

(2009) 10 KL CK 0049

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 365 of 2009 (S)

Soja Beegum

APPELLANT

Vs

Additional Chief Secretary to Govt., Home Dept. and Others

RESPONDENT

Date of Decision : 15-10-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 82, 83, 84, 85, 86

Kerala Anti-Social Activities (Prevention) Act, 2007 — Section 10(4), 12, 3, 3(1), 3(2)

Citation : (2010) CriLJ 1636

Hon'ble Judges : R. Basant, J; M.C. Hari Rani, J

Bench : Division Bench

Advocate : M. Rajagopalan Nair and G. Biju, for the Appellant; K.K. Ravindranath, A.D.G.P., for the Respondent

Final Decision : Allowed

Judgement

R. Basant, J.—Does the yawning gap of time between the order of detention u/s 3(3) and the execution of the same u/s 4 of the Kerala Anti Social Activities (Prevention) Act, 2001 (hereinafter referred to as the KAAPA) justify the prayer for invalidation of detention? This is the main question that arises for consideration in this writ petition.

2. To the fundamental facts first. The petitioner is the wife of the detenu, Murukan by name. Reckoning him as a known rowdy, Ext. P3 order of detention was passed by the District Magistrate (2nd respondent) on 31-3-2008. He was allegedly involved in three different cases, which were pending trial before two Courts. The order of detention was executed on 5-8-2009. Consequently the detenu continues to be under detention. Orders u/s 3(3) and Section 10(4) of the KAAPA have been passed/approving and confirming the detention.

3. We have heard the learned Counsel for the petitioner Sri. M. Rajagopalan Nair and Sri K. K. Ravindranath, learned Additional Director General of Prosecutions. The learned Counsel for the petitioner assails the impugned order on various grounds. But, we are satisfied that it is necessary to advert only to two grounds

raised by the learned Counsel for the petitioner. They are:

- (1) the inordinate delay in executing the warrant must in the absence of sufficient and reasonable cause lead to invalidation of the detention.
- (2) There has been fatal delay on the part of the delegate District Magistrate in forwarding the report u/s 3(3) of the KAAPA.

4. Ground No. 1 : The third respondent, a superior police officer submitted a report dated 22-12-2007 to the second respondent sponsoring the detention of the detenu u/s 3 of the KAAPA. On the basis of that report, Ext. P3 order of detention was passed by the second respondent on 31-3-2008. The detenu was detained on the ground that he is a known rowdy. Three cases relating to incidents which took place on 11-10-2002, 1-8-2004 and 3-4-2007 have been charge-sheeted and were pending against him before two different Courts. After passing the order of detention dated 31-3-2008. the order was not executed till 5-8-2009. According to the learned Counsel for the petitioner, this gap of about 16 months between the date of the order and the execution of the order of detention affects the validity of detention. According to the learned Counsel for the petitioner, there is absolutely no justifiable reasons for the delay in execution of the order of detention. It affects the alleged entertainment of the requisite satisfaction to detain the detenu and exposes the fact that there was no need at all to detain him.

5. The learned Counsel points out that preventive detention must be distinguished from punitive detention. In a case of punitive detention the person, who deserves such detention, must necessarily undergo such detention/confinement whatever be the time at which he is arrested and detained. But so far as preventive detention is concerned, it is qualitatively different from punitive detention. The law of preventive detention has been described as the jurisprudence of suspicion. Anticipation about the probable contumacious conduct, which the detenu may indulge in future, of course, on the basis of the past events, is the foundation for an order of preventive detention. u/s 12 of the KAAPA, the maximum period of detention permissible is six months. The foundation of an order of detention u/s 3 of the KAAPA is the perception of the possible contumacious conduct during the next six months from the date of passing the order. In these circumstances, the very foundation of the necessity for detention will be lost, if the authorities do not show eagerness to execute the warrant of arrest. Executing warrant of arrest beyond the period of six months is really unnecessary as the perception of the detaining authority is evidently the possibility of contumacious behaviour during six months to follow the date of the order. The learned A. D. G. P. points out and the learned Counsel for the petitioner accepts that if there be an objectionable conduct on the part of the detenu to evade execution of the warrant of arrest and make himself scarce, such a detenu cannot obviously take advantage of the delay in execution. This question has come up for consideration before various Courts and it is unnecessary for us to advert to the various decisions in detail. Suffice it to say,

the learned Counsel have drawn our attention to the following decisions of this Court and the Supreme Court.

