IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE JOBIN SEBASTIAN

TUESDAY, THE 5TH DAY OF NOVEMBER 2024 / 14TH KARTHIKA, 1946

WP(CRL.) NO. 961 OF 2024

PETITIONER:

AALIYA ASHRAF
AGED 28 YEARS
D/O ASHRAF, FATHIMAS, CHALAD P.O,
PALLIKKUNNU, KANNUR, PIN - 670104

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

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**
KANNUR DISTRICT, PIN - 670002

3 THE DISTRICT POLICE CHIEF
KANNUR CITY, PIN - 670002

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

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

BY ADVS.
SRI.K.A.ANAS, PUBLIC PROSECUTOR.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 05.11.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"CR"

J U D G M E N T

Raja Vijayaraghavan, J.

The petitioner is the sister of Saad Ashraf ('detenu' for the sake of brevity). The detenu is undergoing detention pursuant to Ext.P1 order dated 26.07.2024 issued by the 2nd respondent under Section 3(1) of the Kerala Anti-Social Activities (Prevention) Act, 2007 ('KAAP Act' for brevity). The order was approved by the Government on 08.08.2024 and the case was referred to the Advisory Board. The Advisory Board gave its opinion on 30.09.2024 and on its basis, the detention order was confirmed by the Government on 09.10.2024. By this Writ Petition, the petitioner challenges Ext.P1 order and seeks for the issuance of a Writ of Habeas Corpus commanding the production of the body of the detenu and to set him at liberty.

Short facts:

2. The records made available before this Court reveal that the detenu was earlier detained under Section 3(1) of the KAAP Act and a detention order was passed on 26.07.2023. He underwent detention for six months from 04.08.2023 to 03.02.2024. After his release, he got involved in Crime No.35/2024 of the Excise Enforcement and Narcotic Squad, Kannur.

3. On 25.06.2024, the District Police Chief submitted a proposal seeking the initiation of proceedings. The detaining authority after arriving at the requisite satisfaction, issued Ext.P1 detention order.

4. The details of the cases in which the petitioner is involved are as under:

Sl. No.	Crime No.	Police Station	Offences involved Under Sections	Date of Occurrence	Present status of the case
1	250/2019	Valapattanam	U/s 353, 308 r/w. Section 34 IPC & Section 3(1) of PDPP Act	03.03.2019	S.C.No.185/2021 JFMC-II,Kannur
2	671/2022	Thalasseri	21(a) of NDPS Act	22.09.2022	C.C.No. 859/2023 JFMC,Thalasseri
3	314/2023	Thalasseri	U/s 21(b) of NDPS Act is altered to 29 of NDPS Act.	16.03.2023	pending
4	35/2024	Kannur Excise Enforcement & Anti Narcotic Squad	21(a) of NDPS Act	03.06.2024	Pending

5. The records reveal that a rowdy history sheet was opened against the petitioner on 10.04.2019 and after that, a request for initiation of proceedings under Section 107 of the Cr.P.C. was submitted before the SDM, Thaliparambu on 17.04.2023. In the impugned order, it is mentioned that in spite of taking all measures to curb the anti-social activities, the detenu continues to be a known goonda and is involving himself in further

prejudicial activities.

6. Sri. M.H. Hanis, the learned counsel appearing for the petitioner, advanced the following contentions:

a) After the earlier order of detention for his involvement in three cases, two of which were registered under the Narcotic Drugs and Psychotropic Substances Act of 1985, the petitioner got involved in only one subsequent crime. By referring to Section 13(2)(i) of the KAAP Act, it is urged that after his release, the detenu should be found to have been involved in an offence of the nature described in Section 2(o) of the KAAP Act, which defines a 'known goonda'. According to the learned counsel, if that be the case, for arriving at the requisite objective satisfaction, Section 2(o)(i) or (ii) of the KAAP Act should again be satisfied and the mere involvement in one crime would not suffice.

b) Crime No. 35 of 2024 is registered under section 21(a) of the NDPS Act and involves a small quantity of brown sugar weighing 400 mg. According to the learned counsel, in view of the law laid down in **Luciya Francis v. State of Kerala**[1], mere possession of a small quantity of narcotic substance cannot be construed as part of stock

[1] [2023 (5) KHC 255]

unless it is manifested with evidence of intention to sell.

