



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.02.2020

Pronounced on : 04.06.2020

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P.(MD) No.889 of 2019

Sundhayee

..Petitioner

vs.

1.The State of Tamil Nadu rep. by its
Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent,
Central Prison, Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records pertaining to the proceedings of the 2nd respondent made in his Proceedings in No.43/BCDFGISSSV/2019 dated 17.07.2019 and quash the same and set the petitioner's son by name, Soundarapandi @ Pachaikari, S/o.Chellapandi, aged about 31 years, set him at liberty from 3rd respondent.

For petitioner

: Mr.R.Venkatesan

For Respondents

: Mr.K.Dinesh Babu,

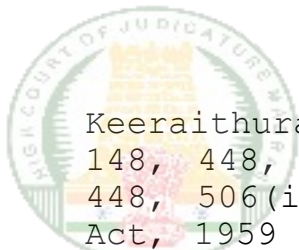
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by T.Raja, J.)

Mrs.Sundhayee, W/o.Chellapandi has filed this Writ of Habeas Corpus, challenging the validity of the impugned order of detention dated 17.07.2019 passed by the Commissioner of Police, Madurai, the 2nd respondent herein in Proceedings in No.43/BCDFGISSSV/2019, to quash the same and to set her son Soundarapandi @ Pachaikari, S/o.Chellapandi at liberty.

2. Learned Counsel appearing for the petitioner submitted that the 2nd respondent, while passing the impugned detention order has not followed the principles established by law because they have not informed the detention to the family members of the detenu. The 2nd respondent Commissioner of Police, Madurai City, in paragraph 4 of the detention order has observed that her son got arrested in connection with a ground case in Crime No.412/2019 of B4

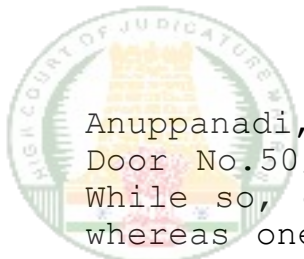


Keeraithurai Police Station for the offences under Sections 147, 148, 448, 506(ii) and 302 of IPC altered into Sections 147, 148, 448, 506(ii), 392 and 302 of IPC and Section 25(1-A) of the Arms Act, 1959 altered into Section 120-B, 147, 148, 448, 506(ii), 392, 302 of IPC and 25(1-A) Arms Act, 1959 and the order also specifically mentions that the detenu has filed a Bail Petition before the learned Principal District and Sessions Judge, Madurai, in Crl.M.P.No.2392/2019 and the same was pending disposal as on the date of the detention order i.e. 17.07.2019. The detention order further says that one co-accused Muniyasamy @ Padam Muniyasamy was granted bail by the Madurai Bench of this Court in Crl.O.P.(MD) No.8539/2019 on 25.06.2019. Therefore, the 2nd respondent appears to have inferred that there is a real possibility of the detenu coming out on bail in the above case and if he comes out on bail, he would indulge in future activities which would be prejudicial to the maintenance of public order. The above reasoning given by the Detaining Authority shows that the Detaining Authority has not applied his mind properly for the reason that the 2nd respondent failed to consider the fact that at the time of passing the detention order whether the said bail application was pending before the Sessions Court or not, but nowhere in the detention order the detaining authority mentioned about the date of the filing bail application, date of hearing, date of pending disposal whereas the detention order has been passed on 17.07.2019 without verifying the pendency of the bail application. Hence, this non-application of mind would vitiate the impugned detention order, it is pleaded.

3. The learned Counsel for the petitioner further submitted that when the detention order says that the co-accused Muniyasamy @ Padam Muniyasamy was granted bail by the Madurai Bench of this Court, it has to be seen that the said Muniyasamy was granted bail on the ground that though he had two previous cases, but the same are not similar in nature. Insofar as the present detenu is concerned, the Sponsoring Authority did not place the entire materials before the Detaining Authority. For all these reasons, the impugned order is liable to go.

