

A TRUE COPY OF THE HIGH COURT WRIT PETITION ON
CONDITIONS OF DETENTION OF SMT. MRINAL GORE M.L.A.

8.1.76 Coram: Chandurkar & Shah JJ.
" Rule put up tomorrow 9.1.76
leave to amend. "

9.1.76 Coram: Chandurkar & Shah JJ.
" To be heard on 14.1.76
Detenue to be produced. "

Criminal Application No. 31 of 1976.

In the matter of article 226 of
the Constitution of India;

In the matter of the Maintenance
of Internal Security Act (XXVI
of 1971):

In the matter of the Maintenance of Internal Security (Maharashtra Conditions of Detention) Order, 1971:

In the matter of conditions of detention of Shrimati Mrinal Gore, M.L.A., at Akola District Prison.

Prabhudas Tribhovandas Sanghvi,)
resident of 15, College Lane,) PETITIONER
Portuguese Church, Dadar,)
Bombay-400 028.)

1. State of Maharashtra.)
)
2. The Officer-in-charge,)
)
Akola District Prison, Akola.)

RESPONDENTS.

TO:

THE HON'BLE THE CHIEF JUSTICE AND OTHER HON'BLE
JUDGES OF THE HIGH COURT OF JUDICATURE AT BOMBAY:

The Humble Petition of the
Petitioner abovenamed :

MOST RESPECTFULLY SHEWETH:

1. Petitioner is a Citizen of India. He resides at the abovesaid address.
2. Petitioner is a personal friend and colleague of Shrimati Mrinal Gore (hereinafter referred to as the Security Prisoner alternatively). Petitioner's friendship with Shrimati Mrinal Gore dates back to the year 1945 when they were working in the Rashtra Seva Dal, a volunteer organisation founded by Sane Guruji and other well known freedom fighters.
3. Shrimati Mrinal Gore is a member of the Maharashtra Legislative Assembly. She has been elected from the constituency described as Malad-Goregaon. She ordinarily resides at Topiwala Bungalow, Keshav Gore Marg, Goregaon, she was a Municipal Corporator from 1961 to 1972. She had been a member of the Goregaon Gram Panchayat having been elected from the Women's Constituency in 1952. She is the President of the Women's Anti Price Rise Committee. She had suffered imprisonment during the Sanyukta Maharashtra Movement. She belongs to the Socialist party.

4. Shrimati Mrinal Gore was arrested on 21st December 1975 at Bombay. On the next day she was served with an order dated 26.6.1975 purported to have been passed by shri S.V.Tankhiwale detaining her under the provisions of the Maintenance of Internal Security Act 1971. A true copy of the said order is annexed hereto

Annex.A. and marked Annexure 'A'. She was also served with another order bearing No.SB.114/ISA-0175/74, dated 5.7.1975 of the Government of Maharashtra approving the said order of detention. A true copy of the

Annex.B. said order is annexed hereto and marked Annexure 'B'. She was served with a third order dated 26.6.1975 passed by shri S.V.Tankhiwale, Commissioner of Police, Bombay, ordering that she shall be detained in the Bombay Central Prison at Bombay and that she shall be treated as a Class I Security Prisoner. A true copy of the said order is annexed hereto and marked annexure

Annex.C. 'C'. She was also served with a declaration dated 5.7.1975 passed by the under Secretary to the Government of Maharashtra that her detention was necessary for effectively dealing with emergency. A true copy of the said declaration is annexed hereto and marked

Annex.D. Annexure 'D'.

5. On 25th December, 1975, in the evening she was served with an order of the Government of Maharashtra, Home Department, bearing No.SB.XIX/ISA-0175-14, dated 22.12.1975, announcing its pleasure at removing her from the Bombay Central Prison, Bombay to the Akola District Prison, Akola. A true copy of the said order is annexed

Annex.B. hereto and marked Annexure 'B'.