c) There is serious non-application of mind by the detaining authority as it has been noted in the order that what was found in the possession of the detenu is 400 gm instead of 400 mg. It is urged that 400 gms amount to commercial quantity whereas 400 mg would only come in the category of a small quantity, which case can be closed by pleading guilty.

d) Crime No. 250 of 2019 cannot be reckoned for the purpose of classifying the detenu as a 'known rowdy'. Though Section 308 of the IPC has also been incorporated, records do not reveal that any injury was sustained by the Police Officers. The said case ought to be excluded on account of the fact that the case was registered based on a complaint made by a police officer.

f) In **Stenny Aleyamma Saju v. State of Kerala and Ors.**[2], a Full Bench has held that the filing of a final report under Section 173 (2) of the Cr.P.C. is not a pre-requisite to invoke the power under Section 3 of the KAAP Act. However, it has been clarified that mere registration of the FIR is not enough, and something more is necessary to meet the requirements under the Statute, to record the

[2] [2017 (3) KHC 517]

objective as well as subjective satisfaction. In Crime No. 314 of 2023 and Crime No. 35 of 2024, no such materials were brought to the notice of the detaining authority. The police have not yet obtained the report from the scientific lab to conclusively establish that the contraband seized was a prohibited drug.

g) It is further submitted that the detenu submitted representations dated 06.08.2024 and 14.08.2024, and his sister submitted a representation on 14.08.2024 before the Advisory Board. Though the representation dated 14.08.2024 submitted by the sister was forwarded to the Government, it was not independently considered.

7. Sri. K.A. Anas, the learned Public Prosecutor opposed the contentions advanced by the learned counsel appearing for the petitioner. Reliance is placed on the observations of this Court in **Radhika B. v. State of Kerala and Ors.**[3] and it is urged that the contention that the criteria of being classified as a 'known goonda' should again be satisfied for passing a fresh detention order cannot be sustained. It is further submitted that the principles of law laid down in **Lucia Francis** (supra) will not be attracted as the same has been clarified by this Court in **Salmath E. v. State of Kerala**[4]. The learned counsel would then submit that the mentioning of the

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[3] [2015 (2) KHC 183]

[4] [2024:KER:57787]

quantity of narcotic drug seized as 400 gm instead of 400 mg will not make any difference as the provision of law mentioned is that of possession of a small quantity. Insofar as Crime No. 250 of 2019 is concerned, it is submitted that the said crime was registered inter alia under Sections 353 and 308 of the IPC, on the allegation that on 03.03.2019, at 1.30 a.m., the petitioner drove his car and attempted to mow down the police officers and destroyed the jeep causing loss to the tune of Rs.20,000/-. Relying on the observations in **Joicy v. State of Kerala and Others**[5], it is submitted that the said crime can also be used for classifying the detenu as a 'known goonda'. It is further submitted that insofar as Crime Nos.314 of 2023 and 35 of 2024 are concerned, the entire records were furnished to the detenu and the detenu has also signed the receipt acknowledging the receipt of all records. Finally, it is submitted that the Government has examined the representation dated 14.8.2024 and the same was responded to and its fate communicated to the detenu.

8. We have considered the submissions and have perused the records.

9. The first contention advanced by the learned counsel revolves around an interpretation of Section 13 of the KAAP Act. The said provision reads as under:

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5 [2018 (1) KHC 37]

13. Revocation of detention order

1) A detention order may, at any time, be revoked or modified by the Government.

(2) The revocation or expiry of a detention order shall not be a bar for the issuance of another detention order under section 3 against the same person, if he continues to be a person falling within the definition of known rowdy or known goonda as given in section 2 (o) or section 2 (p) and if,--

(i) after release, he is, found to have, again involved in an offence of the nature described in section 2(o) or section 2 (p) on at least one instance; or

(ii) the facts, which came to the notice of the Government or the authorised officer after the issuance of the earlier detention order, considered along with previously known facts are sufficient to cause a reasonable apprehension that he is likely to indulge in or promote or abet antisocial activities; or

(iii) the procedural errors or omissions, by reason of which the first order was revoked, are rectified in the procedure followed with regard to the subsequent order, even if the subsequent order is based on the very same facts as the first order.

