



2026:KER:54600

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

WEDNESDAY, THE 22ND DAY OF JULY 2026 / 31ST ASHADHA, 1948

WP (CRL.) NO.651 OF 2026

PETITIONER:

AMBIKA MOHANAN,
AGED 50 YEARS
W/O MOHANAN, PARATHATTAYIL HOUSE, AIRAPURAM,
ERNAKULAM, PIN - 683541

BY ADV SRI.AJEESH M UMMER

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
COLLECTORATE, ERNAKULAM, PIN - 682030
- 3 THE STATION HOUSE OFFICER,
KUNNATHUNADU POLICE STATION PATTIMATTOM,
ERNAKULAM, PIN - 683562
- 4 THE DISTRICT POLICE CHIEF,
ERNAKULAM RURAL, PIN - 682039
- 5 THE CHAIRMAN,
ADVISORY BOARD, KAA(P)A, SREENIVAS,
PADAM ROAD, VIVEKANANDA NAGAR,
ELAMAKKARA, PIN - 682026



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6 THE SUPERINTENDENT OF JAIL,
CENTRAL JAIL, KANNUR, PIN - 670004

BY ADVS.
SRI.BIJU MEENATTOOR, SR.PUBLIC PROSECUTOR
ADDL.DIRECTOR GENERAL OF PROSECUTION

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY
HEARD ON 22.07.2026, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



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JUDGMENT*Dated this the 22nd day of July, 2026***Syam Kumar V.M., J.**

This writ petition is directed against an order of detention dated 8th January 2026 passed against one Manu Mohan, (the detenu), aged 27 years, under Section 3(1) of the Kerala Anti-Social Activities (Prevention) Act, 2007 [KAA(P)A for brevity]. The petitioner herein is the mother of the detenu. The said order of detention was confirmed by the Government u/s 10(4) of KAA(P)A vide order dated 12th March 2026, and the detenu has been ordered to be detained for a period of one year, from the date of detention.

2. The detention order No.DCEKM/14382/2025-M7 dated 08.01.2026 was issued on the basis of a proposal submitted by the District Police Chief, Ernakulam Rural on 22nd November 2025 alleging that the detenu was involved in following criminal incidents:

Crime No.	Police Station	Offences involved under Section	Date of Occurrence
2483/2025	Muvattupuzha	331(3),305(a) of BNS	30.10.2025



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146/2020	Kuruppampady	457 & 380 of IPC	21.02.2020
212/2023	Muvattupuzha	379 of IPC	29.01.2023
353/2023	Muvattupuzha	379 of IPC	17.02.2023
358/2023	Muvattupuzha	379 of IPC	11.02.2023
407/2023	Muvattupuzha	379 of IPC	27.01.2023
408/2023	Muvattupuzha	379 of IPC	05.02.2023
89/2024	Kodanad	380 & 34 of IPC	08.02.2024
161/2024	Kalady	380 & 34 of IPC	14.01.2024
460/2024	Perumbavoor	380 & 457 of IPC	29.03.2024 01.04.2024
1183/2024	Angamaly	379 of IPC	07.04.2024 13.05.2024

3. Among the above criminal incidents relied upon by the Detaining Authority, the last prejudicial anti-social activity allegedly committed by the detenu was on 30th October 2025 in Crime No.2483 of 2025 of Muvattupuzha Police Station, registered under Sections 331(3) and 305(a) of the Bharatiya Nyaya Sanhita, 2023. The detenu was arrested in connection with the said crime on 8th November 2025 and



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was remanded to judicial custody on 9th November 2025. A bail application filed by the detenu before the Judicial First Class Magistrate Court-I, Muvattupuzha, in C.M.P.No.3464 of 2025 was dismissed on 27th November 2025. Thereafter, the detenu preferred Bail Application No. 14289/2025 before this Court, which was also dismissed by order dated 11th December 2025.

4. On consideration of the proposal submitted by the District Police Chief, Ernakulam Rural, the Detaining Authority passed the order of detention on 8th January 2026, which was executed by arresting the detenu on 12th January 2026.

5. The learned counsel for the petitioner challenged the detention order on several grounds. The first and the foremost submission is that all the criminal incidents referred to by the detaining authority relate only to private disputes and personal offences, none of which involve any disturbance of public order, so as to justify preventive detention under the KAA(P)A.



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6. The second ground of challenge is that the last prejudicial activity, namely, Crime No.2483/2025 of Muvattupuzha Police Station, occurred on 30th October 2025, while the crime was registered only on 8th November 2025, on which date the detenu was arrested and the statements of all the witnesses were recorded. The detenu was subsequently released on bail, subject to stringent conditions.