- (1) T.A. Abdul Rahaman Vs. State of Kerala and others, paragraph 12);
- (2) K.P.M. Basheer Vs. State of Karnataka and another, paragraph 11;
- (3) Manju Ramesh Nahar Vs. Union of India and Others, paragraphs 7 and 8;
- (4) Bhawarlal Ganeshmalji Vs. State of Tamil Nadu and Another, paragraph 6;
- (5) Lekha Nandakumar Vs. Government of India, paragraph 6;
- (6) M. Ahamedkutty Vs. Union of India (UOI) and Another, paragraphs 12 and 13;
- (7) Mrs. Assia Vs. State of Kerala and Others, paragraph 6.

6. It may not be necessary for us to advert to the relevant passages in these decisions in detail. But, there can be no difficulty in identifying the correct law. Paragraph 6 of the decision in Assia (supra) 2000 (1) KLT 673 perhaps contains the quintessence of law on this aspect. That was a case of detention under the COFEPOSA Act. We extract the same.

6. In view of the above object of preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to be very vigilant and keep their eyes skinned but not to turn a blind eye in securing the detenu and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority will defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate entire proceedings. There must be a live and proximate link between the grounds of detention alleged by the detaining authority and avowed purpose of detention, namely, prevention of smuggling activities. The link is snapped if there is long and unexplained delay between date of order of detention and arrest of detenu. In such cases, an order of detention can be struck down unless grounds indicate a fresh application of mind of the detaining authority to the new situation and changed circumstances. But where delay is not only adequately explained but is found to be the result of recalcitrant or refractory conduct of detenu in evading arrest, there is warrant to consider the link not snapped but strengthened. (See Bhawarlal Ganeshmalji Vs. State of Tamil Nadu and Another, . Whether delay was unreasonable or not depends on the facts and circumstances of each case. If there is unreasonable delay between date of order of detention and date of arrest of detenu, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing detention order and consequently render detention order bad and invalid because the live and proximate link between grounds of detention and the purpose of detention is snapped in not arresting detenu.

(Emphasis supplied)

7. The short question that remains to be considered is whether the long gap of time from 31-3-2008 to 5-8-2009 between the order and the consequent detention is justified or not. It will also have to be considered whether there was any recalcitrant or refractory conduct on the part of the detenu which resulted in such delay in execution.

8. Detention is ordered on the basis of three cases. In all the three cases, prosecution was pending and the accused was on bail granted by the Courts. Exts. P7, P8 and P9 are certified copies of the proceedings paper of the Courts, which show the sequence of events that had taken place in those three cases. The learned Counsel for the petitioner points out and we on verification find that between 31-3-2008 and 5-8-2009, the detenu had appeared before the Courts concerned on 12-12-2008, 21-3-2009, 21-4-2009 and 8-7-2009 (See Ext. P7), 4-3-2009, 12-5-2009 and 10-7-2009 (see Ext. P8) and 11-7-2008, 25-11-2008 and 6-12-2008 (see Ext. P9). Thus it is seen that during the relevant period as many as on ten different occasions the detenu had appeared before the Courts concerned where the prosecutions against him were pending. It will be apposite to note that such appearances were in the very three cases which were relied on by the detaining authority to justify the preventive detention of the detenu.

9. The learned A.D.G.P. contends and there are averments to that effect in the counter affidavits filed by the respondents, that the detenu was absconding during the relevant period and he had made himself scarce. It became impossible to execute the warrant against him. But all these contentions fall to the ground when we note that the detenu was faithfully appearing before the Courts where the prosecutions were pending in these very cases, in as many as 10 intervening dates. In these circumstances, we do not find much merit in the contention that it was the detenu who made it impossible to execute the warrant of arrest. No better materials are placed before this Court to come to a conclusion that there was any contumacious conduct on the part of the detenu, which made execution of the warrant impossible.

