



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.11.2021

Delivered on : 18.11.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P.(MD)No.678 of 2021

M.Vanitha

... Petitioner mother of the detenue

-vs-

1.State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Govt. of Tamil Nadu,
Home, Prohibition & Excise Department,
Chennai - 9.

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

3.The Superintendent,
Central Prison,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Habeas Corpus, to call for records pertaining to the proceedings of the second respondent made in his proceedings in No.33/BCDFGISSSV/2021, dated 30.03.2021, quash the same and produce the body or person of the petitioner's son by name Prasanna @ Sullan Prasanna, S/o.Moorthi, aged about 21 years at liberty from the third respondent.

For Petitioner : Mr.C.Prithviraj

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

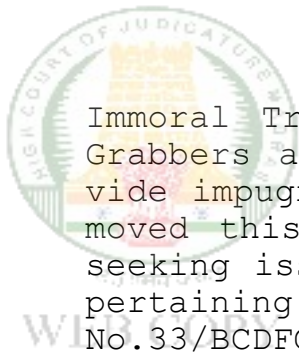
O R D E R

S.VAIDYANATHAN, J.

and

G.JAYACHANDRAN, J.

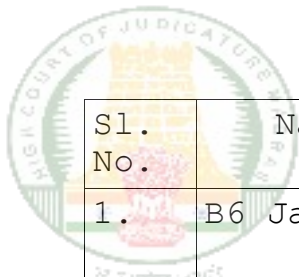
Prasanna @ Sullan Prasanna was detained by the second respondent, terming him as a Goonda as defined under Section 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas,



Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982], vide impugned order dated 30.03.2021. The mother of the detenu has moved this Court under Article 226 of the Constitution of India, seeking issuance of a Writ of Habeas Corpus to call for the records pertaining to the proceedings of the second respondent made in No.33/BCDFGISSSV/2021, dated 30.03.2021, quash the same and set the detenu Prasanna @ Sullan Prasanna [21 years], S/o.Moorthi, at liberty.

2.According to the petitioner, the preventive detention order bristles with procedural infirmity, hence, the same is liable to be quashed. Primarily, it is contended that the impugned order, detaining Prasanna @ Sullan Prasanna, has been passed without proper application of mind by the detaining authority. In the detention order, it is stated that in Crime No.233 of 2021, the ground case, for which the detenu was arrested for the alleged offence under Section 392 read with Sections 397 and 506(ii) of I.P.C., which was later altered into Section 392 read with Sections 397 and 506(ii) of I.P.C. read with Section 83(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015, but the altered Sections not found in the grounds of detention. Likewise, it is stated that there is a possibility of granting bail to the detenu, since in a similar case in Crime No.513 of 2019, the Court has enlarged the accused on bail. The said presumption of the detaining authority is based on surmises. Apprehension of getting bail is unfounded, since the detenu has not moved the Court for bail at any point of time in Crime No.233 of 2021. Further, it is contended that the booklet furnished to the detenu contains several documents in English and translation version of the documents in vernacular were not served. Also several of the documents are illegible and not clear for the detenu to peruse it and forward effective representation. Therefore, the fundamental right of life is deprived to the detenu by the preventive detention order. Hence, the same to be quashed.

3.The second respondent has filed counter affidavit, wherein it is stated that on 17.02.2021 when one Pandian was going in his two wheeler along with his friend, near K.K.Nagar Rajmahal Junction, the detenu Prasanna @ Sullan Prasanna along with Gopalakrishnan @ Gopal, Dhayanithi @ Trichy Dhayanithi and Krishna @ Mendal Krishna followed them in two wheelers, waylaid them and brandished knife under the threat of their life, Rs.1000/- was robbed from the said Pandian and another Rs.1000/- was robbed from his friend. Therefore, a case in Crime No.233 of 2021 under Section 392 read with Sections 397 and 506(ii) of I.P.C. was registered by the Inspector of Police, E3 Anna Nagar (Crime) Police Station. In the course of investigation, it was brought to the knowledge of the investigation authorities that the detenu Prasanna @ Sullan Prasanna is an habitual offender of similar crime and was involved in the following five cases:-

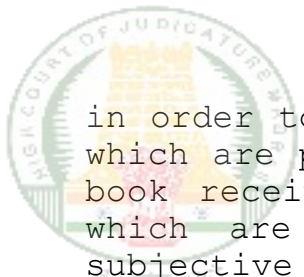


Sl. No.	Name of Police Station	Cr.No. and Section of law	Stage of case
1.	B6 Jaihindpuram	72/2019, u/s.392, 397 and 506(ii) I.P.C.	UI
2.	C5 Karimedu	727/2019, u/s.379 I.P.C. @ 34, 379 and 414 I.P.C.	Disposed
3.	C5 Karimedu	642/2019, u/s.379 I.P.C. @ 34, 379 and 411 I.P.C.	Disposed
4.	C5 Karimedu	641/2019, u/s.379 I.P.C. @ 34 and 379 I.P.C.	PT
5.	D3 Koodalpudur	1075/2018 u/s.392 and 397 I.P.C.	Disposed

Further, when he committed that crime in the ground case on 17.02.2021, along with other accused, he was on bail in Crime No.181 of 2021 on the file of E-3, Anna Nagar (Crime) Police Station, for the offence under Section 392 of I.P.C., the case which was in respect of snatching of five sovereigns of gold chain. Therefore, it is stated in the counter affidavit that only after proper application of mind that the detenu in violation of bail conditions, has again involved in similar offence and also filed bail petition in the ground case in Cr.M.P.No.968 of 2021, which was dismissed on 24.02.2021. Thereafter, the bail petition filed before the learned Principal District and Sessions Judge, Madurai, in Cr.M.P.No.2017 of 2021 was pending at the time of passing the detention order. Therefore, it is incorrect to say that there was no application of mind and the apprehension of likelihood of granting bail is only a farce. Regarding copies furnished to the detenu, it is contended that the Tamil version of English documents were furnished to the detenu and all the copies were legible and nothing prevented the detenu from sending representation to the Government, as he was well informed in the detention order that he has legal right to represent to the Government or other authorities if he is aggrieved by the detention order. However, the detenu had not chosen to file any representation. Hence, the detention order has been passed.

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State. The pleadings and citations referred in support of the petition were considered.

5.It is a case where the detenu has come to the adverse notice of the Law Enforcing Agency, so he has been preventively detained under the provisions of the Tamil Nadu Act 14 of 1982. The detaining authority after considering the antecedents of the detenu and the manner in which he has committed the offence in Crime No.233 of 2021, had invoked the provisions of the Tamil Nadu Act 14 of 1982,



in order to prevent him from further indulgence of such activities, which are prejudicial to the maintenance of public order. The paper book received by the detenu contains all the relevant materials, which are necessary for the detaining authority to arrive at subjective satisfaction for invoking the Tamil Nadu Act 14 of 1982. Nowhere in the petition nor in the course of oral submissions, it is pointed to the Court that any particular document, which is relevant for decision making, not furnished to the detenu or not legible or not properly translated in the vernacular language. In the said circumstances, this Court is of the view that the detaining authority on application of his mind and on being subjectively satisfied that the antecedents of the detenu warrants preventive detention, had passed the impugned order and there is no infraction of fundamental right, since the maintenance of public order and peace will prevail over the right of individual, which is subservient to the collective fundamental right of general public. Accordingly, this Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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

To

- 1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition & Excise Department,
Chennai - 9.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent,
Central Prison,
Madurai.
- 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. 678 of 2021
18.11.2021

RD(26.11.2021) 5P 6C