7. The third ground of challenge was that the detaining authority had failed to apply its mind to the facts of the last prejudicial activity. According to the petitioner, although the allegation pertains to the theft of a battery from a used vehicle showroom on 30th October 2025, the incident was reported only after an unexplained delay of eight days, casting doubt on the prosecution case. It is further contended that the subsequent investigation also indicates that the case was falsely foisted to facilitate the preventive detention of the detenu, particularly since he was arrested on the very day the crime was registered and the statements of the witnesses were also recorded.



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8. The fourth ground of challenge is that the detaining authority has failed to apply its mind to the fact that the detenu had already been released on bail subject to stringent conditions, including a stipulation that any violation would entail cancellation of bail.

9. On the question of delay, it is submitted that the live and proximate link between the last prejudicial activity and the detention order stands snapped, as the last incident occurred on 30th October 2025, the First information report was registered on 8th November 2025, and the sponsoring authority submitted its proposal only on 15th November 2025, without offering any explanation for the delay. It is also contended that, since the detaining authority had relied upon CCTV footage to conclude the detenu's involvement in the last crime, a copy of the said footage, being a vital document, ought to have been supplied to the detenu. The failure to furnish the same, according to the learned counsel, vitiates the detention order.

10. The last submission made by the petitioner is



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that the detention order fails to record the fact that there is no real apprehension in the mind of sponsoring authority that there is likelihood of repeating any act prejudicial to the public order.

11. Per contra, the learned Senior Government Pleader, by way of a memo dated 17th July 2026 has placed on record the statement of facts on behalf of the 1st Respondent furnished by the Additional Chief Secretary, Home Department and submits that the detenu was rightly classified as a 'Known Rowdy' under Sections 2(p)(iii) read with Sections 2(t)(i) and 2(t)(ii) of the KAAP(A), as the offences relied upon are punishable with imprisonment for a term of one year or more. It was contended that the Detaining Authority had arrived at the requisite objective satisfaction on the basis of the materials placed before it and had validly exercised the power of preventive detention.

12. It was further submitted that all the mandatory procedural requirements prescribed under the KAA(P)A had been strictly complied with. The detention order was



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forthwith reported to the Government, the detenu was informed of his right to make a representation against the order of detention, and copies of the grounds of detention together with the relied-upon documents were duly furnished to him. Hence, there was no violation of either the statutory provisions or the constitutional safeguards available to the detenu.

13. With regard to the challenge based on delay, it was contended that the last prejudicial activity was committed on 30th October 2025 and the order of detention was passed on 8th January 2026. According to the respondents, the interval was neither unreasonable nor sufficient to snap the live and proximate link between the prejudicial activities of the detenu and the subjective satisfaction of the Detaining Authority.

14. The learned Senior Government Pleader further submitted that the detention order was placed before the Advisory Board in accordance with the provisions of the Act. The Advisory Board, after considering the records and



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hearing the detenu and his counsel, opined that there existed sufficient cause for the continued detention of the detenu. Based on the opinion of the Advisory Board, the Government confirmed the order of detention in accordance with law.

15. The merits of the detention order requires consideration taking into consideration the submission made on behalf of the parties and original record produced by the learned Senior Government Pleader.

16. As regards the first ground of challenge raised by the petitioner that all the alleged activities relied upon by the detaining authority pertain only to private disputes and do not warrant an order of preventive detention under the KAA(P)A, it would be appropriate to refer to the judgment of the Hon'ble Supreme Court in the case of **Ashok Kumar v. Delhi Administration**¹, wherein it was held that the true distinction between the areas of "public order" and "law and order" lies not in the nature or quality of the act, but in the degree and extent of its reach upon society. The relevant paragraph of the said judgment is reproduced as follows:

¹AIR 1982 SC 1143



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“13. The true distinction between the areas of “public order” and “law and order” lies not in the nature or quality of the act, but in the degree and extent of its reach upon society. The distinction between the two concepts of “law and order” and “public order” is a fine one but this does not mean that there can be no overlapping. Acts similar in nature but committed in different contexts and circumstances might cause different reactions. In one case it might affect specific individuals only and therefore touch the problem of law and order, while in another it might affect public order. The act by itself therefore is not determinant of its own gravity. It is the potentiality of the act to disturb the even tempo of the life of the community which makes it prejudicial to the maintenance of public order. That test is clearly fulfilled in the facts and circumstances of the present case.”

