



WEB COPY

H.C.P.(MD) No.516 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P.(MD) No.516 of 2021

Jeyalakshmi

... Petitioner /

Mother of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector cum District Magistrate,
Thoothukudi,
Thoothukudi District.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the detention order in Detention Order H.S(M).Confdl No.29/2021, dated 24.02.2021 passed by the 2nd respondent and set-aside the same as illegal by setting the detenu by name, Murugavel, S/o.Rajagopal, aged about 39 years at liberty, now detained at Central Prison, Palayamkottai.

For Petitioner : Mr.S.Mandhiralingeswaran

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

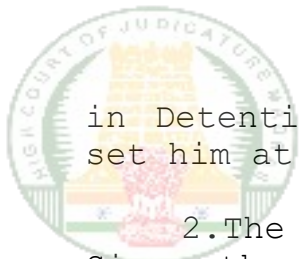
O R D E R

S.VAIDYANATHAN, J.

And

DR.G.JAYACHANDRAN, J.

Mrs.Jeyalakshmi, mother of the detenu Mr.Murugavel, aged about 39 years is before this Court to quash the preventive Detention Order passed by the second respondent vide his proceedings



in Detention Order H.S(MD).Confdl No.29/2021, dated 24.02.2021 and set him at liberty.

2.The detenue Murugavel was detained under Act 14 of 1982. Since the detaining authority was *prima facie* satisfied that his conduct and antecedents falls within the definition of GOONDAS as defined under Act 14, 1982. The ground for detaining the son of the petitioner/detenue indicates that, on 31.01.2021, when the police party led by Pon Subbiah and Jagastin Rajkumar went in search of the detenue pursuant to the complaint received about the quarrel created by the detenue near the State Bank at Eral Barathiyar Road, the said detenue was apprehended and taken to the police station. The Station House Officer has obtained a bond from Murugavel getting an undertaking that the detenue should appear before the police on the next day. However, on 31.01.2021, late night, when Inspector Balu was on duty along with Pon Subbiah/Constable, early hours of 01.02.2021, they saw Murugavel near Korkai Fore Road Junction. When they enquired him about his roaming on the road without going home, the detenue has got wild and after the police proceeded in the motorcycle, he followed the police party in Ashok Leyland Dost (four wheeler) and dashed against the motorcycle driven by the Head Constable, Pon Subbiah carrying Inspector Balu on the pillion. Due to the impact, both the Inspector-Balu and Head Constable-Pon Subbiah were thrown out from the vehicle. In the said impact Inspector Balu died on the spot and Head Constable-Pon Subbiah had sustained serious injury. The case under Sections 353, 307 and 302 of IPC was registered in Crime No.46 of 2021. It is the ground case for detaining the accused Murugavel.

3.The Habeas Corpus Petition was filed by the mother of the detenue on the ground that the detention order was passed on 24.02.2021, based on the alleged ground case occurred on 01.02.2021. There is a delay of 19 days in taking a decision to detain Murugavel under Act 14 of 1982. Thereafter also, the representation, dated 25.03.2021 was disposed of belatedly on 19.04.2021. Further, it is contended that the paper book furnished to the detenue does not contain clear copy and the remand extension order is not translated in Tamil.

4.Heard the learned counsel on both side and perused the materials placed before this Court.

5.On perusal of the representation made by the learned counsel appearing for the petitioner and counter affidavit filed by the learned Additional Public Prosecutor, though it was submitted by the learned that there is enormous delay in disposing the representation, record reveals that the representation, dated 25.03.2021 was received and immediately forwarded for getting remarks. On getting the remarks from the authorities on 13.03.2021 papers were sent to the Government and the Minister-in-charge of the

<https://hcservices.courts.mys.gov.in/hcservices> approved the Detention Order on 12.11.2021 due to



intervening Government holidays on the following dates:

"27.03.2021, 28.03.2021, 02.04.2021, 03.04.2021,
04.04.2021, 10.04.2021, 11.04.2021, 13.04.2021 and
14.04.2021"

6.The order of rejection came to be sent to the detenue on 19.04.2021. Thus, the delay in disposing the representation properly been explained and there is no reason to entertain the Habeas Corpus Petition on the said ground. As far as the other point raised by the learned counsel for the petitioner that, for the ground case occurred on 01.02.2021, detention order was passed only on 24.02.2021, that delay from the date of occurrence till the date of detention order, there is no link and no justifiable reason, this Court is of the view that it is not mandated that the detention order has to be passed soon after the filing of ground case. As law enables the detaining authority to preventively detain an accused, who is the menace to the society and likelihood of repeating the offence, proper application of mind is required and sufficient time to collect the materials is required. Therefore, the period from the date of ground case till the date of detention order is reasonable, justifiable and indicative of application of mind.

7.Regarding the non-furnishing of clean copy, this Court went through the paper book and page Nos.421 to 425, it is the remand report and extension of remand order by the judicial officer is readable and not illegible as contended by the learned counsel for the petitioner. The detenue was produced before the learned Judicial Magistrate and he had been remanded to judicial custody. The act of the judiciary is to be presumed to be done in the manner known to law and there is no contra evidence to infer anything otherwise. The non-furnishing of the remand order in Tamil is no way prejudice the detenue so far as the detention order is concerned.

8.The antecedents of the detenue indicates that he has four adverse cases of grave nature and the ground case clearly indicates that, if he is not detained preventively, repetition of the offence is possible and the likelihood apprehended by the detaining authority cannot be faulted. Hence, this Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

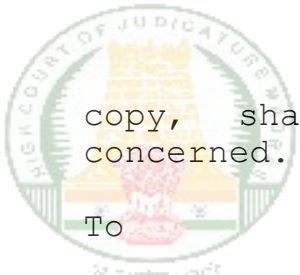
/ /2021

Sub Assistant Registrar(CS)

PJL

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct

<https://hcservices.courts.gov.in/hcservices/>



copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector cum District Magistrate,
Thoothukudi,
Thoothukudi District.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
- 4.The Joint Secretary to Government,
Public (Law & Order), Fort saint George,
Chennai-600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.516 of 2021
09.11.2021

RD(26.11.2021) 4P 6C