10. It is contended that the authorities concerned had taken all reasonable steps to ensure that the detenu is arrested. Elementary prudence must have suggested to the detaining and executing authorities that the best place to locate the detenu would be the Courts in which the three cases in which he was enlarged on bail were pending. He was on bail in such cases and he was bound to appear before such Courts. If he were not appearing in such cases, the Courts concerned could have been apprised of the facts and could have been requested to procure the presence of the detenu by initiating proceedings against the sureties. It passes one's comprehension as to why the detaining and executing authorities did not look for the detenu in these three cases in the Courts concerned. If it were to be said that they omitted to take into account this possibility and the opportunity, that clearly shows that there was no reasonable and worthwhile attempt to trace the detenu. No serious attempt occurred to execute the warrant, it is evident.

11. The learned A.D.G.P. contends that the needful had been done u/s 6 of the KAAPA by the authorities. A report u/s 6(1)(a) had been made. Section 6 deals with the procedure to be followed to execute the warrant against an absconding person. We extract the same below:

6. Powers in relation to absconding persons:

(1) If the Government or an officer authorised under Sub-section (2) of Section 3 has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Government or such officer may,-

(a) make a report in writing of the fact to a Chief Judicial Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides;

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(2) On making a report against any person under Clause (a) of Sub-section (1), the provisions of Sections 82, 83, 84, 85 and 86 of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply in respect of such person and his property as if the detention order made against him is a warrant issued by the Magistrate.

(3) If any person fails to comply with an order issued under Clause (b) of Sub-section (1), he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his whereabouts, or failed to prove that he could not inform the officer mentioned in the order, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

12. The file which has been placed before us shows that a letter dated 25-11-2008 was addressed by the second respondent to the learned Chief Judicial Magistrate. The said report is made for the information of the learned Chief Judicial Magistrate. Significantly in that letter dated 25-11-2008 it is not reported to the learned Chief Judicial Magistrate that the accused is on bail in the three cases or that the bail must be cancelled or the sureties must be directed to ensure the presence of the accused before the Courts concerned to facilitate arrest and detention of the accused. The mandate of Section 6(1)(a) has been mechanically and ritualistically complied by submitting a report; but unfortunately a real intention to take necessary steps to procure the presence of the detainee cannot be deciphered from the letter dated 25-11-2008 submitted u/s 6(1)(a) of the KAAPA. Section 6(2) stipulates what a Chief Judicial Magistrate or a Magistrate to whom report is made u/s 6(1)(a) is to do. He is to take necessary action under Sections 82 to 86 of the Cr. P.C. Significantly in the letter

dated 25-11-2008, no such action is solicited. The learned Chief Judicial Magistrate has not even been informed that the three cases are pending trial before the Courts or that the detenu is on bail in those cases.

13. It is then contended that the District Magistrate had issued a proclamation u/s 82 of the Cr. P.C. A copy of that proclamation dated 6-12-2008 is produced for our perusal. We are unable to agree that it was for the District Magistrate to issue a proclamation u/s 82 or to take any action under Sections 82 to 86. The language of Sections 6(1) and 6(2) makes it clear that when a report is made to the Judicial Magistrate, it is for him to take necessary action u/s 6(2). Such action has not been solicited and, in these circumstances, the mere issue of a proclamation by the 2nd respondent dated 6-12-2008 cannot lead this Court to the conclusion that all necessary steps have been taken by the detaining authority to secure the presence of the detenu.

14. That proclamation is seen later published in the gazette dated 27-1-2009. This is said to be u/s 6(1)(b). Here again, we must note that Section 6(1)(b) does not at all refer to any proclamation; but it refers to an order to be passed by the District Magistrate in the official gazette to direct the proposed detenu to appear before such person, at such place and at such time as may be directed in the order. The gazette dated 27-1-2009 does not specifically reveal that an order u/s 6(1)(b) was passed. What is published in the gazette is only a copy of the proclamation dated 6-12-2008. We do not take this inadequacy as crucial or vital as the proclamation also contains a specific direction about the time, place and authority before whom the detenu was expected to surrender. But it cannot be lost sight of that the said publication is made only on 27-1-2009 and the said proclamation is dated 6-12-2008. The belated proclamation dated 6-12-2008 and the publication of the same in the gazette dated 27-1-2009 do not appeal to us as sufficient to show a real and reasonable attempt to secure the arrest of the detenu. They appear to be only belated ritualistic attempt to comply with the letter of the law. They do not reveal any real and reasonable attempt to procure arrest. The fact that no steps were taken u/s 6(3) till 5-8-2009 does also perhaps reveal the want of seriousness in the pursuit to arrest the detenu.

