

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.04.2018  
Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL  
AND  
THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

H.C.P.No.69 of 2018

Shanmugapriya

.. Petitioner

Vs.

1. The Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St. George,  
Chennai - 600 009

2. The Commissioner of Police,  
Greater Chennai,  
Vepery, Chennai - 600 007

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India for issuance of a Writ of Habeas Corpus to call for the records in connection with the Order of Detention passed by the 2<sup>nd</sup> Respondent dated 22.12.2017 in BCDFGISSSV No.791/ 2017 against her husband, the detenu herein, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the Respondents to produce the detenu Thiru.Ravi @ Ravichandran @ Manga Ravi S/o Vinayagamoorthy, aged about 26 years before this Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar for  
Ms.R.Nisha

For Respondents: Mr.R.Ravichandran  
Government Advocate (Crl.Side)

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate (Crl.Side) for the Respondents.

2. The Petitioner / Wife of the Detenu has focused the present Writ of Habeas Corpus Petition praying for passing of an order by this Court in calling for the records relating to the Order of Detention passed by the 2<sup>nd</sup> Respondent dated 22.12.2017 in Ref.Memo No.791/BCDFGISSSV/2017 against her husband, the Detenu, viz., Ravi @ Ravichandran @ Manga Ravi, now confined at Central Prison, Puzhal, Chennai and to set aside the same.

Further, the Petitioner has sought for passing of an order by this Court in directing the Respondents to produce her husband, viz., Detenu as aforementioned and set him at liberty.

3. The Petitioner's husband, namely, the Detenu, Ravi @ Ravichandran @ Manga Ravi is involved in the adverse case, viz., Crime No.1091 of 2017 on the file of H3, Tondiarpet Police Station under Section 6 of POCSO Act, 2012. The facts of the case are that the accused Ravi @ Ravichandran @ Manga Ravi [Detenu] seduced Shanmugapriya aged 17 years and on many occasions had sexual intercourse with her, as a result of which, she became pregnant. One week prior to 06.06.2017, Selvi Shanmugapriya gave birth to a premature child and that the child died and she wrapped the body with a clothe, kept the same in the asbestos ceiling of her next house and later, she admitted the fact and her mother namely, Chitra filed a complaint in this regard and that the matter is under investigation.

4. Also that the Petitioner's husband, namely, the Detenu, Ravi @ Ravichandran @ Manga Ravi is involved in another adverse case, viz., Crime No.1794 of 2017 on the file of H3, Tondiarpet Police Station under Sections 147, 148, 307 and 506(ii) IPC altered into Sections 147, 148, 302 and 506(ii) IPC. The facts of the case are that on 13.11.2017 at 13.45 hrs between 'E' and 'F' Block, Tsunami Quarters, the accused, Ravi @ Ravichandran @ Manga Ravi [Detenu] along with his associates armed with deadly weapons wrongfully restrained Kumar and Jeeva, who were talking and due to previous enmity attacked Jeeva over his left side head, left ear, left cheek, both hands and backside with knives and caused bleeding injuries. Also that, by brandishing their knives, they threatened the public, who gathered at the spot and escaped from the spot. As a matter of fact, Jeeva was taken to Government Hospital and admitted as an inpatient and that Kumar has lodged a complaint in this regard. While under going treatment, Jeeva succumbed to injuries at hospital, hence, Sections were altered and now the Detenu was arrested and remanded to judicial custody.

5. The facts of the ground case are that on 14.11.2017, at about 16.00 hrs, the Detenu, Ravi @ Ravichandran @ Manga Ravi along with six others had entered into the hotel run by one Ravi, residing at No.196, 'D' Block, Thilakar Nagar Housing Board, Tondiarpet, Chennai - 81. While they were about to leave the Hotel, after taking tiffin, but without making payment, their act was questioned by the said Ravi and one Haribabu took the knife kept by Ravi in his Mobile Tiffin shop to cut onion and by speaking in obscene / indecent words in Tamil rushed to cut over his head, but the said Ravi escaped from the attack. However, the associates, apprehended Ravi and assaulted him with hands and legs, as a result of the same, Ravi fell down and a sum of Rs.800/- in cash was taken by them from the cash box

