (ii) to constitute a Board and to communicate the representation of the detenu along with other materials to the Board to enable it to form its opinion and to obtain such opinion. The former is distinct from the latter. As there is a two-fold obligation of the appropriate government, so there is a two-fold right in favour of the detenu to have his representation considered by the appropriate government and to have the representation once again considered by the Government in the light of the circumstances of the case considered by the Board for the purpose of giving its CNR : KLHC010597362026 2026:KER:77913 31 WP(CRL.) NO. 1228 OF 2026 opinion. (See [Narendra Purshotam Umrao v. B.B. Gujral](#) [(1979) 2 SCC 637; 1979 SCC (Cri) 557; (1979) 2 SCR 315] and [Pankaj Kumar Chakrabarty v. State of W.B.](#) [(1969) 3 SCC 400; (1970) 1 SCR 543])" (Underline supplied)

25. In the matter of [M. Ahamedkutty v. Union of India](#) [(1990) 2 SCC 1], while considering the provisions of the [COFEPOSA Act](#), this Court said that the detaining authority is duty-bound to afford the detenu the earliest opportunity of making the representation against the order of detention and the representation to be made effective, the copies of the documents relied upon by the detaining authorities on the grounds are necessary to be supplied. The detenu has a right to be furnished with the grounds of detention along with documents so referred or relied upon. Paragraphs 19 and 20 of that judgment read thus;

"19. The next submission is that of non supply of the bail application and the bail order. This Court, as was observed in [Mangalbhai Motiram Patel v. State of Maharashtra](#), 1981 (1) SCR 852, has 'forged' certain procedural safeguards for citizens under preventive detention. The Constitutional imperatives in [Art.22\(5\)](#) are two fold: (a) The detaining authority must, as soon as may be i.e. as soon as CNR : KLHC010597362026 2026:KER:77913 32 WP(CRL.) NO. 1228 OF 2026 practicable, after the detention communicate to the detenu the grounds on which the order of detention has been made, and (2) the detaining authority must afford the detenu the earliest opportunity of making the representation against the order of detention. The right is to make an effective representation and when some documents are referred to or relied on in the grounds of detention, without copies of such documents, the grounds of detention would not be complete. The detenu has, therefore, the right to be furnished with the grounds of detention along with the documents so referred to or relied on. If there is failure or even delay in furnishing those documents it would amount to denial of the right to make an effective representation.

This has been settled by a long line of decisions:

[Ramachandra A. Kamat v. Union of India](#), 1980 (2) SCR 1072; [Frances Coralie Mullin v. W.C. Kharnbra and Others](#), 1980 (2) SCR 1095; [Smt. Ichhu Devi Chararia v. Union of India](#), 1981 SCR 640; [Pritam Nath Hoon v. Union of India](#), 1981 (1) SCR 682; [Shri Tushar Thakkar v. Union of India](#), 1980 (4) SCC 499; [Lallubhai Jogibhai Patel v. Union of India](#), 1981 (2) SCC 427; [Kirit Kumar Chaman Lal Kundaliya v. Union of India](#), 1981 (2) SCC 436 and [Smt. Ana Carelina D'Souza v. Union of India](#), 1981 Suppl. SCC 53.

20. It is immaterial whether the detenu already knew about their contents or not. In [Mehrunissa v. State of Maharashtra](#), CNR : KLHC010597362026 2026:KER:77913 33 WP(CRL.) NO. 1228 OF 2026 1981 (2) SCC 709, it was held that the fact that the detenu was aware of the contents of the documents not furnished was immaterial and non furnishing of the copy of the seizure list was held to be fatal. To appreciate this point one has to bear in mind that the detenu is in jail and has no access to his own documents. In [Mohd. Zakir v. Delhi Administration](#), 1982 (3) SCC 216 it was reiterated that it being a Constitutional imperative for the detaining authority to give the documents relied on and referred to in the order of detention pari passu the grounds of detention, those should be furnished at the earliest so that the detenu could make an effective representation immediately instead of waiting for the documents to be supplied with. The question of demanding the documents was wholly irrelevant and the infirmity in that regard was violative of Constitutional safeguards enshrined in [Art.22\(5\)](#)."