10. The provision allows for the issuance of another detention order against the same person even if a previous detention order has expired or been revoked. However, such an order can be passed only if -

a) He continues to be a person falling within the definition of 'known rowdy' or 'known goonda' as defined under section 2(o) or section 2(p);

b) After his earlier release by expiry or revocation, he gets involved in an offence of the nature described in section 2(o) or section 2(p) at least once;

c) New facts, considered along with previously known facts, create or cause a reasonable apprehension in the mind of the authority that the proposed detenu is likely to indulge in or promote or abet antisocial activities

d) The procedural errors or omissions that led to the revocation of the previous order are rectified in the new order, even if the subsequent order is based on the very same facts as the first order.

11. The principle behind the insertion of such a provision can be gathered from the pronouncement of the Apex Court in the Constitution Bench in **Hadibhandu Das v. District Magistrate, Cuttack**[6], wherein it was held that the revocation or expiry of the previous order cannot lead ipso facto to a revival of the detention by the passing of a fresh order, because a person who is entitled to his liberty can only be put in second jeopardy when there are additional or fresh facts against him.

12. A full Bench of this Court in **Radhika** (supra) had occasion to interpret Section 13 of the KAAP Act while considering the question as to

[6] AIR 1969 SC 43

whether **Praseetha v. State of Kerala**[7], was correctly decided. The question that arose was whether the alleged occurrences taken into consideration while passing an order of detention, which was revoked by the Government under Section 10(4) of the KAAP Act on the advice of the Advisory Board, could be counted along with the later prejudicial acts, for issuance of another detention order under Section 3 of the Act in terms of Section 13(2) thereof. After considering the statutory provisions, it was observed as under in paragraph 8 of the judgment:

> 8. When subsequent conduct of the same person results in prejudicial activity or activities reckonable in terms of the Act, that will trigger and maintain a live - link with the earlier prejudicial activities, though such earlier prejudicial activities, by themselves, would not have weighed as sufficient enough to sustain the earlier detention order. The advice of the Board in relation to an earlier detention order is only as regards the sufficiency of the cause as to that detention order, on the basis of those prejudicial activities which were reckoned to pass that particular detention order. Such advice of the Board does not purge the efficacy of those prejudicial activities or their vigor as to criminality, to exclude them from being counted when the person concerned involves in prejudicial activities subsequent to the revocation of that detention order. When those earlier prejudicial activities are followed by subsequent prejudicial activity or activities, all of them ought to be taken as a string of potent activities which will sustain with continuity of live - link for the purpose of another order of detention. If the competent authority enters satisfaction as to the requirement to issue another detention order, taking into consideration all or any of the earlier prejudicial activities

[7] 2009 (4) KHC 382

along with the subsequent prejudicial activities, there is no illegality in that. That is undoubtedly within terms of the Act.

13. As held in **Radhika** (supra), when the same individual engages in prejudicial activities after the expiry or revocation of an earlier detention order, these later actions create a continuous, "live link" with the prior activities. This link remains active, even if the initial prejudicial acts alone would not have justified a detention order at the time. This principle allows authorities to initiate steps to detain habitual offenders who continue to pose a threat, provided all legal requirements are satisfied. In other words, when subsequent prejudicial conduct follows earlier actions, the combined pattern of behavior forms a sequence of potent acts that support a continuous live link, justifying another detention order. If the competent authority is satisfied that another detention order is necessary, taking into account any or all of the previous and recent prejudicial activities, such an order cannot be held objectionable.

14. The petitioner had already been classified as a 'known rowdy' and an order of detention had been passed against him. After the expiry of the period of detention, he got involved in another crime. The only requirement is that while he continues to be a "known rowdy", he gets involved in at least one instance of an offence of the nature described in Section 2(o) or 2(p) of the KAAP Act. In the case on hand, the detenu has

got involved in another crime which entitles him to be classified as a goonda and if the detaining authority arrives at the requisite satisfaction that the new facts along with the previously known facts are sufficient to cause a reasonable apprehension that he is likely to indulge in or promote or abet antisocial activities, then the said satisfaction cannot be held as unsound. In that view of the matter, to satisfy the criteria under Section 13(2)(i) of the KAAP Act, the only requirement is that after the revocation or expiry of an earlier detention order, the individual concerned continues to be a person falling within the definition of a 'known rowdy' and he gets involved in at least one instance in an offense of the nature entitling him to be classified under Section 2(o) or 2(p) as the case may be.