etc., Moreover, 50 eggs kept in tray of Ravi's shop were thrown on the road by Detenu's associates. Subsequently, Ravi / Complainant lodged a complaint against the Detenu, Ravi @ Ravichandran @ Manga Ravi before the H3 Tondiarpet Police Station and a case was registered in Crime No. 1796 of 2017 for offence under Sections 341, 294(b), 323, 384, 427, 336, 307 and 506(ii) IPC. Further, all the accused [including the Petitioner's husband Ravi @ Ravichandran @ Manga Ravi] in their confession statements had admitted their involvement in Crime No.1794 of 2017 on the file of H3- Tondiarpet Police Station.

6. The Learned Counsel for the Petitioner submits that the representation, which was sent to the 1<sup>st</sup> Respondent on 08.01.2018 was not considered in the manner known to law and further that the Detaining Authority had stated in the Grounds of Detention that the Detenu had moved a bail petition before the Principal Sessions Judge, Chennai in Crl.M.P.Nos.18736 and 18737 of 2017 for H3 P.S.Crime Nos.1794 and 1796 of 2017 respectively and both the applications were dismissed.

7. The Learned Counsel for the Petitioner contends that the Sponsoring Authority had stated that the relatives of the Detenu are taking action by filing another bail application in H3 P.S. Crime Nos.1794 and 1796 of 2017 before the appropriate Court and this averment is not supported by any cogent material and no statement from the relatives of the Detenu is recorded by the sponsoring authority in this regard.

8. The Learned Counsel for the Petitioner vehemently takes a stand that the Detaining Authority in the Detention Order had stated that the recourse of normal criminal law would not have the desired effect preventing the Detenu from indulging in such activities and that there was a compelling necessity to detain the Detenu in order to prevent him, which are prejudicial to the maintenance of public order under the provisions of the Tamilnadu Act 14 of 1982.

9. Per contra, it is the submission of the Learned Government Advocate [Crl.Side] for the Respondents that the representation of the Petitioner dated 08.01.2018 was received by the Government on 10.01.2018 and the same was rejected on 22.01.2018.

10. The Learned Government Advocate [Crl.Side] for the Respondents contends that the Detenu and his associates had jointly moved bail applications in Crl.M.P.Nos.18736 and 18737 of 2017 before the Learned Principal Sessions Judge, Chennai and they were dismissed on merits. In this connection, the Learned Government Advocate [Crl.Side] for the Respondents points out that based on the police source information received by the Sponsoring Authority, the relatives were making an endeavour to

take the Detenu out on bail by filing bail application before the appropriate Court and as such, for this kind of police information, no document or material can be produced, as the same is confidential and also a discreet report.

11. The Learned Government Advocate [Crl.Side] for the Respondents brings it to the notice of this Court that bail orders in similar cases were considered and they were discussed in the Detention Order dated 22.12.2017 with a view to justify the possibility of the Detenu released on bail for the similar offences committed by the detenu and in the instant case, the detenu already came to adverse notice in a murder case, which was registered on 13.11.2017 and in the Second Adverse Case [robbery case] detenu is facing trial before the trial Court and since the Detenu in the ground case had acted along with associates, in regard to the maintenance of public order, the detaining authority opined that normal criminal Law would not have the desired effect in preventing the detenu from indulging in criminal activities, without showing any sign of reform in his attitude and ultimately, the Detention Order was passed against the Detenu, Ravi @ Ravichandran @ Manga Ravi branding him as 'Goonda' under Tamilnadu Act 14 of 1982.

12. As far as the present case is concerned, even though the plea was taken on behalf of the Petitioner that representation dated 08.01.2018 addressed to the 1<sup>st</sup> Respondent was not considered in the manner known to Law, this Court on going through the Rejection Order passed by the Government dated 22.01.2018 is of the considered view that the contra plea taken on behalf of the Petitioner is an unacceptable one.