26. In [Smt. Gracy v. State of Kerala](#) [(1991) 2 SCC 1], which is a writ petition filed under [Article 32](#) of the Constitution of India, by the mother of the detenu seeking quashing of the detention order passed against her son under [Section 3](#) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, the Apex Court held thus;

"4. On the above facts, the question is: Whether there has CNR : KLHC010597362026 2026:KER:77913 34 WP(CRL.) NO. 1228 OF 2026 been any infraction of the guarantee under [Article 22\(5\)](#) of the Constitution as a result of Central Government's omission to consider the detenus representation independent of its consideration by the Advisory Board? The Central Government's stand is that the detenu's representation being addressed to the Advisory Board to which it was submitted during pendency of the reference before the Advisory Board, there was no obligation on the Central Government also to consider the same independently since the representation was not addressed to the Central Government.

5. The constitutional mandate in [Article 22\(5\)](#) was considered recently by a Constitution Bench in [K. M. Abdulla Kunhi and B. L. Abdul Khader v. Union of India](#), State of Karnataka (JT 1991 (1) SC 216: 1991 AIR SCW 362), in view of some conflict in earlier decisions of this Court regarding the detaining authority's obligation to consider the detenu's representation independently of the Advisory Board's duty in this behalf. The Constitution Bench held as follows: (SCC pp. 483-484, para 11):

"It is now beyond the pale of controversy that the constitutional right to make representation under Clause (5) of [Article 22](#) by necessary implication guarantees the constitutional right to a proper consideration of the representation. Secondly, the obligation of the Government to afford to the detenu an opportunity to make representation is distinct from the Government's obligation to refer the case of detenu along with the representation to CNR : KLHC010597362026 2026:KER:77913 35 WP(CRL.) NO. 1228 OF 2026 the Advisory Board to enable it to form its opinion and send a report to the Government. It is implicit in Clauses. (4) and (5) of [Article 22](#) that the Government while discharging its duty to consider the representation cannot depend upon the views of the Board on such representation. It has to consider the representation on its own without being influenced by any such view of the Board. The obligation of the Government to consider the representation is different from the obligation of the Board to consider the representation at the time of hearing the references. The Government considers the representation to ascertain essentially whether the order is in conformity with the power under the law. The Board, on the other hand, considers the representation and the case of the detenu to examine whether there is sufficient cause for detention.

The consideration by the Board is an additional safeguard and not a substitute for consideration of the representation by the Government. The right to have the representation considered by the Government is safeguarded by Clause (5) of [Article 22](#) and it is independent of the consideration of the detenus case and his representation by the Advisory Board under Clause (4) of [Article 22](#) read with [Section 8\(c\)](#) of the Act. (See: [Sk. Abdul Karim v. State of West Bengal](#), 1969 (1) SCC 433 : (AIR 1969 SC 1028); [Pankaj Kumar Chakrabarty v. State of West Bengal](#), 1970 (1) SCR 543 :

(AIR 1970 SC 97); [Shayamal Chakraborty v. Commissioner of Police, Calcutta](#), 1969 (2) SCC 426: (AIR 1970 SC 269); [B. Sundar Rao v. State of Orissa](#), 1972 (3) SCC 11 : (AIR 1972 SC 739); [John Martin v. State of West Bengal](#), 1975 (3) SCR 211 : (AIR 1975 SC 775); [S.K. Sekawat v. State of West Bengal](#), 1975 (2) SCR 161 : (AIR 1975 SC 64) and Haradhan Saha v. State of West Bengal, 1975 (1) SCR 778) (AIR 1974 SC 2154).

(Emphasis supplied)"

6. It is thus clear that the obligation of the Government to consider the representation is different and in addition to the obligation of the Board to consider it at the time of hearing the reference before giving its opinion to the CNR : KLHC010597362026 2026:KER:77913 36 WP(CRL.) NO. 1228 OF 2026 Government. Consideration of the representation by the Government has to be uninfluenced by the view of the Advisory Board. In short, the detenu's right to have the representation considered by the Government under [Article 22\(5\)](#) is independent of the consideration of the detenus case and his representation by the Advisory Board. This position in law is also not disputed before us.

