



2026:KER:77781

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W.P.(crl.)No.1247 of 2026

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

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

WP(CRL.) NO. 1247 OF 2026

CRIME NO.48/2026 OF Kumbala Police Station, Kasargod

PETITIONER:

AYISHATH RUKSANA
AGED 36 YEARS
W/O K. IBRAHIM, MOULANA HOUSE, BADRIYA NAGAR, KUMBLA
VIA MOGRAL P.O, MOGRAL, KASARAGOD DISTRICT, PIN -
671321

BY ADVS.
SRI.ANIL K.MUHAMED
SHRI.KRISHNAKUMAR G.
SHRI.AJIN SALAM
SHRI.AMITH LEO JAMES

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ADDL. CHIEF SECRETARY, HOME DEPARTMENT,
GOVT. SECRETARIAT, TRIVANDRUM,, PIN - 695001
- 2 DISTRICT MAGISTRATE AND DISTRICT COLLECTOR
COLLECTORATE, KASARAGOD DISTRICT,, PIN - 671123
- 3 DISTRICT POLICE CHIEF
OFFICE OF THE DISTRICT POLICE CHIEF, KASARAGOD, PIN -
671124
- 4 STATION HOUSE OFFICER



W.P.(crl.)No.1247 of 2026

KUMBLA POLICE STATION, KASARAGOD DISTRICT, PIN -
671321

5 THE SUPERINTENDENT
CENTRAL PRISON, KANNUR, PIN - 670004

BY ADVS.
SHRI.M.MUHAMMED SHAFI, ADDL.STATE PUBLIC PROSECUTOR
SHRI.CHETHAN KRISHNA. R, GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) WAS FINALLY HEARD ON 7.10.2026,
THE COURT ON 09.10.2026 PASSED THE FOLLOWING:

**“CR”****JUDGMENT****Muralee Krishna, J.**

This W.P.(Criminal) is filed under Article 226 of the Constitution of India by the wife of the detinue, namely, Ibrahim Kalandhar @ K. Ibrahim, S/o.Abdulla Kunhi, Kalayi House, Athur, Koyila, Kabaka Taluk, Dakshina Kannada district, Karnataka, now residing at Thayal Kodyamma, Bambrana Village, Manjeshwar Taluk, Kasaragod district, who is detained in Central Prison, Kannur, by virtue of Ext.P2 order dated 05.05.2026 issued by the 2nd respondent District Collector and District Magistrate, Kasaragod 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 20.05.2026 under Section 3(3) of the KAA(P) Act and was subsequently held to be continued in detention for a period of six months with effect from the date of detention as per Ext.P4 order of the Government dated 02.07.2026 issued under Section 10(4) of the KAA(P) Act, seeking a writ of certiorari to quash Exts.P2 and P4 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 detention in the Central Prison is illegal.

2. The pleadings and materials on record would show that for ordering preventive detention of the detainee by classifying him as a 'known rowdy', the authorities have taken into consideration six criminal cases in which the detainee was involved. The last among them is Crime No.48 of 2026 of Kumbala Police Station registered for the offences under Sections 305, 331(4) and 334(1) of the Bharatiya Nyaya Sanhita, 2023 ('BNS' for short). The incident in respect of that crime occurred on 18.01.2026, and the detainee was arrested on 23.01.2026. While the detainee was in judicial custody, Ext.P1 sponsoring report dated 13.03.2026 was submitted by the 3rd respondent District Police Chief, Kasaragod. On receipt of Ext.P1 report, Ext.P2 detention order dated 05.05.2026 was issued by the 2nd respondent, as stated above. Ext. P2 detention order was executed on 08.05.2026. Being aggrieved, the wife of the detainee is before this Court with this writ petition, contending that the detention order is illegal on



various grounds.

3. The 3rd respondent filed a counter affidavit dated 27.09.2026, opposing the averments in the writ petition and detailing the steps taken for issuing the detention order.

4. Heard Sri.Anil K. Muhamed, the learned counsel for the petitioner and Sri.Chethan Krishna R., the learned Government Pleader.

