



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
and
THE HON'BLE MRS. JUSTICE S. RAMATHILAGAM

H.C.P. No.488 of 2018

Juberkhan

.... Petitioner

Versus

1. The Secretary to Government,
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

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondents, to call for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order dated 27.2.2018 on the file of the second respondent herein made in proceedings Memo C.No.28/G/IS/2018, quash the same as illegal and consequently, direct the respondents herein to produce petitioner's brother, namely, S.Islamudeen, S/o Sadik Ahamed aged 45 years before this Court and set him at liberty from detention, now he has been detained at Central Prison, Coimbatore.

For petitioner	:	Mr.V.Parthiban
For respondents	:	Mr.R.Prathap Kumar
		Addl. Public Prosecutor
		for RR1 and 2



ORDER

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

WEB COPY

The relief sought for in the present Habeas Corpus Petition is to quash the detention order dated 27.2.2018 passed by the second respondent vide proceedings Memo C.No.28/G/IS/2018 and consequently, direct the respondents herein to produce petitioner's brother, namely, S.Islamudeen, S/o Sadik Ahamed aged 45 years before this Court who has been detained at Central Prison, Coimbatore and set him at liberty from detention forthwith.

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 S.Amithkumar 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.



WEB COPY

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 S.Amithkumar 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.

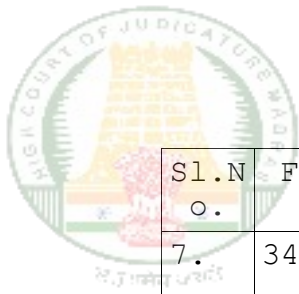
3 The ground case was that on 11.12.2017 at about 21.30 hours, while the Sub-Inspector of Police, Crime, E-2 Peelamedu Police Station, Coimbatore City was on station duty, Thiru. D.Sangeeth Kumar, S/o.Dheenana, Door No.8, Krishna Nagar, 2nd Street, Pudupalayam Road, Rakkipalayam, Coimbatore appeared 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 'Securitas India (P) Ltd' (SIPL); 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



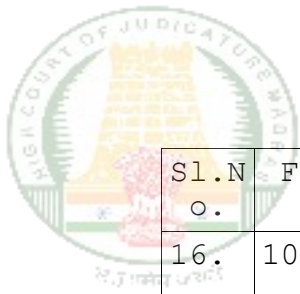
Centre was locked and he informed the same to the complainant; that the complainant and another field officer immediately rushed there and broke open the lock of the shutter and went inside the 'ATM Centre' where they saw black colour paint was sprayed in the closed circuit camera and the 'ATM' was broke 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 [Crl.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.N o.	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/3 4 IPC	Kama, Bharatpur (Raj)	Wanted and having reward of Rs.25,000 /-

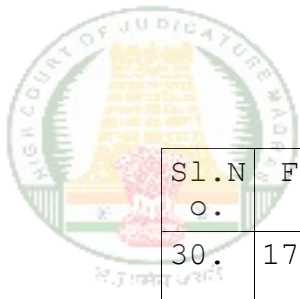


Sl. No.	FIR No.	Date	U/s	Police Station	Remarks
7.	342/2013	--	174A	Kama, Distt. Bharatpur	Wanted
8.	136/2015	--	365/395/420/48 2/34 IPC	Kherwara, Udai Pur (Raj)	Wanted
9.	331/2015	27/09.15	341/323/342/36 5/394/395/420/ 467/468/471/12 0-B IPC	Sumerpur, Distt. Pali, Rajasthan	Wanted and reward of Rs.5,000/-
10.	469/2015	--	323/341/365/39 4/395/467/468/ 471/120-B IPC	Sumerpur, Distt, Palli, Rajasthan	Wanted and reward of Rs.5,000/-
11.	501/2015	14.10.2015	395/365/341/32 3/120-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) 941426899 9
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



WEB COPY

Sl. No.	FIR No.	Date	U/s	Police Station	Remarks
16.	102/2011	24/05/2011	394/341/170/34 IPC	Malhargar, Distt. Mandsore, MP	PO
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	--	148/149/285/42 7/395/397/506 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	--	419/342/422/50 6	Punhana, Haryana	Wanted
26.	187/2010	--	148/149/135/35 2/332 IPC	Punhana, Haryana	Wanted
27.	26/2009	--	406/420/467/14 68/471/120B 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



WEB COPY

Sl. No.	FIR No.	Date	U/s	Police Station	Remarks
30.	174/2008	--	148/149/323/45 2/364A/506/285 /379 IPC	Punhana, Haryana	Wanted
31.	111/2008	--	379/411/420/46 7/468/471/120-B IPC	Hathin, Distt. Palwal	Wanted
32.	55/2007	--	148/149/448	Punhana, Haryana	Wanted
33.	355/2005	--	395/397/412 IPC	Sadar, Distt. Palwal	Wanted
34.	76/2005	--	363/366/376/12 0-B IPC	Firozar Jirka, Mewat	Wanted
35.	93/2001	--	364A/302/201/1 20-B IPC	Hodal, Distt. Palwal	Wanted
Gujarat					
36.	213/2011	--	342/365/395 IPC	Kalol, Distt. Panch mahal, Gujarat	Wanted
37.	76/2013	28/06/2013	342/365/395/12 0-B IPC	Mansa, Distt. Gandhi Nagar, Gujarat	Wanted
38.	190/2013	--	395/397/365/32 3 IPC	Chhani, Badodra, Gujrat	Wanted
39.	170/2012	--	342/365/395 IPC	Kalol, Distt. Panch mahal, 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



WEB COPY

5. The learned counsel appearing on behalf of the petitioner contended that there is a delay in considering the representation as well as in passing the detention order. However, the points raised in this regard has been rebutted by the learned Government Advocate [Crl.Side] appearing on behalf of the respondents by filing a counter affidavit, stating that the representation of the petitioner was received by the first respondent on 8.3.2018 and it was forwarded to the second respondent on the same day, which was received by the second respondent on 10.3.2018 and on receipt of the same, the second respondent called for the remarks of the Sponsoring Authority on the same day and also received the same on 12.3.2018 as 11.03.2018 being holiday and hence, on 13.3.2018, the second respondent sent his reply to the first respondent, which is under the consideration of the first respondent. Therefore, there is no inordinate delay in consideration on the representation of the petitioner. As regards the delay in passing the order, it appears that the detenu was arrested on 1.2.2018 and the detention order was passed on 27.2.2018. Therefore, there is no considerable delay in passing the detention order by the second respondent in order to interfere with the same.

6.

6. Further, it is pertinent to note that 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, this Court is 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, the 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.

WEB COPY

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
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.

3. The Public Prosecutor,
Madras High Court,
Chennai.

H.C.P. No.488 of 2018

aa15/10/2018