15. Insofar as Crime No. 35 of 2024 is concerned, the contention is that mere possession of a small quantity of Brown Sugar cannot be construed as part of stock unless it is manifested with evidence of intention to sell. Profuse reliance is placed on the observation in **Luciya** (supra), wherein this Court had observed that the word "stocks" occurring in Section 2(i) of the KAAP Act must be in such a nature that the same is kept in possession for sale and not for personal use. We are unable to accept the contention of the learned counsel that the Brown Sugar kept in his possession has to be regarded as for personal consumption and not for sale. This question was considered by a Division Bench of this Court in **Ashraf v.**

Inspector General of Police, Kochi Range[8], wherein the same contention was raised and the same was repelled by holding as under:

> 2. …….The allegations against the petitioner in those cases, as rightly noted by the Advisory Board, fall squarely under S.2(i), S.2(j) and consequently under S.2(o)(ii) of KAAPA. Noticing the substance of the allegations of those cases, the plea of the petitioner that mere possession would not attract those provisions was rightly repelled by the Advisory Board. 'Possession' is necessarily an inseparable component of any or all of the activities of stocking, transportation, sale or distribution. Hence, the mere absence of the word 'possession' in the definition of the term 'drug - offender' in KAAPA is not decisive to exclude a person found to be in possession of any drug in contravention of the Narcotic Drugs and Psychotropic Substances Act or in contravention of any other law for the time being in force, from the ambit of 'drug - offender' as defined in S.2(i) of KAAPA and therefore from the purview of the terms 'goonda' and 'known - goonda' defined respectively in Clauses (j) and (o) of S.2 of KAAPA. This is the law. The petitioner's plea that in the absence of the word 'possession' in those definition clauses, he cannot be covered by a restraint order under KAAPA has, therefore, been rightly repelled by the Advisory Board.

16. The very same issue had cropped up for consideration before this Court in **Ansar T.A. V. State of Kerala and Ors.**[9], and after noticing the observations in **Ashraf** (supra) had observed as follows in paragraph No. 8 of the judgment:

> "8. ……In the solitary case registered under S.27 of the Arms

[8] [2014 (3) KHC 695]
[9] [2017 (2) KHC 413]

> Act, the allegation is that he was found consuming ganja in the open. We are unable to accept the contention of the counsel that the aforesaid crimes cannot be taken into account to characterize the petitioner as a "known goonda". The contention appears to be that possession of ganja is not included in S.2(i) of the KAAPA which defines a drug offender and in that view of the matter, he cannot be termed as a goonda. We are unable to agree. S.2(i) of the KAAPA clearly defines a "drug offender" as one who illegally cultivates, manufactures, stocks, transports, sells or distributes any drug in contravention of the NDPS Act, 1985 or in contravention of any other law for the time being in force, or who knowingly does anything by abetting or facilitating such activity. Being found in possession of a narcotic drug would definitely attract the vice of S.2(i) of the KAAPA, as the definition is couched in such wide language. Even a person who acts in contravention of any other law relating to Narcotic Drug or a person who abets or facilitates activity in drugs will fall within the ambit of the term "drug offender" as defined. Further, each of the activity in S.2(i) of the KAAPA would take in possession of the Narcotic Substance as well. As held by this Court in Ashraf v. Inspector General of Police, 2014 (3) KHC 695, the mere absence of the word "possession" in the definition of the term "drug offender" in KAAPA is not decisive to exclude a person found to be in possession of any drug in contravention of the NDPS Act, 1985 or any other law for the time being in force. We are therefore not impressed with the said contention and the same is rejected."

17. Brown Sugar cannot be legally possessed by the individual for his own consumption as its possession is prohibited under law. In that view of the matter, the contention of the learned counsel that the petitioner was possessing Brown Sugar for his own use and the same cannot be reckoned

for initiating proceedings against him cannot be accepted as held by this Court in **Salmath** (supra).

18. Insofar as the error in mentioning the quantity of Brown Sugar as 400 gm instead of 400 mg is concerned, no prejudice can be said to have been caused, as it is clearly mentioned that the provision applicable is 21(a) of the NDPS Act, which penalises the possession of a small quantity of drugs. Furthermore, the impugned order will not reveal that the detaining authority proceeded on the basis that commercial quantity of drugs were seized from the possession of the detenu.