5. The learned counsel for the petitioner would submit that the detenue is a person hailing from Karnataka State and he knows only Kannada. In Ext.P1 sponsoring report as well as in Ext.P2 detention order, this aspect is clearly mentioned. Even then, no translated copies of any of the documents, including the detention order, were supplied to the detenue, which caused prejudice to him as he was denied the valuable right to submit a representation before the authorities concerned against Ext.P2 order. In support of his aforesaid arguments, the learned counsel relied on the judgments of the Apex Court in **Hadibandhu Das v. District Magistrate, Cuttack [AIR 1969 SC 43]** and **Lallubhai Jogibhai Patel v. Union of India [(1981) 2 SCC 427]**. The



learned counsel further argued that Ext.P2 order is a verbatim reproduction of Ext. P1 sponsoring report and therefore the said order is vitiated by non-application of mind. In support of his aforesaid arguments, the learned counsel relied on the judgment of this Court in **Rosily Antony v. State of Kerala [2025 KHC Online 744]**. Yet another argument addressed by the learned counsel for the petitioner against Ext.P2 detention order is that the detainee was supplied with illegible copies of some of the documents relied upon by the detaining authority, and this prevented him from making a proper representation against the detention order.

6. On the other hand, the learned Government Pleader submitted that Ext.P2 order was issued after subjective satisfaction of the necessity to issue the said detention order by the 2nd respondent, and it is not the verbatim reproduction of Ext.P1 sponsoring report, though the facts stated in Ext.P1 sponsoring report would find a place in Ext.P2 order. It is also submitted by the learned Government Pleader that all the material documents relied upon by the authorities concerned for issuing



Ext.P2 order were supplied to the detenue in a readable form and the contention raised otherwise is incorrect. As far as non-supply of translated copies of the detention order and the documents relied therein to the detenue is concerned, the learned Government Pleader submitted that the detenue was apprised of the contents of the detention order and other documents in the language known to him.

7. We have perused the materials on record and appreciated the rival submissions made at the Bar. In the instant case, to order preventive detention of the detenue, the authorities have taken into consideration six criminal cases in which the detenue has been involved. The last among them is Crime No.48 of 2026 of Kumbala Police Station, the incident of which occurred on 18.01.2026. The detenue was in judicial custody in that crime at the time of submission of Ext.P1 sponsoring report dated 13.03.2026 by the 3rd respondent. Ext.P2 order issued on 05.05.2026 was executed on 08.05.2026.

8. The main contention of the petitioner against Exts.P2 and P4 orders is that the detenue was not supplied with translated



copies of the detention order and the documents relied upon for issuing that order, in the language known to the detainee. From Ext.P1 sponsoring report and Ext.P2 detention order, we notice that the authorities have taken note of the fact that the detainee was hailing from Karnataka State and presently residing in a place of linguistic minority at Kasaragod district, and it would be appropriate to furnish him translated copies of the documents in Kannada, which is the language known to the detainee. But on perusal of the file pertaining to Ext.P2 order made available by the learned Government Pleader for our perusal at the time of hearing, we notice that neither Ext.P2 order nor the material documents relied upon for issuing that order were supplied to the detainee in the language known to him. Nowhere in that file it was endorsed by the detainee that the contents of the detention order and the documents relied therein, which are in Malayalam, were explained to him in the language known to him or that the translated copies of those documents were supplied to him. Therefore, we find force in the submission of the learned counsel for the petitioner that the valuable right of the detainee to submit



a representation against the detention order was denied to the detainee.

9. In **Hadibandhu Das [AIR 1969 SC 43]**, while considering a challenge raised against the detention order issued under Section 3(1)(a)(ii) of the Preventive Detention Act, 1950 by the District Magistrate, Cuttack, the Apex Court held that mere oral explanation of a complicated order of the nature made against the appellant without supplying him the translation in script and language which he understood would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making a representation against the order. The relevant portion of that judgement reads thus;

"6. The grounds in support of the order serve on the appellant ran into fourteen typed pages and referred to his activities over a period of thirteen years, beside referring to a large number of court proceedings concerning him and other persons who were alleged to be his associates. Mere oral explanation of a complicated order of the nature made against the appellant without supplying him the translation in script and language which he understood would in our judgment, amount to denial of the right of being communicated the grounds and of being afforded the



opportunity of making a representation against the order.