6. The petitioner says that the bulk of political prisoners of Greater Bombay have been accommodated by the Government of Maharashtra at the Yerawada Central Prison, Poona and Nasik Road Central Prison, Nasik. All the office-bearers of the women's Anti Price Rise Committee viz. (i) Shrimati Pramila Dandavate, (ii) Shrimati Ahilya Rangnekar, (iii) Shrimati Mangala Parikh and (iv) Shrimati Kamel Desai are detained in the Yerawada Central Prison at Poona. Petitioner says that all political detainees have been detained in Central Prisons.

7. Petitioner says that Shrimati Mrinal Gore was not only not sent to the Yerawada Jail but also not to any other Central Prison near Bombay. The Government selected the Akola District Prison not out of any consideration of administrative exigency but out of malice. Petitioner says that Shrimati Mrinal Gore has been detained at Akola District Prison only with a view to causing the greatest possible inconvenience and hardship not only to her but to her relations and friends. Under the circumstances the detention of Shrimati Gore is not preventive as contemplated by the Maintenance of Internal Security Act, 1971, but is penal in character.

8. Petitioner went to Akola on 5.1.1976 and interviewed Shrimati Mrinal Gore. Following facts and circumstances concerning the conditions of her detention were therein revealed to the Petitioner.

9. In the 100-year history of the Akola District Prison it has never accommodated any Class I Female Political Detenue except Shrimati Mrinal Gore. There is no provision or arrangement for separate detention of Class I Security Female Prisoner in the said Prison. A barrack 40' x 10'

in the Female....

Yard has been hurriedly converted into such a Special cell. The mouths of rat-holes in the said barrack were covered after she was brought into it. The rats and the mongooses dishoused by these make shift arrangements have been scrambling over the place, day and night.

10. The barrack (40' x 10') in which Shrimati Gore is confined has only one door but no window.

11. The Petitioner says that the Government of Maharashtra has made rules for the superintendence and management of Jails in the State. Rule 15 of the Maharashtra Prisons (Prison Buildings and Sanitary Arrangement) Rules 1964 prescribes that every such barrack shall have large barred door and windows situated in opposite walls for the purpose of providing through ventilation. The abovesaid state of the barrack in which Shrimati Gore is confined is in breach of the said Rule 15.

12. Adjoining the barrack in which Shrimati Gore is confined is a small cell in which a leper in advanced stage is confined. Her name is Radhabai Japhud and bears prisoner No.1234. She is undertrial for offence under section 302 I.P.C. under the provisions of rule 11 of Part III of the Maharashtra Prisons (Admission, Classification and Separation of Prisoners) Rules 1966 prisoners suffered from contagious diseases have to be segregated from all other prisoners. Though Radhabai has been kept in a separate cell, she is not segregated in as much as she uses the same latrines which are used by other Prisoners including Shrimati Mrinal Gore.

13. The Petitioner says that aforesaid rules of the State of Maharashtra require that separate living arrangements shall be made for lepers. Apparently this is calculated to prevent the spread of leprosy amongst prisoners by contamination. The absence of separate latrine for the lepers in the Akola District Prison is in breach of the Scheme of the said Rules.

14. Petitioner says that there are reasons to believe that the Akola District Prison was selected for the detention Shrimati Gore only upon the assurance of the availability of the neighbourhood of a leper. The selection of the Prison for her was thus made with ulterior motive not only to cause harassment, but anxiety not only to shrimati Mrinal Gore but also to her relations and friends. Petitioner says that selection of such surroundings for the detention of Shrimati Mrinal Gore is for the only reason of preventing her relations and friends from meeting her.

15. The Female Yard of the said prison consists of a rectangular space bounded by a wall. The single entrance to it is on the narrow side of it. Upon entrance immediately on the right hand side is the common barrack which contains about nine prisoners. One Chandrabhaga, Prisoner No.26 an inmate thereof is arrested under section 13 of the Indian Lunacy Act 1912. It appears that the police have arrested her having had reason to believe her to be dangerous by reason of lunacy. She is kept tied in the barrack opposite to the barrack in which Shrimati Mrinal Gore is confined. The said barrack is only 20 feet away from her barrack. The said lunatic keeps

shrieking in shrill voice day and night and is constantly attempting to free herself. The lunatic wears no clothes and she must not have taken bath or gone to the latrines for calls of nature in several months judging by her looks and the stink which emanates from her. No one dares to go near her.