19. The next contention is that Crime No. 250 of 2019 cannot be reckoned for the purpose of classifying the detenu as a 'known rowdy'. The allegation in Crime No.250 of 2019 is that on 3.3.2019 at 1:30 Hours, while the police party was on night patrolling duty, the accused, which included the detenu, drove the car towards the police jeep with intent to kill the police personnel and damaged the Jeep causing loss to the tune of Rs.20,000/-. The offences alleged include Sections 353 and 308 of the IPC. It needs to be reiterated that the disqualification envisaged under Section 2(p)(iii) of the KAAP Act for the cases arising out of complaints initiated by police officers has no applicability for those cases where the police officers figure as complainants due to the mere reason that the criminal law is set into motion at their instance if the crime is one in which they are not having

any personal grievance against the accused. Thus, if the crime is in respect of the obstruction caused to the discharge of the official duty of the Police Officer or assault committed upon a Police Officer with the intention to deter him from discharging his official duty, as envisaged under Sections 353 or 332 of the Indian Penal Code, it cannot be classified as a case where the Police Officer concerned is having a personal grievance against the accused. Such cases will not come under the exclusion of complaints initiated by Police Officers, envisaged under Section 2(p)(iii) of the KAAP Act. On the other hand, if the case is one registered on the basis of a complaint of a Police Officer that he has been assaulted by an accused as a result of the personal enmity of the accused with him in connection with some issues which have no direct nexus with the discharge of official duty of that Officer, then such cases which originated on the basis of the complaint of the Police Officer, may come within the purview of the exclusion envisaged under Section 2(p)(iii) of the KAAP Act (See **Farsana v State of Kerala** [10]).

20. A Division Bench of this Court had the occasion to consider this aspect in **Joicy** (supra), wherein it has been held in paragraph No.12 of that judgment as follows:

> "12. Of - course, in these two crimes, the de facto complainants are the Assistant Sub Inspectors of Police. The complaints were preferred by them as they sustained injuries in the attack by the detenu

[10] [2024:KER:58715]

and the co - accused and they had given statements while undergoing treatment in the hospital. It is significant to note that the injured though Police Officers are the two victims in the attack by the detenu. They are two individuals / human beings. Just because of the fact that they are Police Officers, they do not cease to be human beings. The provisions of this Act will no way curtail the rights of the Police Officers. At no stretch of imagination it could be construed that the words employed in Section 2(p)(iii) that "complaints initiated by persons other than Police Officers" would mean that when Police Officers are attacked and complaints are registered against the assailants those cases shall not be reckoned for passing an order under Section 3 of KAAPA for issuing detention order against the persons who are repeatedly indulging in criminal activities causing threat, fear, nuisance and disturbance to the society at large. In fact, the Police Officers are in a better position than ordinary citizen as they were prevented from discharging their official duty. In the course of that they sustained injuries. The argument advanced by the learned counsel for the petitioner, if accepted, would mean that even if Police Officers are assaulted any number of times, the assailants could not be brought to book under the KAAPA. The intention of legislature could never be so. Clause (iii) of Section 2(p) of KAAPA would only indicate misuse of powers by Police Officers and to safeguard the interest of detenu. It appears that in both these incidents while the detenue along with the co - assailants were creating threat and fear in the public, the duty bound police personnel attempted to prevent them and avert causing terror and threats to public at large by them and tried to maintain law and order at the respective places, but they were wrongfully attacked with deadly weapons and attempted to murder them. In fact, the records would indicate that the detenu is a dangerous person, who is involved in prejudicial activities and will not spare even Police Officials who are supposed to protect law and order situation for the welfare and security of the general public, which is of prime

> importance and that the detenu is a person who has no respect towards law and order. The embargo in Section 2(p) (iii) of KAAPA does not mean to say that complaints lodged by Police Officers who sustained injuries in an attack by the detenu, which resulted in launching of prosecution against the assailants cannot be reckoned to pass a detention order to bring them under the definition of known rowdy or Known goonda. The intention of legislation could only be to avoid or prevent misuse or exploitation of the powers of Police personnel and it could never be to discard the complaints of Police Officers when they themselves become victims in the attack by such miscreants which is quite often now a days. So, it is not correct to conclude that these two crimes could not be reckoned so as to bring the detenu within the sweep of Section 2(p)(iii) of KAAPA and consequently to pass an order under Section 3 of KAAPA. So at any cost, it cannot be construed that the detaining authority with non - non-application of mind disregarded the provisions of the Act and passed the order of detention against the detenu. A hyper-technical approach is not possible, though preventive detention is preventive and not punitive."

In that view, the interdict contained in Section 2(p)(iii) of the KAAP Act would not be attracted in every case where Police Officers are the complainants.