15. The sequence of events narrated above clearly show that there has been unsatisfactory and contumacious laches on the part of the detaining and executing authorities to execute the order of detention dated 31-3-2008 till 5-8-2009. We are unable to agree that any part of this delay was specifically contributed by, the detenu. It follows therefore that in tune with the dictum in the cases referred above, the detenu is entitled to take advantage of that unexplained and unsatisfactory gap of time. He can contend that really his preventive detention was not necessary and the authorities were really not earnest in taking the decision that he deserves to be detained.

16. As to what gap of time would be crucial or costly, there can be no rigid standards. In fact, a perusal of the decisions referred above as also the other decisions show that even a gap of time of 1 1/2 months had been held to be fatal

in some cases whereas in some other cases even the gap of three years has been held to be not fatal. The significance and the consequence of the delay must vary from facts to facts. In the instant case, what appeals to us particularly is the fact that the detaining and executing authorities must have known that the detenu, who was on bail in only three cases relied on by the detaining authority, can easily be located in the Courts on the date of posting or in the alternative the Courts concerned could have been requested to insist on the presence of the detenu. Such Courts could have been prevailed upon to insist that the detenu must appear and his sureties must produce him before such Courts. On the contrary, we find that even when he actually appeared, no effort was made at all to arrest the detenu.

17. The learned Additional Director General Prosecutions contends that it was an omission on the part of lower level functionaries. Action is being initiated against the Court duty constables who did not take necessary action to apprehend the detenu. Wisdom appears to have dawned very late and we are unable to agree that such alleged subsequent action contemplated is sufficient to efface the effect of the contumacious laches in taking reasonable steps to procure the arrest of the detenu from 31-3-2008 to 5-8-2009.

18. The learned Additional Director General of Prosecutions points out that there was wilful disobedience of Section 6(1)(b) notification of the official gazette dated 27-1-2009 as the detenu had made himself available for arrest only on 5-8-2009. Within one month of the notification, he is expected to appear before the authorities and he having not done the same, he is not entitled to raise a grievance that there has been delay in executing the warrant against him. For seven long months after the publication, he had made himself scarce and it must hence be held that there is contumacious laches on the part of the detenu which must deny him any advantage flowing from the delay in execution of the warrant. The learned Counsel for the petitioner, in this context, submits that even in a prosecution u/s 6(3), it is a recognised defence for the detenu that he could not comply with the orders for reasons beyond his control. The detenu had no intention of making himself scarce after the alleged notification dated 27-1-2009 and this can be seen evidently from the fact that he has been appearing before the Courts on as many as six occasions during the period from 27-1-2009 to 5-8-2009. We find force in that submission. Even after the gazette notification, there is nothing to indicate that the detenu was absconding. The fact that he had appeared before the Courts concerned without any intention to conceal himself during the period on as many as six occasions (27/1/2009 to 5/8/2009) is a strong indication of such absence of intention to abscond on the part of the detenu. In this context we note again that no action was taken u/s 6(3) by the authorities till 5-8-2009.

19. We are, in these circumstances, satisfied that the benefit or advantage of such inordinately delayed execution of the order of detention must certainly be conceded to the detenu in the facts and circumstances of this case. The

challenge on the first ground succeeds.

20. Ground No. 2 : In the light of our finding under Ground No. 1, we do not find it necessary to delve deeper into this ground of challenge. But it appears to us that it is necessary to advert to the said contention to clarify certain earlier observations made by us in the decision in *Aarifa Beevi Vs. State of Kerala and Others*, . It is hence that we briefly refer to this ground.