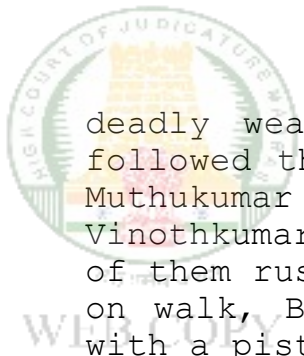
4. A detailed Counter affidavit has been filed by the 2nd respondent, the Commissioner of Police, Madurai city, Madurai.

5. Learned Additional Public Prosecutor appearing for the respondents opposing the contention of the learned Counsel for the petitioner submitted that the detenu has come to adverse notice in the ground case registered by B4 Keeraithurai Police Station Crime No.412/2019 for the offences under Sections 147, 148, 448, 506(ii) and 302 of IPC altered into Sections 147, 148, 448, 506(ii), 392 and 302 of IPC and Section 25(1-A) of the Arms Act, 1959 altered into Section 120-B, 147, 148, 448, 506(ii), 392, 302 of IPC and 25(1-A) Arms Act, 1959. Though the detenu also has moved the bail application, the same was pending. As per the ground case, one Vasantha, W/O.Pandian is residing at Flat No.572, TNHB Colony,



Anuppanadi, Madurai for rent and her ancestral house is located at Door No.50/216, Subbammal Compound, Sinthamani Main Road, Madurai. While so, one Jeyanthlal is residing at the ground floor for lease whereas one Seenivasan is residing at the first floor of the house for rent. On 18.04.2019 at about 12.00 hours, Vasantha came to the said house and was sitting on the stairs in the ground floor. Around 13.00 hours, M.S.Pandian, son-in-law of V.K.Gurusamy, who was known to her, came there running and rushing inside the house where Jeyanthlal is residing in the ground floor. It is, at that time, 5 persons armed with deadly weapons chased the said M.S.Pandian and trespassed into the house and all of them attacked M.S.Pandian repeatedly with aruvals and swords. When Vasantha tried to prevent them, the five persons threatened to cut and kill her also. Therefore, she raised alarm. However, the said M.S.Pandian was indiscriminately attacked. Thereafter when she went inside the house, she found M.S.Pandian was lying in a pool of blood with cut injuries. An amputated finger of M.S.Pandian was found inside the house. At the entrance of the house, a bullet and a broken cell phone were also found. Thereafter, the said victim was shifted to nearby Velammal Hospital by an ambulance. However, he was pronounced dead by the doctors.

6. The learned Additional Public Prosecutor further submitted that thereafter, Vasantha came to B4 Keeraithurai Police Station and prepared a complaint statement requesting action, based on which a FIR in B4 Keeraithurai P.S.Cr.No.412/2016 for offences under Sections 147, 148, 448, 506(ii) and 302 of IPC was registered. After thorough investigation, the accused Manikandan @ Chinna Vavuthalai, S/o.Alagarsamy and Muthupandi, S/o.Kumar were arrested on 24.04.2019 and their confession statements were also recorded. Besides, the case properties, namely, a Two Wheeler was seized from Manikandan @ Chinna Vavuthalai and a sword and Aruval were seized from Muthupandi under Athachi. Thereafter, the duo were produced before the Judicial Magistrate No.IV, Madurai on 24.04.2019 and remanded to judicial custody at the Central Prison, Madurai. On 27.04.2019, Manikandan @ Chinna Vavuthalai and Muthupandi were transferred to the District Prison, Ramanathapuram and their remand period was extended up to 22.07.2019. Further, the investigation reveals that there was a previous enmity prevailing between V.K.Gurusamy and Rajapandi of Keeraithurai area over political rivalry and family disputes for years together. Due to that, both the parties carried out their revenge murders. Recently, V.K.Gurusamy's son V.K.G.Mani and Son-in-law M.S.Pandian kidnapped Thoppilli Muniyasamy S/o.Rajapandi, murdered him and burnt his body into ashes. Therefore, in order to take revenge, the supporters of Rajapandi murdered one Muniyasamy on 12.06.2018 mistaking him as M.S.Pandian. In continuation, Kalimuthu @ Vellaikali, relative of Rajapandi insisted Boomi @ Boominathan on several occasions to murder M.S.Pandian. Under such circumstances, the accused Boomi @ Boominathan joining with other accused Rambabu, Selvam @ Pinam