13. Coming to the aspect of the 2<sup>nd</sup> Respondent / Detaining Authority mentioning in the Detention order dated 22.12.2017 about the dismissal of two bail applications in Crl.M.P.Nos.18736 and 18737 of 2017 as under:

'The sponsoring authority has stated action to take him on bail by filing another bail application in H3 Tondiarpet Police Station Crime Nos.1794/2017 and 1796/2017 before the appropriate Court. In a case registered u/s 341,307 & 506(ii) IPC in H3 Tondiarpet Police Station Cr.No.824 of 2016 he was granted bail by the Court of Principal Sessions, Chennai in Crl.M.P.No.17524/ 2016. Similarly, in a case registered in F1 Chintadripet Police Station Cr.No.809/2014 u/s 147, 148, 341, 307 IPC @ 302 IPC bail was granted by the Court of Sessions, Chennai in Crl.MP No.17395/2014. I, hence infer that there is real possibility of his coming out on bail in by filing another bail application in H3 Tondiarpet Polic Station Crime Nos.1794/2017 and 1796/2017 before the appropriate court, since in similar cases bails are

granted by the court after a lapse of time. If he comes out on bail, he will indulge in such further activities in future....'

this Court is of the considered view that it is a prerogative right of an accused or his relative, in Law, to seek necessary relief by way of filing necessary bail application and there cannot be any fetter in this regard. Even though the Detaining Authority had in the Detention Order observed that 'he inferred that there is a possibility of coming out on bail by filing another application in H3 Tondiarpet Police Station in Crime Nos.1794 and 1796 of 2017 before appropriate Court, since in similar cases, bails were granted by this Court after lapse of time', these averments at best can only be construed as one of 'Ipse Dixit' and de hors these observations, if this Court considers the Detention order in entirety, is of the considered view that the Petitioner initially was involved in two adverse cases in Crime Nos. 1091 of 2017 and 1794 of 2017 on the file of H3 Tondiarpet Police Station for offences under Section 6 of POCSO Act, 2012 and Sections 147, 148, 307 & 506(ii) IPC @ 147, 148, 302 and 506(ii) of IPC respectively and ultimately, based on the ground case in Crime No.1796 of 2017 for offences under Sections 341, 294(b), 323, 384, 427, 336, 307 & 506(ii) IPC, he was detained.

14. Because of the fact that the Petitioner's husband, viz., Ravi @ Ravichandran @ Manga Ravi [Detenu] was committing crimes and came to the adverse notice of the Police and further, he had acted prejudicial to the maintenance of the public order, he was detained by means of a Detention Order dated 22.12.2017 passed by the 2<sup>nd</sup> Respondent by describing him as 'Goonda', as per Section 2(f) of Tamilnadu Act 14 of 1982.

15. In this connection, this Court very relevantly points out that 'Preventive Detention' is a anticipatory measure and does not relate to an offence unlike the criminal proceedings, which are meant to punish a person in respect of an offence committed by him. Admittedly, they are not parallel proceedings. It is the duty of the Court to safeguard against any inroad of ones life and liberty. At the same time, the authorities who have a responsibility to discharge the solemn functions vested in them among Law of the country should not be interfered with without any justification. After all, liberty for a person is to be subordinated with reasonable bounds to the good of the people. Moreover, while dealing with the Habeas Corpus Petition, an undue importance is not to be attached to technicalities, in the considered opinion of this Court.

16. Be it noted that in a Preventive Detention, a Court of Law is to see whether any organised act or manifestation of an organised person is indicated that he shall not repeat a particular activity in future. In case of passing a preventive

detention order against a person, of course, it is a serious order affecting one's liberty, but it is the primordial duty of the Detaining Authority to take into account as to whether there are adequate materials placed before him warranting invocation of preventive detention of the detenu. If there are enough and good materials, then, it is the duty of the Detaining Authority to pass an order of Detention and he has no other go in this regard, as opined by this Court.

17. Suffice it for this Court to point out that there must be cogent materials before the Detaining Authority to arrive on a satisfaction that the alleged act of the Detenu indeed affects the public or whether a person had committed a breach of Law and Order or acted in a manner likely to cause disturbance for the public or not is a question of degree or the extent of reach of the act upon the society. The potentiality of the act in question is the acid test and a Court of Law can examine whether the grounds were disclosed in the detention relevant to the purpose of the Act, 14 of 1982, but, it cannot sit as a 'Court of Appeal'.

