

IN THE COURT OF THE ADDL. CHIEF JUDICIAL MAGISTRATE (EO)
ERNAKULAM

Present: Sri. Deepu C

Dated this the 08th day of December 2020

17th day of Agrahayana 1942

C.M.P. No. 2196/2020 & C.M.P No. 2197/2020

O.R No. 7/2020 & O.R. 13/2020 of Customs Preventive
Commissionerate, Cochin

C.M.P. No. 2196/2020

Petitioner/Accused : A3. Swapna Prabha Suresh
D/o Sukumaran Suresh
Vayalil House, Munchin Road
Jagathy, Thycaud P O
Thiruvananthapuram
Pin-695014

(By Adv. Sooraj T Elenjickal)

Respondent/Complainant : State represented by the
Superintendent of Customs
Customs (Preventive) Commissionerate
Cochin-682031 in **OR 7/2020**

(By Special Public Prosecutor)

C.M.P. No. 2197/2020

Petitioner/Accused : A2. Swapna Prabha Suresh
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Pin-695014

(By Adv. Sooraj T Elenjickal)

Respondent/Complainant : State represented by the
Superintendent of Customs
Customs (Preventive) Commissionerate
Cochin-682031 in **OR 13/2020.**

(By Special Public Prosecutor)

COMMON ORDER

These are applications filed by the petitioner/accused named *Swapna Prabha Suresh* requesting the Court to direct the Director General of Prisons, State of Kerala and the Superintendent of Women's Prison and Correctional Home, *Attakkulangara* to provide effective protection to her life.

2. Petitioner faces indictment in connection with the cases referred to here-above. Today, she is produced from custody of customs in relation to OR.13/2020. She raised no complaints of ill-treatment against the Customs Officials.

3. The applications at hand are filed highlighting her apprehensions. It is correctly submitted by the learned counsel for the petitioner that one point of time, she was detained at Women's Prisons, *Viyoor*. Now, she has been undergoing judicial custody at Women's Prison and Correctional Home, *Attakkulangara*. Petitioner submitted that during the time of judicial custody, some persons attached to Jail, identifiable by sight claiming to be Prison and Police Officials visited and threatened her with dire consequences in the event of disclosing the name of high-profile persons involved in the smuggling activities. She *inter-alia* submitted that as she wished to disclose true and complete facts before the Court, she expressed her willingness to give statement u/s 164 Cr.P.C. Accordingly, Judicial First Class Magistrate-III recorded her statement pursuant to the order of Honorable Chief Judicial Magistrate, *Ernakulam*. It is specifically averred that the aforesaid persons claimed to be police officers further intimidated to cause harm to her family members if she divulges the

names of high profile-persons associated with smuggle-deal. They threatened to the extent that they are capable to do away her even inside the prison. The life threat against petitioner was continued upto 25.11.2020. Significantly, she was given in the custody of Customs department till today from 25.11.2020. Today, she is found to be worried as she is being sent to the very same prison from where she is likely to be threatened and tortured again.

4. Obviously, she has no forum other than the court to express her grievance right now. During enquiry, I find absolutely no grounds to disbelieve the version of the petitioner. Needless to remind the Jail authorities that judicial custody means '*the accused is in the custody of magistrate or court concerned*'. It is the upto the court that directed to keep accused in judicial custody, to ensure protection and safety of the accused. Jail authority should certainly act as per the specific provisions of Kerala Prisons Rules relating to under-trial prisoners and female prisoners. Indubitably, allegation appears to be serious in nature that attract penal consequences apart from contempt of Court. Having regard to the peculiar facts and circumstances of the cases in which accused is kept in judicial custody and specific apprehensions and anguish expressed by the petitioner, it is just and essential to pass appropriate directions.

5. In the result, applications are allowed as follows:-

1. Director General of Prisons & Correctional Services and Superintendent of Women's Prison and Correctional Home, *Thiruvananthapuram*, are directed to provide most effective protection to the petitioner/accused
2. They shall ensure that, petitioner/accused shall not be threatened or tortured in any manner either from internal or external sources directly or by electronic means.

Communicate the order to Director General of Prisons & Correctional Services and Superintendent of Women's Prison and Correctional Home, *Thiruvananthapuram*, Urgently.

(Pronounced in open court on this the 8th day of December 2020)

Sd/-

Addl. Chief Judicial Magistrate (E.O)