9. It being settled that the aforesaid dual obligation of consideration of the detenu's representation by the Advisory Board and independently by the detaining authority flows from [Article 22\(5\)](#) when only one representation is made addressed to the detaining authority, there is no reason to hold that the detaining authority is relieved of his obligation merely because the representation is addressed to the Advisory Board instead of the detaining authority and submitted to the Advisory Board during pendency of the reference before it. It is difficult to spell out such an inference from the contents of [Article 22\(5\)](#) in support of the contention of the learned Solicitor General. The contents of [Article 22\(5\)](#) as well as the nature of duty imposed thereby on the detaining authority support the view that so long as there is a representation made by the detenu against the order of detention, the aforesaid dual obligation under [Article 22\(5\)](#) arises irrespective of the fact whether the representation is addressed to the detaining authority or to CNR : KLHC010597362026 2026:KER:77913 37 WP(CRL.) NO. 1228 OF 2026 the Advisory Board or to both. The mode of address is only a matter of form which cannot whittle down the requirement of the constitutional mandate in [Article 22\(5\)](#) enacted as one of the safeguards provided to the detenu in case of preventive detention." (Underline supplied)

27. In [Rajammal v. State of Tamil Nadu](#) [(1999) 1 SCC 417], the Apex Court, while considering the challenge against the detention of a detenu who is a lady classified as 'bootlegger' in respect of which detention order has been passed under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982, held thus:

"7. It is a constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by [Article 22](#) of the Constitution for the decision to be taken on the representation, the words "as soon as may be" in clause (5) of [Article 22](#) convey the message that the representation should be considered and disposed of at the earliest. But that does not mean that the authority is pre-empted from explaining any delay which would have occasioned in the CNR : KLHC010597362026 2026:KER:77913 38 WP(CRL.) NO. 1228 OF 2026 disposal of the representation. The court can certainly consider whether the delay was occasioned due to permissible reasons or unavoidable causes. This position has been well delineated by a Constitution Bench of this Court in [K.M. Abdulla Kunhi v. Union of India](#) [(1991) 1 SCC 476: 1991 SCC (Cri) 613]. The following observations of the Bench can profitably be extracted here:

"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."

CNR : KLHC010597362026 2026:KER:77913 39 WP(CRL.) NO. 1228 OF 2026

8. The position, therefore, now is that if delay was caused on account of any indifference or lapse in considering the representation, such delay will adversely affect further detention of the prisoner. In other words, it is for the authority concerned to explain the delay, if any, in disposing of the representation. 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 range of delay, but how it is explained by the authority concerned.

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 CNR : KLHC010597362026 2026:KER:77913 40 WP(CRL.) NO. 1228 OF 2026 file could be reached the Minister with utmost promptitude in cases involving the vitally important fundamental right of a citizen." (Underline supplied)

28. In [Sarabjeet Singh Mokha v. District Magistrate, Jabalpur](#) [(2021) 20 SCC 98], while considering an appeal filed against the judgment of the Division Bench of the Indore Bench of the High Court of Madhya Pradesh, whereby a writ petition filed under [Article 226](#) of the Constitution of India, challenging the detention order passed against the appellant under [Section 3\(2\)](#) of the National Security Act, 1980, was rejected by the High Court, the Apex Court held thus;

"46. There is absolutely no reasonable basis for explaining the circumstances in which the representation dated 18.05.2021 was not considered by the State Government until after the Advisory Board had submitted its report on 15.06.2021. As we have indicated on the basis of the precedents of this Court, the consideration of the representation by the State Government is qualitatively different from the reference to the Advisory Board. This Court, in [Ankit Ashok Jalan v. Union of India](#), (2020) 16 SCC 127: (2021) 2 SCC (Cri) 128] had held that the State Government is not bound to wait on the CNR : KLHC010597362026 2026:KER:77913 41 WP(CRL.) NO. 1228 OF 2026 Advisory Board's report before deciding the representation and must do so, as expeditiously as possible. In spite of awaiting the receipt of the report of the Advisory Board which was eventually issued on 15.06.2021, the State Government took another one month in arriving at a decision on the appellant's representation dated 18.05.2021. The State Government did not furnish any valid reasons for either of the two courses of action."

