

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.05.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.No.176 of 2018

Juber Khan ..Petitioner/
Brother of the Detenu
vs.

1.The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009

2.The Commissioner of Police,
Detaining Authority,
City Police Office,
Huzur Road,
Coimbatore City,
Coimbatore - 18

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 11.01.2018 on the file of the second respondent herein made in proceedings Memo C.No.10/G/IS/2018, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely E.Mustak, S/o.Ethrish, aged 32 years before this Court and set the petitioner's brother at liberty from detention, now the petitioner's brother detained in the Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi
For Respondents : Mr.R.Ravichandran, GA

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM.,J)

The present Habeas Corpus Petition has been filed, challenging the order of detention dated 11.01.2018 passed by the 2nd respondent.

2 We have carefully gone through the grounds for the detention of the detenu. Two adverse cases were noticed against the detenu and the details are as follows :-

S.No.	Police Station and Cr.No.	Section of Law	Disposal / Present stage of the case
01.	Coimbatore City E-2, Peelamedu Police Station Crime No.1735 of 2017.	457, 380 IPC @ 457, 380 IPC and 25 (1-B) Arms (a) Act 1959.	On 10.12.2017 between 01.15 and 4.30 hours at " Indus Ind" Bank ATM Centre, Door No.18-A, Thaneer Pandal Road, Peelamedu, Coimbatore, within E-2 Peelamedu Police station limits, Coimbatore City, accused E.Mustak and his associates committed theft of cash Rs.3,35,000/- from the said ATM center by breaking open the ATM using gas cutters. The Accused were arrested and remanded. The case is under investigation. In this case so far no bail application has been filed on behalf of the accused.

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S.No.	Police Station and Cr.No.	Section of Law	Disposal / Present stage of the case
02.	Coimbatore City, E-2, Peelamedu Police Station, Crime No.1737/2017.	457, 380 r/w 511 IPC @ 457, 380 r/w 511 IPC and 25 (1-B) (a) Arms Act 1959	Between 23.00 hours of 09.12.2017 and 10.30 hours of 10.12.2017, at "AXIS" Bank ATM Centre, Door No.28-B, Venkatesa Complex, Avinashi Road, Peelamedu, Coimbatore, within E-2 Peelamedu Police Station limits, Coimbatore City, accused E.Mustak and his associates attempted to commit theft of cash from the said ATM Centre. The accused were arrested and remanded, The case is under investigation. In this case so far no bail application has been filed on behalf of the accused.

3 The ground case was that on 11.12.2017 at about 21.30 hours, while the Sub-Inspector of Police, Crime, E-2 Peelamedu Police Station, Coimbatore City was on station duty, Thiru. D.Sangeeth Kumar, S/o.Dheenan, Door No.8, Krishna Nagar, 2nd Street, Pudupalayam Road, Rakkipalayam, Coimbatore appeared at the station and preferred a written complaint stating that he is working as a Field officer in " Euronet Services India (P) Ltd.," having its regional office at Chennai; that their company is looking after the maintenance work of "ATM" of banks on contract basis; that their company has entrusted the work of filing cash in "ATMs" with the "CMS" and "Securitans India (P) Ltd" (SIPC); that their company is maintaining the "AXIS" Bank functioning at "AM Complex", Door No.34-L, Thanneer Pandal Road, Peelamedu, Coimbatore; that on 08.12.2017 at about 19.00 hours, the said 'SIPL' company has filled cash of Rs.30 lakhs in the above said 'ATM'; that on 11.12.2017 at about 12.30 hours their Mumbai Office had contacted the 'SIPL' company officials and informed them that the above said 'ATM' is 'not functioning'; that on hearing the news, when Thiru.Pradeep, Operation

Manager, SIPL went to the said ATM Centre, he saw the shutter of the ATM Centre was locked and he informed the same to the complainant ; that the complainant and an another field officer immediately rushed there and broke open the lock of the shutter and went inside the 'ATM Centre' where they saw black colour paint was sprayed in the closed circuit camera and the 'ATM' was broke open with the help of gas cutter; that four cash filing trays were missing from the ATM; that when they checked the accounts, they came to know cash of Rs.26,70, 200/- was missing. Accordingly, the investigation commenced by the authorities and now, it is brought to the notice of this Court that the detenu along with some other persons, who had committed similar type of offences in many other places across the country.