21. The impugned order of detention was passed on 31-3-2008. The contention is that the obligation to forward the copy of the order along with supporting documents enjoined u/s 3(3) has not been properly complied. The sequence of events show that the order was passed on 31-3-2008. It was not forwarded to the Government earlier. It was forwarded only on 11-8-2009 after the apprehension and detention of the detenu. The same was received by the Government admittedly only on 13-8-2009. The learned Counsel argues that there is unexplained delay and the mandate of Section 3(3) that the order along with the records must be forwarded forthwith has been breached. It will be advantageous straight away to extract Section 3(3) of the KAAPA.

3(3) When any order is made under this section by the authorised officer under Sub-section (2), he shall forthwith report the fact to the Government and the Director General of Police, Kerala, together with a copy of the order and supporting records which, in his opinion, have a bearing on the matter and no such order shall remain in force for more than 12 days, excluding public holidays, from the date of detention of such Known Goonda or Known Rowdy, unless, in the meantime, it has been approved by the Government or by the Secretary, Home Department if generally so authorised in this regard by the Government.

(Emphasis supplied)

22. The power u/s 3(1) primarily is on the Government to pass an order of detention. A delegate of the Government u/s 3(2) can also pass such an order u/s 3(1). But where a delegate passes an order, in-built mechanism is prescribed to make sure that the delegate/District Magistrate passes a proper order. This is ensured by the mandate that copy of the order along with all supporting documents must be forwarded forthwith to the Government i.e. the principal who has delegated the responsibility and the order shall have life thereafter only if approval of the Government is secured within a stipulated period of time. The stipulated period is before expiry of 12 working days from the date of detention. The learned Counsel argues that the salutary object of Section 3(3) will be defeated if there is no immediate communication of the order and the supporting documents, to the Government. According to the learned Counsel for the petitioner, it is not necessary for the Government to wait till the order of detention is executed. At any time after the report is received, the Government can consider the question of grant of approval; but at any rate, the approval must be granted within a period of 12 days from the date of detention excluding public holidays. The learned Counsel contends that the outer limit of 12 working

days prescribed from the date of detention, cannot justify conduct of the delegate/District Magistrate not forwarding the order and the supporting documents immediately after the order is passed. The learned Counsel further contends that the outer time limit prescribed for the Government to grant approval or refusal will not also justify the Government delaying the decision on the question of approval indefinitely. The date of detention is relevant only to fix the outer limit within which the order of approval must be passed u/s 3(3), It does not at all say that the Government need not consider the question of grant of approval till the date of detention. The learned Counsel contends that in an appropriate case, even before the detenu is detained in execution of the order, the Government has the duty to consider the question of approval and refuse approval for the proposed detention and thus absolve the detenu of the obligation to unnecessarily get detained and then get released. The learned Counsel contends that in this case, the order of detention was passed on 31-3-2008 and even giving the most elastic of meanings for the expression "forthwith" in Section 3(3), it must be held that in forwarding the order and supporting documents to the Government only on 11-8-2009 (after detention on 5-8-2009) this mandate of Section 3(3) has been breached. We have no hesitation to agree with the learned Counsel for the petitioner that the expression "forthwith" must have relevance and nexus to the date of making the order and not the date of detention. The language of Section 3(3) which we have extracted above makes it clear that "forthwith" refers to and has nexus with the anterior point of time of making the order u/s 3(1) and not detention later on. In this context, the learned Counsel submits that this Court had not adverted to this specific aspect in *Aarifa Beevi Vs. State of Kerala and Others*, in paragraph 10 when it observed that the District Magistrate has to forward the order of detention and records only after the report of arrest is received by the District Magistrate. We extract the relevant paragraph 10 in *Aarifa Beevi Vs. State of Kerala and Others*, .

