

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Sri. P.K. Mohandas, Judge, Special Court for NIA Cases

Friday the 20th day of December, 2024/ 29th Agrayahaya, 1946

Crl.M.P. No. 507/2024

in

SC No.02/2023/NIA

Petitioner/Accused No. 11 : Yahiya Koya Thangal, age 48/23, S/o. M.K. Thangal, Adhinayil House, Perumpilavu post, Thrissur. (U.T. 18, High Security Prison, Viyyur).

By Adv. Sri. P.C. Noushad.

Respondent/Complainant : Union of India represented by National Investigation Agency, Kochi.

**By Sri. Ajithkumar
(Special Public Prosecutor, NIA)
and Sri. Sreenath.S (Public Prosecutor, NIA).**

This Criminal M.P coming on for hearing before me on 18.12.2024 and the Court on 20.12.2024 passed the following:-

ORDER

This application is filed by the 11th accused in the case, seeking escort for getting treatment.

2. According to the petitioner, he has been under detention in

connection with the above case. He has been suffering from back pain for two months and received treatment at the Medical College on 01.11.2024, where he was advised to undergo a scan, if there was no improvement after two weeks of medication. The jail doctor recommended consultation at the Medical College for six consecutive days (the doctors will be available only on Tuesdays and Fridays). But, the jail authorities failed to take him to the hospital. The petitioner stated that while under detention, he is not getting proper and timely treatment, which could adversely affect his health. The severe pain is now causing him difficulty in sitting and walking. Hence, he seeks direction to provide escort to take him to the hospital.

3. Heard the Special Public Prosecutor and the counsel for the petitioner and called for a report.

4. The Superintendent of High-Security Prison, Viyyur, reported that the petitioner had consulted the Medical College for back pain on 01.11.2024, but could not continue treatment on 19.11.2024, 26.11.2024, 29.11.2024, 03.12.2024 and 06.12.2024 due non availability of escort police. It is reported that despite submission of five requests to the A.R. Camp, Thrissur, there was no proper response. It is reported that request for escort is being submitted based on the dates on which various OPs in the medical college are functioning. Every day about 5 prisoners are being taken to the hospital as prescribed by the Jail Medical Officer.

5. It is further reported that as prisoners charged under UAPA require strong security and in the absence of sufficient escort, he finds it difficult to take the prisoners to the hospital. It is reported that although the authorities were contacted over phone and in writing, the prisoners, including those involved in Maoist cases are not provided continuous escort. The Superintendent has forwarded copy of letter No.R1-15/2022/HSP dated 29.11.2024 addressed to the City Police Commissioner, Thrissur, copy of which was sent to the Deputy Commandant, A.R. Camp, Thrissur is also submitted. It is further reported that the lack of sufficient staff, illness of the prisoners and the protests of the prisoners for inadequate treatment facilities are seriously affecting the functioning of the jail.

6. When the matter came-up for hearing today, I have heard the counsel for the petitioner and the learned Public Prosecutor.

7. The averments in the petition and the report of the Superintendent of the High Security Prison clearly show that the petitioner is not being provided sufficient medical attention despite the advice by the Jail Medical Officer. When a person is detained behind the bars, it is the duty of the State to provide adequate and proper medical care. In the case of the petitioner it is reported that non-availability of sufficient escort police stands in the way of taking the petitioner to the Medical Collage Hospital. The report of the Superintendent shows that inspite of repeated request to the

Commandant of AR Camp and letter to the City Police Commissioner, the request for police escort are not attended.

8. The report of the Superintendent shows that the situation is very dangerous and it may even lead to serious casualties. It is to be noted that the persons under incarceration are also entitled to get proper medical attention. Denial of timely medical treatment or even delay in the same, amounts to denial of the right to life guaranteed under Art.21 of the Constitution of India.

9. Considering the urgency and importance of the matter, I am of the view that suitable directions are to be issued to the Commissioner of Police, Thrissur and the Commandant, AR Camp, Thrissur in this regard,

Hence the petition is allowed with following directions:

1. The City Police Commissioner and the Commandant, AR Camp, Thrissur are directed to ensure that proper and sufficient police escort are made available to the Superintendent, High Security Prison, on his request, for providing medical attendance to prisoners.
2. The Superintendent, High Security Prison, Viyyur shall ensure that suitable and adequate medical facilities are provided to the prisoners, including the petitioner, as advised by the Jail Medical Officer.

3. Failure to comply these directions will have serious consequences.

4. Copy of this order shall be communicated to the petitioner, the Superintendent, HSP, the Commissioner of Police, Thrissur City and the Commandant of AR Camp, Thrissur.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 20th day of December, 2024.

Sd/-
P. K. Mohandas
Judge, Special Court for NIA Cases

Appendix: Nil

Id/-
Judge, Special Court for NIA Cases
(By Order)

//True Copy//

Sd/-
Sheristadar.