4 The learned Government Advocate [CrI.Side] appearing on behalf of respondents / Police furnished the list of cases in which Mr. Islamuddin and his gang members were wanted and the details are as follows :

Sl.No.	FIR No.	Date	U/s	Police Station	Remarks
Delhi					
1	316/2016	02/06/2016	408/365/395/34 IPC	Vasant Kunj North, Delhi	Wanted
2	51/2016	13/04/2016	25/54/59 Arms Act	Crime Branch	Wanted
3	24/2009	21/01/2009	186/353/307 IPC & 25&27 Arms Act	Vasant Kunj North, Delhi	PO
RAJASTHAN					
4.	179/2008	-	379/411 IPC	Bajaj Nagar, Jaipur City, Rajasthan	Convicted
5.	120/2002	--	392/395/120-B IPC	Kishangarh Distt.Ajmer, Rajasthan	
6.	25/2011	16/01/2011	365/376/120B/34 IPC	Kama, Bharatpur (Raj)	Wanted and having reward of Rs.25,000/-

Sl.No.	FIR No.	Date	U/s	Police Station	Remarks
7.	342/2013	--	174A	Kama, Distt. Bharatpur	Wanted
8.	136/2015	--	365/395/420/482 /34 IPC	Kherwara, Udai Pur (Raj)	Wanted
9.	331/2015	27/09.15	341/323/342/365 /394/395/420/46 7/468/471/120-B IPC	Sumerpur, Distt. Pali, Rajasthan	Wanted and reward of Rs.5,000/-
10.	469/2015	--	323/341/365/394 /395/467/468/47 1/120-B IPC	Sumerpur, Distt., Palli, Rajasthan	Wanted and reward of Rs.5,000/-
11.	501/2015	14.10.2015	395/365/341/323 /120-B IPC	Sumerpur, Distt. Pali, Rajasthan	Wanted and reward of Rs.5,000/-
12.	141/2015	--	365/395/34 IPC	Panihala, Kota, Rajasthan	Wanted
13.	150/16	10/05/2016	365/395/397 IPC	Kotwali, Jhalawar, Rajasthan	Wanted IO/Inspr. Manoj Singh (SHO Sadar Jhalawar) 9414268999
MADHYAPRADESH					
14.	552/2014	--	365/395/397/34 IPC	Chiman Ganj, Ujjain, MP	Wanted and having reward of Rs.15,000/-
15.	282/2016	17/07/2016	365/395/397/34 IPC	PS Namli, Distt. Ratlam, MP	Wanted
16.	102/2011	24/05/2011	394/341/170/34 IPC	Malhargarh, Distt. Mandsore, MP	PO

Sl.No.	FIR No.	Date	U/s	Police Station	Remarks
17.	1161/11	--	307/34 IPC & 25/227 Arms Act	Fazalpur, Dhar, MP	PO
18.	454/11	--	307/34 IPC & 25 Arms Act	Kotwali, Dhar, MP	PO
Haryana					
19.	469/2016	01.07.2016	392/332/496/34 IPC	DLF, Sec-29, Gurgaon, Haryana	Wanted
20.	215/2016	12.06.2016	379 IPC	Sec-40 Gurgaon, Haryana	Wanted
21.	279/2016	--	148/149/285/427 /395/397/506 IPC & 25/54/59 Arms Act	Punhana, Haryana	Wanted
22.	119/2014	--	302/34 IPC & 25/54/59 Arms Act	Punhana, Haryana	Wanted
23.	513/2014	--	332/353/506 IPC	Punhana, Haryana	Wanted
24.	386/2013	--	307/34 IPC	Punhana, Haryana	Wanted
25.	21/2011	--	419/342/422/506	Punhana, Haryana	Wanted
26.	187/2010	--	148/149/135/352 /332 IPC	Punhana, Haryana	Wanted
27.	26/2009	--	406/420/467/146 8/471/120B IPC	Nuhu Distt. Mewar	Wanted
28.	230/2009	--	406/120-B IPC	Nuh, Mewat	Wanted
29.	239/2008	--	395/397/412 IPC	Punhana, Haryana	Wanted
30.	174/2008	--	148/149/323/452 /364A/506/285/379 IPC	Punhana, Haryana	Wanted
31.	111/2008.	--	379/411/420/467 /468/471/120-B IPC	Hathin, Distt. Palwal	Wanted

Sl.No.	FIR No.	Date	U/s	Police Station	Remarks
32.	55/2007	--	148/149/448	Punhana, Haryana	Wanted
33.	355/2005	--	395/397/412 IPC	Sadar, Distt. Palwai	Wanted
34.	76/2005	--	363/366/376/120 -B IPC	Firozar Jirka, Mewat	Wanted
35.	93/2001	--	364A/302/201/12 0-B IPC	Hodal, Distt. Palwal	Wanted
Gujarat					
36.	213/2011	--	342/365/395 IPC	Kalol, Distt.Panc hmahal, Gujarat	Wanted
37.	76/2013	28/06/2013	342/365/395/120 -B IPC	Mansa, Distt. Gandhi Nagar, Gujarat	Wanted
38.	190/2013	--	395/397/365/323 IPC	Chhani, Badodra, Gujrat	Wanted
39.	170/2012	--	342/365/395 IPC	Kalol, Distt.Panc hmahal, Gujrat	Wanted
Uttar Pradesh					
40	88/2008	--	460/34 IPC	Dhosli, Pune, Maharashtra	Wanted
41	224/16	03/07/2016	392/427 IPC	PS Tappal, Aligarh, UP	Wanted

5 The learned counsel appearing on behalf of the petitioner contended that there is a delay in considering the representation. However, the points raised in this regard has been rebutted by the learned Government Advocate [Crl.Side] appearing on behalf of the respondents. In this regard, the Under Secretary to Government filed a memo, stating that the

representation was submitted on behalf of the detenu on 25.01.2018 and the same was received on 29.01.2018. The authorities competent called for the remarks on 29.01.2018 and the said remarks were received on 09.02.2018. Accordingly, the files were submitted on 12.02.2018. The Under Secretary and the Deputy Secretary to Government dealt with the files on the same day on 12.02.2018 itself. Then the file was placed before the Hon'ble Minister for approval and the file was approved by Hon'ble Minister on 09.03.2018. Thus, an order of rejection was prepared on 12.03.2018 and the same was sent to the detenu on 13.03.2018.