10. We are unable to agree that any particular number of days can be held to be crucial or vital while understanding the expression "forthwith" in Section 3 of the KAAPA. The purpose is obvious that after receipt of the report by the Government, order regarding approval u/s 3(3) of the KAAPA has to be passed within 12 days of the date of detention. That having been complied with in letter and spirit in this case, there can be no grievance that there has been a fatal delay in submission of the report u/s 3(3) of the KAAPA by the authorised officer to the Government. The statutory insistence on the District Magistrate forwarding the order of detention and records to the Government has a salutary purpose to achieve and that is grant of approval or refusal of approval by the Government within a period of 12 days. When that requirement is met, it would be a futile exercise to count the number of hours/days to decide whether the order of detention has been forwarded on the same day or on a later day. The expression "forthwith" undoubtedly means immediately and the District Magistrate must comply with the requirement strictly in letter and spirit. But while considering

whether there is any fatal infraction justifying invalidation, the expression "forthwith" must receive a construction in tune with the purpose that such expeditious despatch must achieve. The arresting officer has to report to his superior and the information regarding detention must reach the District Magistrate who has thereafter to forward the order of detention and records to the Government u/s 3(3) of the KAAPA. The expression "forthwith" definitely must accommodate all these compulsions and circumstances. The challenge raised on ground No. 2 must, in these circumstances, fail.

The specific portion to which objection is raised has been emphasised by underlining.

23. We are in complete agreement with the learned Counsel for the petitioner that the said observations were made by this Court overlooking the specific language of the statutory provision in Section 3(3). It is certainly incorrect to assume that the obligation to forward the order and the records forthwith to the Government will start only from the date of detention or the date on which the report of execution reaches the District Magistrate. To that extent, the observation in paragraph 10 of *Aarifa Beevi Vs. State of Kerala and Others*, that "the arresting officer has to report to his superior and the information regarding detention must reach the District Magistrate who has thereafter to forward the order of detention and records to the Government u/s 3(3) of the KAAPA" is incorrect. The same is rendered without reference to the specific language of Section 3(3). Since the same has been rendered overlooking the specific language of Section 3(3), that cannot operate as a precedent.

24. Having said so, we are not persuaded to go into the question in detail whether the omission to forward the order and the records forthwith must entail invalidation of detention in this case. The impact of the delay on an order of detention may vary in the facts and circumstances of each case and it is hence not necessary for us to consider whether such delay must entail invalidation of the detention in this case. In the facts of *Arifa Beevi* (supra) the delay was insignificant and irrelevant. In the instant case the delay is more prominent and serious. The learned Government Pleader immediately points out that if the order is passed before the expiry of 12 working days from the date of detention, it cannot be held that there is any breach of the statutory mandate requiring invalidation. The learned Counsel for the petitioner brings to our notice the observations in paragraph 10 of an unreported judgment by a Division Bench of this Court W. P. (Crl.). No. 372/2008 dated 15-1-2009 which also we extract below:

10. The last contention raised by the petitioner is that there is violation of Sub-section (3) of Section 3 of the Act. It is contended by Shri Rajagopalan Nair, learned Counsel for the petitioner that the Authorised Officer ought to have reported about the issuance of the detention order forthwith to the Government as well as the Director General of Police, Kerala together with a copy of the order and supporting records which, in his opinion, have a bearing on the matter. A

perusal of Sub-section (3) of Section 3 of the Act clearly indicates that there is considerable force in the above contention.

25. We are, in these circumstances, not proceeding to consider the challenge raised on ground No. 2 in any detail in view of our conclusion on Ground No. 1. We only wanted to clarify that the observations in Arifa Beevi (supra) extracted above specifically cannot bind us as the specific statutory provision were not pointedly referred to. "Forthwith" in Section 3(3) refers to and has nexus with the date of making the order and not the date of detention, we do clarify.

26. The learned A. D. G. P. shall communicate a copy of this judgment to all District Magistrates, Superintendents of Police and delegates of the Government exercising powers under the KAAPA so that they do not commit any future error on the basis of our observations in Arifa Beevi (supra).

27. The above discussions lead us to the conclusion that the continued detention of the detenu is not justified and relief has to be granted as prayed for.

27. In the result,

(a) This writ petition is allowed.

(b) It is held that the continued detention of the detenu is not legal, proper or justified and he is directed to be set at liberty.

(c) The prison authorities of Central Prison, Thiruvananthapuram shall, forthwith release the detenu from custody, if his continued detention is not required in connection with any other cases.

(d) The Registry shall forthwith communicate the order to the Superintendent of the Central Prison, Thiruvananthapuram forthwith.