

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P.No.498 of 2020

Jayanthi

... Petitioner/Mother of Detenu

Vs

- 1.Union of India,
Represented By its Secretary,
Home Department,
New Delhi.
 - 2.The Chief Secretary to Govt.of Puducherry,
Union of Puducherry,
Chief Secretariat, Puducherry.
 - 3.The District Magistrate cum Authorized Officer,
Puducherry.
 - 4.The Superintendent of Police (South),
Puducherry.
 - 5.The Inspector of Police,
Ariyankuppam Police Station,
Puducherry.
- ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus calling for the records of the detention order dated 14.02.2020 in detention order No.05/DM/RO/D2/PPASAA/2020, on the file of the third Respondent herein, and quash the same and direct the respondents herein to produce the body of the detenu Krishna @ Krishnan S/o.Selvaraj, Hindu aged about 22 years who is now confined in Central Prison, Kalapet, Puducherry before this Court and set him at liberty.

For Petitioner : Mr.R.Thamarai Selvan.

For Respondents: Mr.S.S.Pajaniradja, Central,
Government Standing Counsel for R1.
Mr.Bharatha Chakaravarthy, Public
Prosecutor (Puducherry) for R2 to R5.

O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2.This Petition has been filed by the mother of the detenu challenging the detention order passed against her son in No.05/DM/RO/D2/PPASAA/2020 dated 14.02.2020 by the third respondent terming him as 'Dangerous Person' under Sub-Section (1) of Section 3 of the Puducherry Prevention of Anti-Social Activities Act, 2008 as he has got three adverse cases apart from the ground case registered against him. Out of the said four cases, one case has been registered in Crime Number 84 of 2017 for the offence under Sections 147, 148, 342, 302, 307 read with 149 of Indian Penal Code @ 148, 109, 120-B, 114, 342, 302, 307, 326, 324 of Indian Penal Code and 3 & 4 of Explosive Substances Act 1908 for murdering three persons and also for using Explosive Substances and the ground case in Crime Number 138 of 2019 has also been registered for the offence under Sections 147, 148, 302 read with 149 of Indian Penal Code and 3 of Explosive Substances Act, 1908 @ 120 (b), 147, 148, 302 read with 149 of Indian Penal Code and 3, 4 of Explosive Substances Act, 1908 for murdering one viz., Pandianand and also for using Explosive Substances.

3.It is seen that since the detenu has got four cases to his credit in which two cases have been registered for the offence of murders, the detention order has been passed as he is likely to indulge in these kind of activities. The said detention order is challenged before this Court.

4.Heard Mr.R.Thamarai Selvan, learned Counsel for the Petitioner and Mr.S.S.Pajaniradja, learned Central Government Standing Counsel for R1 and Mr.Bharatha Chakaravarthi, learned Public Prosecutor (Puducherry) for R2 to R5 and perused the materials available on record.

5.The learned Counsel for the Petitioner submitted that the initial remand report and the bail order have not been supplied to the detenu and there is an inordinate delay in passing the detention order and thus, the entire detention order is vitiated and sought for allowing this petition.

6.However, the learned Public Prosecutor (Puducherry) submitted that First Information Report and Final Report have been furnished to the detenu. With regard to the second contention, he submitted that the bail petition copy has been included in the booklet from Page Numbers 107 to 109 and bail order has been referred in Page Number 5 of the detention order. Therefore, he submitted that the said contention is not

sustainable. With regard to the delay in passing detention order, he submitted that since the detenu has been indulging in criminal activities and he is accused of murdering four persons and four cases have been filed and all the necessary documents in connection with the four cases have to be collected, there was a delay. However, the delay is neither willful nor wanton and sought for dismissal of this petition.

7.No doubt, preventive detention order is not punitive one and it is only to prevent criminal elements from indulging in antisocial activities. From the records, it is evident that the detenu has murdered three persons in the case registered against him in Crime Number 84 of 2017 apart from seriously injuring two persons. It is seen that he has also used explosive substances to attack the victims and therefore, Explosive Substances Act has also been included. Similarly in the ground case in Crime Number 138 of 2019, the victim's head was severed by the detenu and others and Explosive Substances have also been used by them. From the antecedents of the detenu and the records produced before the detaining authority, the detaining authority applied his mind and came to a finding that the detenu is a dangerous person and satisfied that if the detenu is allowed to go out, he will be indulging in antisocial activities which will adversely affect the maintenance of public order. In order to ensure protection of public life and safety, the detention order has been passed. Therefore, based on application of mind and cogent evidence, the detention order has been passed.

8.With regard to the non-service of remand report, as rightly pointed out by the Government, the investigation is over and First Information Report and Final Report have been filed and served upon the detenu. Therefore, it is seen that substantial compliance has been made. Therefore, on the ground of non service of remand report, it cannot be said that the detention order is vitiated. With regard to the non-supply of bail petition is concerned, it is submitted that Page Numbers 107 to 109 in the booklet contains the copy of the bail petition and it is stated in Paragraph Number 6 of the detention order that the detenu has applied for bail in Cr.M.P.No.400 of 2020 before the Principle Session Court, Puducherry and on 14.02.2020, the counter petitioner has been granted bail and therefore, the detention order has been passed on 14.02.2020. Hence, the copy of the bail petition and the reference about the bail order would be sufficient and hence, there is substantial compliance. Therefore, non supply of bail order would not vitiate the detention order.

9.With regard to the delay in passing detention order, as already submitted by the learned Public Prosecutor that the detenu is facing four cases, out of which two cases are cruel

murder cases. Many provisions are invoked apart from Explosive Substances Act and the necessary documents of all the four cases have to be collected by the detaining authority and hence, it will take time to consolidate the gathered documents and file a report and place it before the concerned authorities. Therefore, the delay point pleaded by the learned Counsel for the Petitioner is also not sustainable.

10. Accordingly, this Petition is dismissed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. Union of India,
Represented By its Secretary,
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New Delhi.
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Chief Secretariat,
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3. The District Magistrate cum Authorized Officer,
Puducherry.
4. The Superintendent of Police (South),
Puducherry.
5. The Inspector of Police,
Ariyankuppam Police Station,
Puducherry.
6. The Public Prosecutor,
High Court of Madras,
Chennai.

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VG II (CO)
GN (22/10/2020)