(emphasis supplied)

17. In **Angoori Devi v. Union of India**² the Hon’ble

Supreme Court has held that:

*“12. The impact on “public order” and “law and order” depends upon the nature of the act, the place where it is committed and motive force behind it. If the act is confined to an individual without directly or indirectly affecting the tempo of the life of the community, it may be a matter of law and order only. But where the gravity of the act is otherwise and likely to endanger the public tranquility, it may fall within the orbit of the public order. This is precisely the distinguishing feature between the two concepts. Sometimes, as observed by Venkatachaliah, J. in *Ayya alias Ayub v. State of U.P.*: “What might be an otherwise simple ‘law and order’ situation might assume the gravity and mischief of a ‘public order’ problem by reason alone of the manner or circumstances in which or the place at which it is carried out.”. Necessarily, much depends upon the nature of the act, the place where*



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it is committed and the sinister significance attached to it.
(emphasis supplied)

18. The interpretation of the term ‘public order’ by the Hon’ble Supreme Court in the case of **Superintendent, Central Prison v. Dr. Ram Manohar Lohia**³, is as follows:

“Public order” is synonymous with public safety and tranquillity : it is the absence of disorder involving breaches of local significance in contradistinction to national upheavals, such as revolution, civil strife, war, affecting the security of the State.”

19. In the instant case, the question that has to be considered is whether the criminal incidents relied upon by the detaining authority for passing an order of detention under the KAA(P)A falls within the domain of ‘public order’ or ‘law and order’.

20. In examining this question, it is necessary to advert to the statutory scheme of the KAA(P)A. Section 2(a) of the said Act defines the expression "anti-social activity" to mean acting in such a manner as to cause, or be likely to cause, directly or indirectly, any feeling of insecurity, danger or fear among the general public or any section thereof, or

3AIR 1960 SC 633



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any danger to the safety of individuals, public safety, public health or the ecological system, or any loss or damage to the public exchequer or to any public or private property, besides indulging in the activities enumerated in clauses (c), (e), (g), (h), (i), (l), (m), (n), (q), (qb) and (s) of the said Section.

21. While Section 2(a) defines the expression "anti-social activity", Section 2(t) defines the expression "rowdy" as follows:

“rowdy’ means and includes a person who either by himself or as a member of a gang commits or attempts to commit, or abets the commission of any offences under Sections 153A and 153B of Chapter VIII and Chapters XV, XVI, XVII & XXII of the Indian Penal Code, 1860 (Central Act 45 of 1860), or any offences under the provision of the Arms Act, 1959 (Central Act 54 of 1959), or the Explosives Substances Act, 1908 (Central Act 6 of 1908)-”

(i) punishable with five or more years of imprisonment of any type, or ;

(ii) with less than five years of imprisonment of any type, except those punishable with less than one year of imprisonment ; or

(iii) such offences under any other law for the time being in force, coming under item (i) or (ii), as may be notified by the Government, from time to time.”

22. On consideration of the materials placed on record it could be seen that all the crimes relied upon by the detaining authority for passing the detention order predominantly relate to offences of theft, house-breaking and



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lurking house trespass. The detenu has a history of repeatedly involving himself in such offences, and the incidents cannot be regarded as isolated or stray occurrences. Such repeated involvement in property offences, particularly those involving trespass into residential houses and commercial establishments, cannot be viewed as mere individual disputes. By their very nature and frequency, such activities have the tendency to create a sense of insecurity and fear amongst members of the public regarding the safety of their persons and properties.

23. The repeated criminal activities attributed to the detenu clearly establishes his habitual criminal conduct that are capable of disturbing the even tempo of life of the community as held by the Hon'ble Supreme Court in **Angoori Devi** (*Supra*) and also creates a feeling of insecurity among the public, thereby attracting the definition of "anti-social activity" under Section 2(a) of KAA(P)A.

24. Therefore, we do not find any substance in the submission of the learned counsel for the petitioner that the



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offences relied upon for the detention of the detenu are purely private in nature and do not have any bearing on the maintenance of public order.

25. The next grounds urged by the learned counsel for the petitioner is regarding the alleged delay in forwarding the proposal for preventive detention by the sponsoring authority and the subsequent delay in executing the order of detention.

26. From the materials placed on record, it is seen that the last prejudicial activity relied upon by the Detaining Authority occurred on 30th October 2025 in Crime No. 2483/2025 of Muvattupuzha Police Station. The detenu was arrested in connection with the said crime on 8th November 2025. The sponsoring authority submitted the proposal for preventive detention on 22nd November 2025. Upon consideration of the proposal and the materials placed before it, the Detaining Authority passed the order of detention on 8th January 2026, which was executed on 12th January 2026. Thus, there was a gap of about 15 days between the



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last prejudicial activity and the submission of the proposal, and a further period of about 47 days between the proposal and passing of the order of detention.