deadly weapons driven by Padam @ Muniyasamy. Chinna Vavuthalai followed them on a two wheeler with Muthupandi as a Pillion Rider. Muthukumar @ Pattakumar was driving another two wheeler with Vinothkumar @ Seda Vinoth as pillion rider and followed them and all of them rushed to Nagupillai Thope. After seeing M.S.Pandian going on walk, Boomi @ Boominathan, who was in the car shot M.S.Pandian with a pistol in his possession. On hearing the sound, M.S.Pandian, escaped from them and ran away. Immediately Boomi @ Boominathan, Selvam @ Pinam Thinni armed with big aruval, the detenu Soundarapandi @ Pachaikari armed with a big sword, Muthupandi and Chinna Vavuthalai armed with deadly weapons chased M.S.Pandian and attacked him indiscriminately. On seeing this, when Vasantha tried to prevent them, the assailants threatened her also and fled away from there by car and two wheelers. They have also robbed a Two Wheeler TN 59 BP 5477 creating panic and feeling of insecurity in the minds of the local people and thereby acted in a manner prejudicial to the public order. Even the shopkeepers there also closed their shops and the vehicle riders came on that way also returned.

7. The learned Additional Public Prosecutor also submitted that when M.S.Pandian was killed by the accused Boomi @ Boominathan with pistol with prior conspiracy and also robbed the two wheeler from an innocent rider who came on that way, some of his associates were arrested. Moreover, Bhuvaneswaran @ Bhuvanesh @ Kocha S/o.Ganesa on his arrest has given a confession statement on 25.04.2019 and he was remanded to judicial custody. Besides, Muniyasamy @ Padam Muniyasamy, S/o.Muthu was arrested on 26.04.2019 and his confession statement was recorded. Thereafter, he was produced before the learned Judicial Magistrate No.IV, Madurai on 26.04.2019 and remanded to judicial custody. When the investigation team was searching the other accused, namely, detenu Soundarapandi @ Pachaikari S/o.Chellapandi, Vinothkumar @ Seda Vinoth, S/o.Chinnapandi and Rambabu, S/o.Murugan surrendered before the learned Judicial Magistrate No.I, Trichy on 24.04.2019 and remanded to judicial custody at the Central Prison, Trichy. On 26.04.2019, they were transferred to the Central Prison, Madurai. Thereafter, the trio were taken to police custody on 27.04.2019 and their confession statements were recorded. More over, the case properties, namely, a sword was seized from the detenu Soundarapandi @ Pachaikari, a Hero Honda Splender Two Wheeler was seized from Vinothkumar @ Seda Vinoth and one Two Wheeler was seized from Rambabu on 28.04.2019 under attachi. Thereafter, they were produced before the Judicial Magistrate No.IV, Madurai on 29.04.2019 and remanded to judicial custody and sent to District Prison, Virudhunagar on 29.04.2019 and on 29.04.2019, Vinothkumar @ Seda Vinoth and Rambabu were transferred to Central Prison, Cuddalore and the detenu Soundarapandi @ Pachaikari was transferred to Central Prison, Salem.

<https://hcservices.courts.gov.in/hcservices/> 8. The learned Additional Public Prosecutor further submitted



that the representation dated 04.09.2019 submitted by the petitioner addressed to the State Government marking a copy to the Detaining Authority was received by the Detaining Authority on 04.09.2019 from the petitioner and remarks for the same were called for from the Sponsoring Authority on 04.09.2019 and the remarks which were received from the Sponsoring Authority on 05.09.2019 were sent to the Government on the same day without any delay. Therefore, there is no infirmity in the detention order passed by the 2nd respondent.

9. Heard the learned Counsel on either side and I have also perused the typed set of papers including the detention order carefully.