16. The Petitioner says that under the provisions of the Maharashtra Prisons (Lunatics) Rules 1965 a lunatic prisoner when found to be dangerous, noisy or of filthy habits is required to be confined to a cell, as distinguished from a barrack. The confinement of the said Chandrabhagabai in the common barrack is in breach of the abovesaid rule. Under the said provisions a lunatic so confined has to be kept under a strict watch by day and night. Chandrabhaga is not kept under a strict watch. Her behaviour causes infinite harassment, tension and anxiety to Shrimati Mrinal Gore who is not only not in a position to get sleep by reason of the noise and stink but is also not able to get exercise during the day time as the only place where she can walk is near the said barrack.

17. Petitioner says that in the entire Female Yard of the Akola District Prison Shrimati Mrinal Gore is the only political prisoner. There is no other security prisoner therein. She is the only inmate of the barrack (40' x 10') in which she is confined. She is allowed to take walks in the yard outside the barrack. However, she cannot avail herself of this facility as the yard abuts the barrack in which the dangerous lunatic is kept without security watch. Thus she is virtually in solitary confinement which is prohibited even in the case of a leper.

18. Petitioner says that on 4.9.1971, the Government has made an order entitled the Maintenance of Internal Security (Maharashtra Conditions of Detention) Order, 1971 (hereinafter referred to as the 'said order')
Clauses 8, 28, 29, 30 and 32 thereof are as follows :

" 7. Accommodation - Where a security prisoner is detained in a Jail or a sub-Jail, he shall be kept in a cell or association ward.

8. Security prisoners shall be allowed to communicate with each other, provided that the Commissioner or the Superintendent may, if he considers it desirable to do so on the ground of health of the Prisoner or for any other reason, confine such security prisoner separately. Security prisoner shall, as far as possible, be kept separate from other kinds of prisoners. Security prisoners of one class shall, as far as possible be kept separate from those of the other class.

28. Games- Wherever accommodation permits, security prisoners may be permitted by the Commissioner or the Superintendent to play indoor games like cards at their own expense and inexpensive games such as ring tennis at Government expenses.

29. Security prisoners may be permitted to play chess, draughts and carrom at their own expenses.

30. Lights for reading-Security prisoners shall be supplied with sufficient light for reading at night till 10 p.m. A separate light may not be provided for each prisoner in barracks.

32. Locking- The locking time for Class I security prisoners shall be one hour later than that for convicted prisoners. "

19. Petitioner says that the abovesaid clauses 7, 8, 28, 29, 30 and 32 read together with the rest of the order clearly show that security prisoners are to be kept in one prison and that keeping security prisoners in Solitary Confinement is prohibited or in any case is opposed to its entire scheme. Petitioner, therefore, says that the incarceration of Shrimati Mrinal Gore at the Akola District Prison is calculated to violate the provisions of the aforesaid Maintenance of Internal Security (Conditions of Detention) Order 1971.

20. Clause 8 of the said order says that security Prisoners shall as far as possible be kept separate from other kinds of prisoners. Petitioner says that there is place and accommodation for one more prisoner in any one of the Central Prisons where Female Security Prisoners are detained. However, the Akola District Prison has been picked up for Shrimati Mrinal Gore in breach of the said Mandate of clause 8. She is kept exclusively with criminals and under-trials. None of them is a Security Prisoner.

21. Provision of the Maharashtra Prisons (Admission, Classification and Separation of Prisoners) Rules 1966 clearly indicate that class I prisoners have to be provided with cellular accommodation and, as far as possible they are to be kept separate from Class II prisoners in separate yards provided for that purpose. Clause 7 of the Maintenance of Internal Security (Maharashtra Condition of Detention) Order 1971, provide that a security prisoner shall be kept in a cell or association ward. In Akola District Prison there is no separate accommodation for class I Female Security Prisoners. Accommodation for class I and Class II prisoners is in the same yard, There is no other

female security prisoner in the Akola District Prison. Other Female prisoners in the Akola District Prison are not even class I prisoners. Shrimati Mrinal Gore is thus detained at Akola District Prison in breach of clause 7 of the said order read with the provisions of the said rules.