27. The question of delay in preventive detention matters is no longer *res integra*. It is trite as has been laid down in a catena of decisions that delay, by itself, is not a determinative factor in matters of preventive detention. What is relevant is whether the delay has been satisfactorily explained and whether, by reason of such delay, the live and proximate nexus between the prejudicial activities of the detenu and the necessity for preventive detention has been snapped.

28. While dealing with the question of delay, it is also relevant to refer to the judgment of the Hon'ble Supreme Court in the case of ***Licil Antony v. State of Kerala***⁴ wherein it was observed as follows:

“ 9.While dealing with the question of delay in making an order of detention, the court is required to be circumspect and has to take a pragmatic view. No hard-and-fast formula is possible to be laid or has been laid in this regard. However, one thing is clear that in case of delay, that has to be



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satisfactorily explained. After all, the purpose of preventive detention is to take immediate steps for preventing the detenu from indulging in prejudicial activity. If there is undue and long delay between the prejudicial activity and making of the order of detention and the delay has not been explained, the order of detention becomes vulnerable. Delay in issuing the order of detention, if not satisfactorily explained, itself is a ground to quash the order of detention. No rule with precision has been formulated in this regard. The test of proximity is not a rigid or a mechanical test. In case of undue and long delay the court has to investigate whether the link has been broken in the circumstances of each case.

(emphasis supplied)

29. Similarly in **Adishwar Jain v. Union of India**,⁵

it was held that:

“15. Delay, as is well known, at both stages has to be explained. The court is required to consider the question having regard to the overall picture. We may notice that in Sk. Serajul v. State of W.B. [(1975) 2 SCC 78 : 1975 SCC (Cri) 425] this Court opined: (SCC p. 80, para 2)

“There was thus delay at both stages and this delay, unless satisfactorily explained, would throw considerable doubt on the genuineness of the subjective satisfaction of the District Magistrate, Burdwan recited in the order of detention. It would be reasonable to assume that if the District Magistrate of Burdwan was really and genuinely satisfied after proper application of mind to the materials before him that it was necessary to detain the petitioner with a view to preventing him from acting in a prejudicial manner, he would have acted with greater promptitude both in making the order of detention as also in securing the arrest of the petitioner, and the petitioner would not have been allowed to remain at large for such a long period of time to carry on his nefarious activities.”

⁵(2006) 11 SCC 339



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(emphasis supplied)

30. It is well settled that the prejudicial activities relied upon must bear a live and proximate nexus with the order of detention. If there is undue and unexplained delay in passing the order, such delay may, in a given case, have the effect of snapping the nexus between the prejudicial activities and the purpose sought to be achieved by the detention. On the other hand, where the delay is satisfactorily explained by the time consumed in investigation, collection of materials, administrative processing, scrutiny by the sponsoring and screening authorities, and consideration by the Government, the detention order cannot be invalidated merely on the ground of lapse of time.

31. In the case at hand, while considering the purported delay and the alleged snapping of live link between the last prejudicial activity and the order of detention, it is to be noted that the said delay in submitting the proposal and passing the detention order is not satisfactorily explained by the detaining authority thereby snapping the nexus between the prejudicial activities and the purpose sought to be



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achieved by the detention.

32. Thus, the delay of about 61 days in passing the detention order, reckoned from the date of arrest of the detenu on 8th November 2025 till the passing of the detention order on 8th January 2026, assumes significance in the facts of the present case. Though the sponsoring authority forwarded the proposal within about 15 days of the arrest of the detenu, there is an unexplained delay of about 47 days thereafter in passing the order of detention.

33. The detention order placed on record does not furnish any satisfactory explanation for the time consumed during the said period. No particulars have been placed before this Court to indicate that the delay was occasioned on account of any justifiable reason. Failure to explain such delay casts serious doubt on the genuineness of the subjective satisfaction recorded by the Detaining Authority and renders the order of detention vulnerable to judicial review.

34. The next issue for consideration before us is



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whether the Detaining Authority failed to apply its mind to the facts in the last prejudicial activity. According to the petitioner, although the alleged theft of batteries from a used vehicle showroom is stated to have occurred on 30th October 2025, the crime came to be registered only on 8th November 2025, after an unexplained delay of eight days. It is contended that this unexplained delay in lodging the First Information Report casts serious doubt on the genuineness of the prosecution case. The learned counsel further submitted that the circumstances of the investigation, particularly the arrest of the detenu on the very day of registration of the crime and the recording of the statements of the witnesses thereafter, strengthen the contention that the case was falsely foisted with a view to facilitate the preventive detention of the detenu.