(Underline supplied)

29. In *Lamiya A.P. v. State of Kerala* [2026 KHC Online 2053], a Division Bench of this Court headed by the Hon'ble the Chief Justice, while considering a writ petition filed in respect of a detenu under the provisions of

KAA(P) Act, who was classified as 'known rowdy', held thus:

"21. There is a dual obligation on the appropriate Government and a dual right in favour of the detenu, namely, (1) to have his representation irrespective of the length of detention considered by the appropriate Government and (2) to have once again that representation in the light of the circumstances of the case considered by the Board before it gives its opinion. If in the light of that representation the Board finds that there is no sufficient cause for detention the Government has to revoke the order CNR : KLHC010597362026 2026:KER:77913 42 WP(CRL.) NO. 1228 OF 2026 of detention and set at liberty the detenu. Thus, whereas the Government considers the representation to ascertain whether the order is in conformity with its power under the relevant law, the Board considers such representation from the point of view of arriving at its opinion whether there is sufficient cause for detention. The obligation of the appropriate Government to afford to the detenu the opportunity to make a representation and to consider that representation is distinct from the Government's obligation to constitute a Board and to communicate the representation amongst other materials to the Board to enable it to form its opinion and to obtain such opinion. (See paragraph 10 of the decision in [Pankaj Kumar Chakrabarty](#) (supra))

22. In brief, there is a constitutional obligation on the State to consider the representations of detainees, irrespective of whether such representation was made before or after the reference is made to the Advisory Board and in any event, such representation cannot be kept pending till the Advisory Board decides the matter

23. The detention order thus cannot be sustained in absence of any explanation offered by the State for not considering the said representation made simultaneously, but not considered separately and only after the Advisory Board forwarded its recommendation. It is quite evident that the CNR : KLHC010597362026 2026:KER:77913 43 WP(CRL.) NO. 1228 OF 2026 Government was awaiting the report of the Advisory Board."

(Underline supplied)

30. From the judgments referred to supra, the principle that can be drawn is that the detenu has the right to submit separate representations to the Advisory Board as well as to the Government as permitted under [Section 7\(2\)](#) of the KAA(P) Act and the Government is duty-bound to consider the representations submitted by the detenu independently. The unexplained delay in considering the representation violates the constitutional safeguard guaranteed under [Article 22\(5\)](#) of the Constitution of India, making further detention of the detenu bad in the eyes of law. The Government is acting in a dual capacity as far as an order of preventive detention is concerned. When a representation is received from the detenu, its independent consideration by the Government is mandated under law. There is no necessity for the Government to wait for the opinion of the Advisory Board to consider the representation submitted by the detenu. In the instant case, as noted above, the non-consideration of Exts.P3 to CNR : KLHC010597362026 2026:KER:77913 44 WP(CRL.) NO. 1228 OF 2026 P5 representations, independently either in Ext.P2 order or by a separate order, the statutory constitutional safeguard guaranteed to the detenu is violated, and for the said reason also Exts. P1 and P2 orders are liable to be set aside.

31. While coming to the argument of the learned counsel for the petitioner that the maximum period of detention was ordered in Ext.P2 order without stating the reasons, from Ext.P2 order, we notice that it was after considering Ext.P1 order, all the relevant documents submitted before the Government and the opinion of the advisory board, the said order was issued. Therefore, it cannot be said that the period of six months was fixed in Ext.P2 order without application of mind. Hence, we find no merit in the aforesaid argument raised by the learned Counsel for the petitioner relying on the judgment dated 19.02.2024 in W.P.(Crl.)No.712 of 2023 [2024:KER:12293].

32. The upshot of the above discussion is that the impugned Exts.P1 and P2 orders are liable to be set aside for the reasons mentioned in the preceding paragraphs of this judgment, CNR : KLHC010597362026 2026:KER:77913 45 WP(CRL.) NO. 1228 OF 2026 and we do so. Consequently, the 5th respondent

Superintendent of Jail, Central Jail, Viyyur, is directed to release the detenue forthwith, if his detention is not necessary in any other case. The Registry of this Court is directed to communicate this order to the 5th respondent forthwith by e-mail.

Sd/-

ANIL K.NARENDRAN, JUDGE Sd/-

sks

MURALEE KRISHNA S., JUDGE

CNR : KLHC010597362026

2026:KER:77913

46

WP(CRL.) NO. 1228 OF 2026

APPENDIX OF WP(CRL.) NO. 1228 OF 2026

PETITIONER EXHIBITS

Exhibit P1

A TRUE COPY OF RELEVANT PAGES OF ORDER NO.

DCPKD/4228/2026-SC1 DATED 14.05.2026 OF THE 2ND RESPONDENT Exhibit P2 A TRUE COPY OF THE GO(RT).NO.2456/2026/HOME DATED 24.07.2026 Exhibit P3 A TRUE COPY OF THE REPRESENTATION DATED 29.05.2026 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT Exhibit P4 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT, DATED 18.06.2026 Exhibit P5 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT, DATED 18.06.2026