21. The next contention is with regards to Crime No. 314/2023 and Crime No.35/24 registered under the NDPS Act, 1985. In both these cases, the detenu was allegedly found in possession of Brown Sugar and the seizure was made in the presence of independent witnesses. The contention appears to be that the mandate of law laid down in **Stenny Aleyamma** (supra) has not

been complied with. Both these crimes are under investigation. The Full Bench in **Stenny Aleyamma** (supra) had held that unlike the case of 'punitive detention' where the purpose is to punish the offender on proving the guilt; in the case of 'preventive detention', it is only a prudent action to prevent the possible damage which could be caused to the 'public order' and the society at large. As such, it has to be prevented at the earliest opportunity. The detaining authority, who is mulcted with the duty in this regard, cannot wait for the completion of the investigation and submission of the final report under Section 173(2) of Cr.P.C. to invoke the jurisdiction, keeping its eyes shut till such time; which otherwise will only be an instance of dereliction of duty. The only requirement is that he should be in a position to record the 'satisfaction' with regard to the requirements under the Statute, based on the information made available, whether it be a final report or other materials. It was held that mere registration of FIR is not enough under such circumstances. If the data collected in such a process is adequate enough to meet the requirements under the Statute, so as to record the 'objective' as well as 'subjective satisfaction' to the extent it is necessary, it is open for the detaining authority to have it acted upon and need not wait till completion of the investigation and submission of the charge sheet under Section 173(2) of the Cr.P.C. In the case on hand, we are satisfied that the detaining authority had arrived at the

requisite satisfaction based on materials available that the issuance of an order of detention was necessary to curb the activities of the detenu.

22. The last contention is with regard to non-consideration of the representation dated 14.8.2024 submitted by the sister to the Advisory Board. In the confirmation order, the representation dated 06.08.2024 and 14.08.2024 submitted by the detenu, representation dated 14.08.2024 submitted by Smt. Aliya Ashraf and representation dated 25.09.2024 submitted by the counsel before the Advisory Board have been referred as item Nos. 5, 6 and 7. In the confirmation order, it has been mentioned that the representations submitted by and on behalf of the detenu have been considered. The records also reveal that the representations submitted by and on behalf of the detenu have been considered and their fate communicated.

23. It is well settled that subjective satisfaction entertained by the detaining authority is not justiciable. This Court does not sit in appeal in proceedings under Article 226 of the Constitution of India over the decisions taken by the detaining authority on the basis of the materials placed before the detaining authority as to whether preventive detention is necessary or warranted. The short area of jurisdiction is to ascertain whether subjective satisfaction is entertained properly on the basis of materials placed before the detaining authority. If the entertainment of the latter, subjective

satisfaction is vitiated by mala fides or by a total absence of materials or by reference to and reliance on materials which cannot legally be taken note of, certainly the powers of judicial review vested in this Court can be invoked and the order of detention on the basis of such alleged subjective satisfaction can be set aside. But, certainly, if there are materials, it is not open to this Court to sit in appeal over the subjective satisfaction entertained by the detaining authority. (See: **Ibrahim Bachu Bafan and Another v. State of Gujarat and Another**[11]).

24. Having considered the entire facts, we are of the view that the detenu has not made out any case for interference.

This Writ Petition is dismissed.

Sd/-
RAJA VIJAYARAGHAVAN V
JUDGE

Sd/-
JOBIN SEBASTIAN
JUDGE

PS/04/11/24

[11] [1985 (2) SCC 24)]

APPENDIX OF WP(CRL.) 961/2024

PETITIONER EXHIBITS

Exhibit - P1	**A TRUE COPY OF THE ORDER NO.DCKNR/8342/2024-SS1 DATED 26.07.2024 OF THE 2ND RESPONDENT**
Exhibit - P2	**A TRUE COPY OF THE REPRESENTATION DATED 14.08.2024 SUBMITTED BEFORE THE 1ST RESPONDENT**
Exhibit - P3	**A TRUE COPY OF THE POSTAL ACKNOWLEDGMENT CARD EVIDENCING THE RECEIPT OF EXT P2**
Exhibit - P4	**A TRUE COPY OF THE REPRESENTATION DATED 14.08.2024 SUBMITTED BEFORE THE 4TH RESPONDENT**
Exhibit - P5	**A TRUE COPY OF THE POSTAL ACKNOWLEDGMENT CARD EVIDENCING THE RECEIPT OF EXT P4**