35. It was further submitted that the Detaining Authority has relied upon the CCTV footage allegedly showing the detenu arriving at the scene on a scooter bearing Registration No. KL-41-F-6314 and committing the theft. The



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Detaining Authority has also relied upon the statement of one Naushad, who is alleged to have identified the detenu as the person who sold the stolen batteries, as well as the seizure of the scooter purportedly used in the commission of the offence. According to the learned counsel, once the subjective satisfaction is founded upon the CCTV footage, the said footage constitutes a vital relied-upon document, and the failure to furnish a copy thereof to the detenu has deprived him of his constitutional right to make an effective representation against the order of detention.

36. The Hon'ble Supreme Court, in ***Ichu Devi Choraria v. Union of India***⁶, has held that where the order of detention refers to or relies upon any document, statement or other material, copies thereof must necessarily be supplied to the detenu to enable him to make an effective representation as guaranteed under Article 22(5) of the Constitution of India.

37. In the instant case, a perusal of the grounds of detention unmistakably shows that the Detaining Authority

6(1980) 4 SCC 531



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has specifically relied upon the CCTV footage to conclude that the detenu arrived at the scene on his scooter bearing Registration No. KL-41-F-6314 and committed the alleged theft. The CCTV footage is not referred to merely as a part of the investigation, but has been expressly relied upon as a material circumstance in arriving at the subjective satisfaction. The CCTV footage, therefore, constitutes a vital relied-upon document.

38. The materials placed before this Court do not disclose that a copy of the CCTV footage was either supplied or made available for inspection by the detenu. In the absence of such supply, the detenu was deprived of the opportunity to verify its authenticity, correctness and evidentiary value, and consequently, was denied an effective opportunity to make a meaningful representation against the order of detention. The non-supply of a vital relied-upon document amounts to a violation of the constitutional safeguard guaranteed under Article 22(5) of the Constitution and vitiates the subjective satisfaction recorded by the



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Detaining Authority.

] 39. Accordingly, we hold that the failure to furnish the CCTV footage, which admittedly forms one of the foundational materials relied upon by the Detaining Authority, has caused prejudice to the detenu and has rendered the impugned order of detention legally unsustainable. The detention order is, therefore, liable to be set aside on this ground.

40. Although we have found no merit in the contention of the petitioner that the offences relied upon by the Detaining Authority are purely private in nature and do not affect public order, we are satisfied that the challenge to the impugned order of detention succeeds on the other grounds. As noticed hereinbefore, the respondents have failed to furnish any satisfactory explanation for the delay in passing the order of detention, thereby snapping the live and proximate nexus between the prejudicial activities of the detenu and the necessity for invoking the power of preventive detention. Further, the failure to furnish the CCTV footage,



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which admittedly constituted a vital relied-upon document forming the basis of the subjective satisfaction of the Detaining Authority, has deprived the detenu of his constitutional right to make an effective representation under Article 22(5) of the Constitution of India.

41. In the present case, the unexplained delay in passing the detention order, coupled with the non-supply of a vital relied-upon document, renders the subjective satisfaction recorded by the Detaining Authority legally unsustainable.

42. In the result, this Writ Petition is allowed, and Ext.P1 order of detention is set aside. The Superintendent of Central Prison, Kannur, is directed to release the detenu, Sri. Manu Mohan, forthwith, if his detention is not required in connection with any other case.

43. The Registry is directed to communicate the order to the Superintendent of Central Prison, Kannur, forthwith.



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44. The records produced in the sealed cover shall be returned to the learned Senior Government Pleader.

Sd/-
SOUMEN SEN
CHIEF JUSTICE

Sd/-
SYAM KUMAR V. M.
JUDGE

Gw/csl



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APPENDIX OF WP (CRL.) NO. 651 OF 2026

PETITIONER'S EXHIBITS

Exhibit P1 A TRUE COPY OF THE ORDER NO
DCEKM/14382/2025-M7 DATED 08.01.2026 ALONG
WITH REASONS FOR ORDER

Exhibit P2 TRUE COPY OF THE FIR AND FIS DATED
08.11.2025 AND OTHER DOCUMENTS RELATED TO
CRIME 2483/2025 OF MUVATTUPUZHA POLICE
STATION SUPPLIED TO THE DETENUE AS SUCH