18. It is to be borne in mind that an Order of Preventive Detention is a measure mainly intended to intercept a 'Person before he commits the infra activities committed earlier', as per decision *Maliyakal Abdul Azeez V. Assist. Collector*, 2003 (2) SCC 439.

19. In the instant case on hand, the Detenu, viz., Ravi @ Ravichandran @ Manga Ravi is in the habit of committing offence and since his act in the ground case in Crime No.1796 of 2017 on the file of H3 Tondiarpet Police Station shows that he had created a panic situation and his activity is prejudicial to the maintenance of public order. However, this Court on going through the entire gamut of the Detention Order passed by the 2<sup>nd</sup> Respondent / the Commissioner of Police, Chennai and also on considering the attendant facts and circumstances of the case in a conspectus fashion, comes to an inevitable conclusion that the Detention Order dated 22.12.2017 passed by the 2<sup>nd</sup> Respondent is free from any flaw. Viewed in that perspective, the Habeas Corpus Petition fails.

In fine, the Writ of Habeas Corpus Petition is dismissed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

ssd

To

1. The Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St. George,  
Chennai - 600 009
2. The Commissioner of Police,  
Greater Chennai,  
Vepery, Chennai - 600 007
3. The Public Prosecutor,  
High Court, Madras

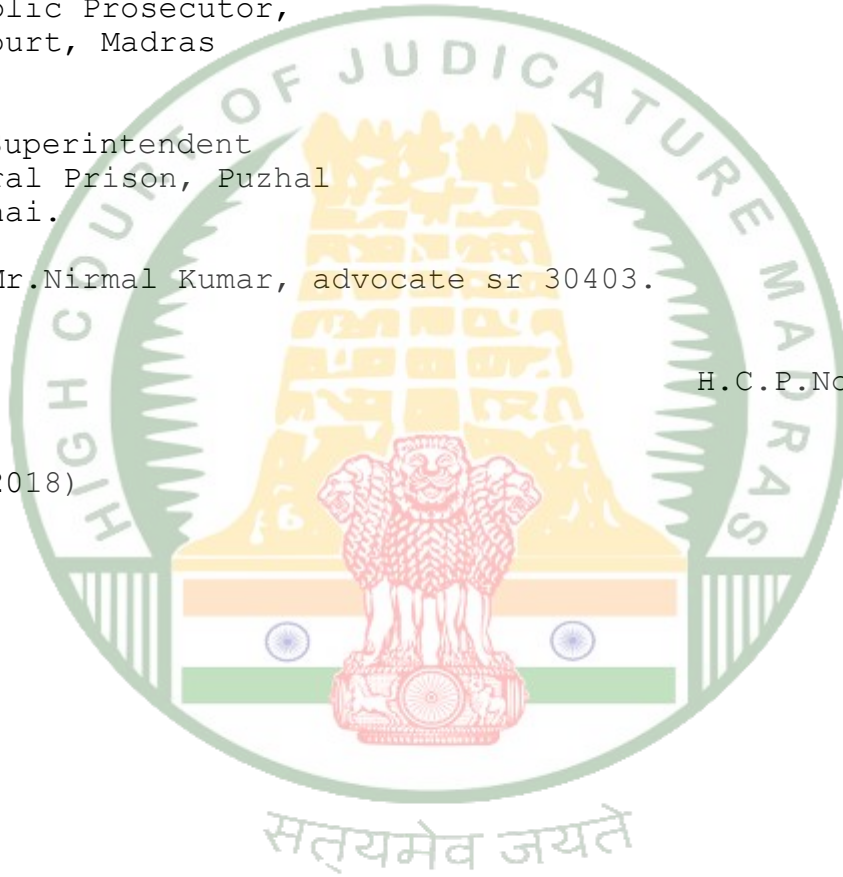
Copy to

The Superintendent  
Central Prison, Puzhal  
Chennai.

+1 CC to Mr.Nirmal Kumar, advocate sr 30403.

H.C.P.No.69 of 2018

MG(CO)  
SP(25/04/2018)



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