The order made by the District Magistrate, Cuttack not having been followed up by service within five days as provide by Section 7(1) of the communication to him of the grounds on which the order was made must be deemed to have become invalid and any subsequent detention of the appellant was unauthorised". (Underline supplied)

10. In **Lallubhai Jogibhai Patel [(1981) 2 SCC 427]**, the Apex Court, while considering a challenge raised against the detention order issued under Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, held that the affidavit filed by the Police Inspector stating that he had fully explained the grounds of detention to the detainee in the language known to the detainee is not a sufficient compliance with the mandate of Art.22(5) of the Constitution, which requires that the grounds of detention must be "communicated" to the detainee. In that judgement the Apex Court further held that "communicate" is a strong word. It means that sufficient knowledge of the basic facts constituting the 'grounds' should be imparted effectively and fully to the detainee in writing in a language which he understands. The relevant



portion of that judgement reads thus;

"It is an admitted position that the detenu does not know English. The grounds of detention, which were served on the detenu, have been drawn up in English. It is true that Shri C. L. Antali, Police Inspector, who served the grounds of detention on the detenu, has filed an affidavit stating that he had fully explained the grounds of detention in Gujarati to the detenu. But, that is not a sufficient compliance with the mandate of Art.22(5) of the Constitution, which requires that the grounds of detention must be "communicated" to the detenu. "Communicate" is a strong word. It means that sufficient knowledge of the basic facts constituting the 'grounds' should be imparted effectively and fully to the detenu in writing in a language which he understands. The whole purpose of communicating the 'ground' to the detenu is to enable him to make a purposeful and effective representation. If the 'grounds' are only verbally explained to the detenu and, nothing in writing is left with him, in a language which he understands, then that purpose is not served, and the constitutional mandate in Article 22(5) is infringed. If any authority is needed on this point, which is so obvious from Article 22(5), reference may be made to the decisions of this Court in *Harikisan v. State of Maharashtra* [1962 Supp (2) SCR 918 : AIR 1962 SC 911] and *Hadibandhu Das v. District Magistrate* [AIR 1969 SC 43]".

(Underline supplied)

11. In **Mortuza Hussain Choudhary v. State of**



Nagaland [2025 SCC Online SC 502], the Apex Court, while considering a challenge raised against the order of preventive detention under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, held thus;

“11. We may now refer to the Constitution Bench judgment in *Harikisan v. State of Maharashtra* [AIR 1962 SC 911] in the context of proper communication of the grounds of detention to the detenu so as to protect his/her right under Article 22(5) of the Constitution of making an effective representation against such detention. In that case, the grounds of detention were in English and the authorities asserted that the same were explained to the detenu in Hindi, a language known to the detenu, and that it would amount to satisfactory compliance. This plea was, however, rejected. The observations of the Bench in this regard read as under:

“In our opinion, this was not sufficient compliance in this case with the requirements of the Constitution, as laid down in clause (5) of Article 22. To a person, who is not conversant with the English language, service of the Order and the grounds of detention in English, with their oral translation or explanation by the police officer serving them does not fulfil the requirements of the law. As has been explained by this Court in the case of *State of Bombay v. Atma Ram Sridhar Vaidya* [(1951) SCC 43 : 1951 SCR 167]



clause (5) of Article 22 requires that the grounds of his detention should be made available to the detainee as soon as may be, and that the earliest opportunity of making a representation against the Order should also be afforded to him. In order that the detainee should have that opportunity, it is not sufficient that he has been physically delivered the means of knowledge with which to make his representation. In order that the detainee should be in a position effectively to make his representation against the Order, he should have knowledge of the grounds of detention, which are in the nature of the charge against him setting out the kinds of prejudicial acts which the authorities attribute to him. Communication, in this context, must, therefore, mean imparting sufficient knowledge of all the grounds on which the Order of Detention is based. In this case the grounds are several, and are based on numerous speeches said to have been made by the appellant himself on different occasions and different dates. Naturally, therefore, any oral translation or explanation given by the police officer serving those on the detainee would not amount to communicating the grounds. Communication, in this context, must mean bringing home to the detainee effective knowledge of the facts and circumstances on which the Order of Detention is based."