22. Petitioner says that the conservency arrangements for class I prisoners have to be necessarily separate and distinct. In Akola District Prison conservency arrangements for all the Prisoners are common. The said arrangements are not even in conformity with the Maharashtra Prisons (Prison Buildings and sanitary arrangements) Rule 1964. Besides Shrimati Mrinal Gore is required to use the same latrine which is used by a leper prisoner.

23. Petitioner says that clauses 28 and 29 of the said order provide that security prisoners can play indoor games like cards, chess, draughts, carrom and ring-tennis. Shrimati Mrinal Gore cannot avail herself of this facility in Akola District Prison.

24. Petitioner says that Shrimati Mrinal Gore is permitted to move out her barrack in the open yard which is common to all the prisoners. In view of the presence of unguarded lunatic prisoner in the same yard and in view of the presence of leper prisoner, who moves freely in the open yard, Shrimati Mrinal Gore finds it impossible to move freely in the said open yard. She cannot, therefore, even take exercise in the open yard. She is compelled to remain confined to the barrack which is in breach of the provisions of the said order.

25. Petitioner says that sufficient light for reading is not provided in the barrack in which Shrimati Mrinal Gore is detained. She cannot, therefore, read after sunset. Even the light provided is not kept till 10 p.m. There is thus breach of clause 30 of the said order.

26. Petitioner says that since there are no class I female security prisoners in the female ward of Akola District Prison, the barrack in which Shrimati Mrinal Gore is detained is locked simultaneously with the other barrack and cell. There is thus non-compliance with clause 32 of the said order.

27. Shrimati Mrinal Gore has only one child, a married daughter named Shrimati Anjali Wartak. She resides at Bassein, District Thana. It is only if Shrimati Gore is confined to any jail near Bombay that she will be able to see her daughter.

28. Under the aforesaid circumstances, Petitioner submits that detention of Shrimati Mrinal Gore at Akola District Prison is punitive. Petitioner, therefore, submits that this Hon'ble Court may be pleased to direct the Government to remove Shrimati Mrinal Gore from Akola District Prison and to lodge her in a Central Prison nearer Greater Bombay either at Nasik or at Yerawada.

29. Petitioner says that the condition in the Akola District Prison are so unbearable that he could not wait for a response from the Government to an approach to it. Besides it is obvious that the Government has deliberately and on premeditation lodged Shrimati Gore at the Akola Jail as far away from Bombay as possible in order to cause inconvenience, hardship and disease.

It was, therefore, useless to approach the Government for justice, since injustice was calculated.

30. The impugned action of the Government causes infinite harm and injustice to Shrimati Mrinal Gore. Save and except this petition the Petitioner has no other adequate and/or efficacious remedy and the remedy prayed for herein, if granted, will be complete.

31. Save and except this petition the petitioner has made no other petition or application either in this Hon'ble Court or in the Hon'ble Supreme Court of India, in respect of the cause of action herein.

32. Petitioner visited and interviewed Shrimati Gore at the Akola District Prison on 5.1.1976. He has immediately taken these proceedings thereafter without causing any delay.

33. Petitioner is not aware of the name and designation of the Officer-in-charge of the Akola District Prison.

34. Respondents are within the State of Maharashtra. The entire cause of action has taken place within Maharashtra. This Hon'ble Court has, therefore, the jurisdiction to try and decide this petition.

35. The petitioner, therefore, prays that-

- (i) by an appropriate writ, order or direction Respondent no.1 be directed to remove Shrimati Mrinal Gore from Akola District Prison to Yerawada Central Prison or Nasik Central Prison.

- (ii) Pending the hearing and final disposal of the aforesaid application opponents be directed to provide for separate conservency arrangements for Shrimati Mrinal Gore.
- (iii) That pending the hearing and final disposal of this application, smt. Mrinal Gore be removed to Bombay Central Prison and be produced in Court at the hearing of this application.

And for this act of justice and kindness the
Petitioner shall as in duty bound ever pray.

B o m b a y)
)
Dt. 7/1/1976.)

Advocate for the Petitioner.