



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.11.2021

Delivered on : 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD)No.792 of 2021

S.Gnanamani

... Petitioner/Mother of the Detenue

-vs-

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai - 600 009.

2.District Magistrate and District Collector,

O/o. District Magistrate and District Collector,
Dindigul District,
Dindigul.

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 the entire records in Detention Order No.21/2021, dated 12.05.2021, on the file of the second respondent herein, set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son, namely, Boopalan @ Boopalakrishnan, aged about 30 years, S/o.Sethupathi, detained in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner

: Mr.Anantha Padmanabhan
for Mr.R.Srinivasan

For Respondents

: Mr.A.Thiruvadikumar
Additional Public Prosecutor



O R D E R

S.VAIDYANATHAN, J.
and
G.JAYACHANDRAN, J.

This Habeas Corpus Petition is filed by the mother of the detenu, seeking direction to set aside Detention Order No.21/2021, dated 12.05.2021, as illegal and set the detenu at liberty.

2. The case of the detaining authority is that, the detenu is one of the Gang Members and he was kingpin for the abduction and extortion of ransom from one Mayilsamy, the de-facto complainant in Crime No.1523 of 2020, on the file of the Palani Town Police Station. In this ground case, the detenu face charges for offences under Sections 147, 365, 323 and 364(A) of I.P.C. Besides the ground case, another case of extortion under Sections 387 and 506(ii) of I.P.C., registered in Crime No.307 of 2019 as adverse case, hence, being satisfied that the detenu acting in a manner prejudicial to the maintenance of public order, the detention order has been passed.

3.It is the case of the petitioner that the alleged act of the detenu even assuming to be true, it has not caused any threat to the maintenance of public order. Further, there is enormous delay in considering the representation given by the detenu to revoke the detention order. The copies furnished were not legible, therefore, he was prevented him to make effective representation. The detaining authority failed to apply his mind to the material records before passing the detention order.

4.The learned Additional Public Prosecutor while opposing the petition, has produced the file and submitted that the detenu being a notorious habitual offender, having more than eight criminal cases to his credit, including the offences under Sections 302 and 307 of I.P.C, had indulged in an act of abduction and extortion of ransom of Rs.10,00,000/- and has created a scare and panic among the public in the locality. Hence, the sponsoring authority requested for his preventive detention. The detaining authority on due application of mind, had accepted the same and detained the detenu in order to maintain public order. Therefore, there is no infirmity in the detention order and sought for dismissal.

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and perused the records.

6.This Court while considering the submissions made by the respective learned counsels and on perusing the records though not convinced on the other grounds raised by the petitioner on behalf of the detenu, the inordinate delay of 22 days excluding the holidays in considering the representation and the same not been explained



by the respondents, prompt this Court to allow this Habeas Corpus Petition and quash the detention order following the principles laid down by the Hon'ble Apex Court in **Rajammal vs. State of Tamil Nadu and another [1999 (1) SCC 417]**.

7. In fine, the order of detention passed by the second respondent, in Detention Order No.21/2021, dated 12.05.2021, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Boopalan @ Boopalakrishnan [aged about 30 years], S/o.Sethupathi, now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Additional Chief Secretary to Government of Tamil Nadu,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Magistrate and District Collector,
O/o. District Magistrate and District Collector,
Dindigul District, Dindigul.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort St. George,
Chennai - 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SRINIVASAN, Advocate (SR-37140[F] dated 02/12/2021)

H.C.P. (MD)No.792 of 2021

02.12.2021

MGJ(02.12.2021) 3P 6C

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