10. At the outset, it is an admitted case that after killing M.S.Pandian, when the investigation team was searching the offenders, the accused Boomi @ Boominathan was surrendered before the learned II Metropolitan Magistrate, Chennai on 25.04.2019 and was remanded to judicial custody till 03.05.2019 at the Puzhal Prison, Chennai. Thereafter, when the investigation team was searching the other accused, the detenu Soundarapandi @ Pachaikari S/o.Chellapandi, Vinothkumar @ Seda Vinoth, S/o.Chinnapandi and Rambabu, S/o.Murugan surrendered before the learned Judicial Magistrate No.I, Trichy on 24.04.2019 and remanded to judicial custody at the Central Prison, Trichy. On 26.04.2019, they were transferred to the Central Prison, Madurai. Moreover, a sword was seized from Soundarapandi @ Pachaikari. On the basis of the confession statements given by them, it appears that a Hero Honda Splendor Two Wheeler was also seized from Vinothkumar @ Seda Vinoth and one another two wheeler was seized from Rambabu on 28.04.2019 under attachi. Thereafter, all these three accused were produced before the Judicial Magistrate No.IV, Madurai and their remand period has also been extended. While so, the representation dated 04.09.2019 submitted by the petitioner to the State Government marking a copy to the Detaining Authority was received by the Detaining Authority on 04.09.2019 and remarks for the same were called for from the Sponsoring Authority on the same day and remarks were received from the Sponsoring Authority on 05.09.2019 which were sent to the Government on the same day itself without any delay.

11. Secondly, the detenu was in remand in the ground case in Crime No.412/2019 of B4 Keeraithurai Police Station for the offences under Sections 147, 148, 448, 506(ii) and 302 of IPC altered into Sections 147, 148, 448, 506(ii), 392 and 302 of IPC and Section 25 (1-A) of the Arms Act, 1959 altered into Section 120-B, 147, 148, 448, 506(ii), 392, 302 of IPC and 25(1-A) Arms Act, 1959 in Central Prison, Salem and on the date of passing of the detention order i.e. on 17.07.2019, the bail application filed in CrI.M.P.No.2392/2019 was pending disposal. Besides, the bail was granted by the Madurai Bench of this Court in CrI.O.P.(MD) No.8539/2019 on 25.6.2019 to Muniyasamy @ Padam Muniyasamy, co-accused of the detenu Muthupandi in the above said ground case. Therefore, in the detention order,



the 2nd respondent has rightly stated that bail application on behalf of the detenu was pending disposal in CrI.M.P.No.2392/2019 on the date of detention order i.e. 17.07.2019 and a booklet containing legible copy of the case diary, grounds of detention in English and the translated version in Tamil Language was also supplied to the detenu along with the detention order. In view of the above, taking note of the fact that the co-accused was granted bail by the Madurai Bench of this Court, it was found that there is a real possibility of the detenu to get bail in CrI.M.P.No.2392/2019. Therefore, the 2nd respondent has rightly come to the conclusion that the detenu having involved in the ground case, acted prejudicial to the maintenance of public order and created panic and insecurity in the minds of the people on that locality. Hence we are of the view that the subjective satisfaction arrived at by the 2nd respondent Detaining Authority for passing the detention order holds consideration.

12. One of the arguments raised by the learned Counsel for the petitioner is whether a person who has been implicated in a solitary case by any stretch of imagination, can be branded as Goonda within the meaning of Section 2(f) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982 (T.N.Act 14 of 1982). This issue is no longer *res integra*. Since a Full Bench of this Court in **Arumugam vs. State of Tamil Nadu rep. by its Secretary to Government, Home, Prohibition & Excise Department, Fort St. George, Chennai-9 and another** reported in 2011 (4) CTC 353 has held that even a single incident giving rise to a single case would be sufficient and if that single case is of the nature as defined in Section 3 of the Act, there can be a valid order of detention. In view of all the above, we find no infirmity in the order detaining the detenu Muthupandi, S/o.Kumar under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982 (T.N.Act 14 of 1982).

13. In the result, the Habeas Corpus Petition fails and the same stands dismissed.

Sd/-

Assistant Registrar (ADII)

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Sub Assistant Registrar(CS)

Tsi



To:

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent,
Central Prison,
Salem.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

Pre-delivery Order in
HCP.(MD) No.889 of 2019
04.06.2020

KB(31.07.2020) 7P 5C