6 This Court is of an opinion that in between the period of consideration, there were certain holidays, which also has been stated by the Under Secretary to Government. We are of the considered opinion the detenu has involved in many such cases, which are all of very serious in nature and affecting the public peace and tranquility. On a perusal of the list of cases, in which the detenu is wanted all over the country, we are of the opinion that considering the case of the petitioner, will certainly cause prejudice to the public order and a great concern for the State and also for the Nation. After implementation of the demonetization in our country, people are mostly using ATM Cards and Credit cards and cashless transactions are in improved stage. This being the prevailing situation in the society, we are of the opinion that such crimes committed by breaking open the ATM in the presence of the public is certainly affect the public order and, the State has to take stringent action against such offences. Periodical monitoring of these kinds of offences and protection to ATM are also certainly required. Police patrols should also be intensified in such offence prone areas where the ATM machines are installed.

7 Apart from the ground of delay, the petitioner is unable to raise any other legally acceptable ground, so as to consider the case of the petitioner for release. We have carefully analysed the factual circumstances, nature of the allegations against the detenu and the number of cases in which the detenu is alleged to have been involved and therefore, we have no hesitation in coming to the conclusion that it is not a fit case to release the detenu by invoking the provisions under Article 226 of Constitution of India. Thus, the Habeas Corpus petition is devoid of merits and stands dismissed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

rka/kak

To

1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Detaining Authority,
City Police Office,
Huzur Road,
Coimbatore City,
Coimbatore - 18

3.The Public Prosecutor
High Court, Madras.

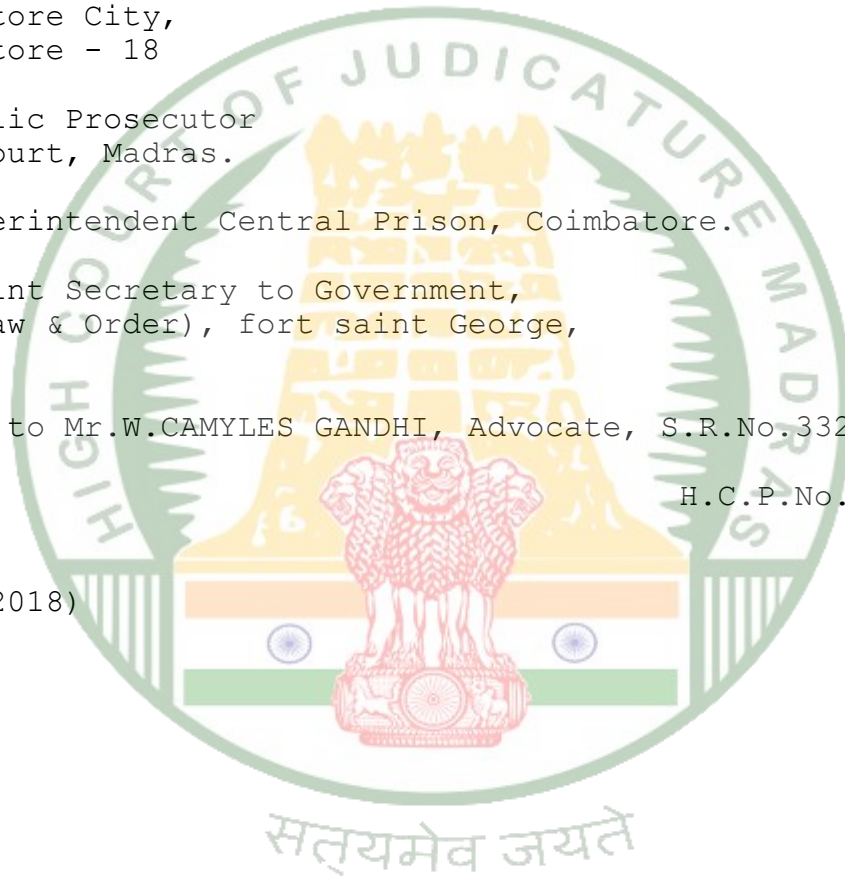
4.The Superintendent Central Prison, Coimbatore.

5. The Joint Secretary to Government,
Public (law & Order), fort saint George,
chennai 9

+1cc to Mr.W.CAMYLES GANDHI, Advocate, S.R.No.33215

H.C.P.No.176 of 2018

KAN(CO)
TR(23/05/2018)



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