The Constitution Bench went on to affirm that, if the detainee is not conversant with the English language, in order to satisfy the requirements of the Constitution, the detainee



must be given the grounds in a language which he/she can understand and in a script which he/she can read, if he/she is a literate person.

xxx

xxx

xxx

14. Further, it is an admitted fact that neither Ashraf Hussain Choudhary nor Adaliu Chawang knew English, the language in the orders of detention and the supporting documents. They specifically raised this issue in their individual representations dated 12.06.2024. The proposals for their detention also recorded that the only languages known to Adaliu Chawang were Nagamese, Manipuri and Hindi, while Ashraf Hussain Choudhary knew Nagamese, Bengali and Hindi. However, the authorities claimed that the contents of the orders and the grounds of detention were explained to them in Nagamese and that the same would suffice. This argument must necessarily fail in the light of the law enunciated by a Constitution Bench in Harikisan [AIR 1962 SC 911]. Such oral communication, even if true, did not amount to adequate communication, in terms of Article 22(5) of the Constitution". (Underline supplied)

12. From the principles stated in the aforementioned judgments, it is clear that it is the duty of the detaining authority to supply the detention order and the material documents relied therein to the detainee in the language known to him, so as to facilitate the detainee to understand the grounds of detention and



to submit a proper representation before the authorities concerned as provided under Section 7(2) of the KAA(P) Act and Article 22(5) of the Constitution of India. Since the detainee was not supplied with the translated copy of Ext.P2 detention order and other material documents relied therein in the language known to him, the fundamental right guaranteed to him under Article 22(5) of the Constitution of India was denied to him. For the said reason, the impugned Exts.P2 and P4 orders are liable to be set aside.

13. Though the learned counsel for the petitioner argued that Ext.P2 is a verbatim reproduction of Ext.P1 sponsoring report and relied on the judgment of this Court in **Rosily Antony [2025 KHC Online 744]**, while going through Ext.P1 sponsoring report and Ext.P2 detention order, we find no merit in the said contention. It is true that almost all the facts stated in Ext.P1 are taken into consideration in Ext.P2 order. However, it cannot be said that there is no independent consideration of the facts stated in Ext.P1 sponsoring report in Ext.P2 order. When the detention order was issued based on the sponsoring report, naturally there would



have been reproduction of the material aspects stated in that report. Therefore, we find that the judgment in **Rosily Antony [2025 KHC Online 744]** is not applicable to the facts of the present case.

14. From the files pertaining to Ext.P2 order produced by the learned Government Pleader for our perusal, we notice that there is no illegibility in the documents supplied to the detainee. But, the said fact has no bearing in the present case, since we have already found hereinabove that the detainee was denied his right to submit proper representation before the authorities concerned, due to the non-supply of the detention order and the material documents relied therein to the detainee in the language known to him.

15. Having considered the pleadings and materials on record and the submissions made at the Bar, as discussed above, we find that the impugned Exts.P2 and P4 orders are liable to be set aside on the ground of non-supply of the detention order and the material documents relied therein to the detainee in the language known to him.



In the result, this writ petition is allowed by setting aside the impugned Exts.P2 and P4 orders and the 5th respondent, Superintendent of Central Prison, Kannur, is directed to release the detainee forthwith, if his detention is not required in connection with any other case. The Registry shall communicate this order to the 5th respondent by e-mail at once.

Sd/-

ANIL K.NARENDRA, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

sks



APPENDIX OF WP(CRL.) NO. 1247 OF 2026

PETITIONER EXHIBITS

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|--------------------|--|
| Exhibit P 1 | A TRUE COPY OF THE REPORT NO: 795/ SB/ KSD/2026, DATED 13/03/2026 SUBMITTED BY 3RD RESPONDENT |
| Exhibit P 2 | A TRUE COPY OF THE DETENTION ORDER NO DCKSGD/2348/2026-D1 (1) DATED 05/05/2026 ISSUED BY 2ND RESPONDENT |
| Exhibit P 3 | A TRUE COPY OF GROUNDS OF DETENTION DATED: 05/05/2026 ISSUED TO DETENU BY 2ND RESPONDENT |
| Exhibit P 4 | A TRUE COPY OF ORDER DATED 02/07/2026 IN G.O (RT) NO. 2219/2026/HOME |