

3. Heard learned counsel for the Petitioner and learned APP for the State.

4. With the assistance of both the learned counsel, we have perused the record.

5. The learned counsel for the Petitioner has placed reliance on the ground (h) of the Petition stating that the representation of the detenu/Petitioner dated 23rd April, 2019 was submitted to the State Government through Superintendent, Nashik Road Central Prison for consideration and revocation of the order of detention. A specific request was made to supply some vital documents/information to the detenu and or his lawyer to enable the detenu to make effective representation. However, no copies or any information is furnished to the detenu and thereby the State Government has delayed the supplying of documents, due to which the Petitioner's right guaranteed under Article 22(5) of the Constitution of India is violated.

6. The Petitioner's lawyer on 12th June, 2019 received

communication dated 7th June, 2019 thereby informing that detenu was detained at Nashik Road Central Prison with effect from 4th May, 2019. The learned counsel argues that due to lethargic and inaction on the part of the Respondents in tracing the detenu, the valuable right of the Petitioner to make effective representation at earliest opportunity was lost. The same being violation of right guaranteed to the Petitioner under Article 22(5) of the Constitution of India, the impugned detention order is vitiated and the same is liable to be quashed and set aside.

7. Learned APP in reply has opposed the submissions of the Petitioner and relied upon the affidavit in reply filed by the Superintendent of Nashik Road Central Prison, Nashik wherein it is stated that the detenu was lodged in Thane Central Prison from 1st March, 2019 to 4th May, 2019. The committal order disclosing to the detenu that he will be detained in Thane Central Prison, till he is produced before the Advisory Board and thereafter in Nashik Road Central Prison for further detention, was communicated to the detenu on 27th February, 2019. It is further pointed out that from 4th May,

2019 the Petitioner was transferred and lodged in Nashik Central Prison. Reliance is placed on the communication annexed at Exhibit A to the reply dated 13th August, 2019 of the Superintendent of Thane Central Prison giving chart of the dates and time of meetings of detenu and wife of the detenu/Petitioner between 2nd March, 2019 to 30th April, 2019 at Thane Central Prison. Hence, it is argued that there is no substance in the Writ Petition and the same may be dismissed.

8. We find no substance in the main ground pressed in the service by the Petitioner that because of lethargic and inaction on the part of the Respondents, the Petitioner lost earliest opportunity to make effective representation. It is necessary to mention here that while the Petitioner was detained at Thane Central Prison between 2nd March, 2019 to 4th May, 2019 when the Petitioner was transferred in Nashik Central Prison, the wife of the Petitioner visited Thane Central Prison on 8 occasions to meet the Petitioner. In this view of the matter, the said arguments is unacceptable. Nothing prevented the Petitioner to file effective representation with earliest opportunity and hence the argument in this behalf is meritless.

9. The detaining authority has explained in its reply that during the course of inquiry, it was revealed that though the detenu has committed several offences, witnesses were not willing to come forward to complaint against the Petitioner due to terror created by him and his associates and it was only when the assurances was given to the witnesses that their names and particulars would not be disclosed, two witnesses came forward to give their statement. Their statements were recorded on 27th December, 2018 and 30th December, 2018. Thereafter, the authorities after carefully going through the material collected, prepared necessary sets of documents and submitted along with proposal of detention on 11th January, 2019. The proposal was forwarded through proper channel and the same was considered and scrutinized by various authorities and therefore the material was placed before the detaining authority and after arriving at the subjective satisfaction, the detaining authority passed the order of detention on 27th February, 2019. The detaining authority has given date wise details of the events which culminated in the detention order and the same is satisfactory. We do not find any substance in the arguments advanced by the learned

counsel for the Petitioner that there was delay in passing the impugned detention order.

10. On going through the impugned order, it is clear that the detaining authority had applied its mind to the facts and records and has taken into consideration all the relevant factors including 14 cases pending against the Petitioner, the chapter proceeding in which bonds were obtained from the Petitioner and externment order passed against the Petitioner from time to time. Detaining authority has taken into consideration the fact that during externment period also, the Petitioner indulged in the criminal activities and also indulged into serious offences. Statements of witnesses and the material before the detaining authority was sufficient to warrant the detention order against the Petitioner. Thus, there is no substance in the arguments made on behalf of the Petitioner. The detaining authority was justified in passing the impugned detention order. The Petition being devoid of any substance is liable to be dismissed and hence, is dismissed as such.

(N.B. SURYAWANSHI, J.)

(INDRAJIT MAHANTY, J.)