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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.931 of 2021

Masanam ... Petitioner/Father of Detenu
-vs-

1.State of Tamil Nadu, rep. by its
Additional Chief Secretary to Government,
Prohibition & Excise Department,
Fort St. George, Chennai-600 009.

2.The District Collector and District Magistrate,
Sivagangai District, Sivagangai.

3.The Superintendent
Central Prison,
Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, calling for the records relating to the Detention Order passed by the second respondent in Cr.M.P.No.06/Goonda/2021 dated 22.04.2021 and quash the same and direct the respondents to produce the person or body of the Detenu namely Arun @ Poochi Irulappan, Son of Masanam aged 23 years (now detained at Central Prison, Trichy) before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

O R D E R

On 19.12.2020, the Sub-Inspector of Police, Sivagangai Police Station registered a case in Cr.No.1122 of 2020 under Sections 147, 148, 294(b), 342, 324, 307 and 506(ii) IPC in connection with the complaint given by one Dharmarajan, S/o.Narayanan alleging that one Aakash and his associates came in two cars, intercepted his son Surendra Prasad near MRK Thirumana Mahal, Sivagangai to Panangadi Road and attacked him with deadly weapons causing grievous injuries with an intention to cause death. Subsequently, the said Aakash was arrested on 20.12.2020 by the Sivagangai Police and was remanded to judicial custody. The said accused Aakash was granted bail by this Court vide CrI.O.P(MD)No.1519 of 2021.

2. While so, in sequence one Arun Nathan was murdered on 09.01.2021 by Agniraj and others. The said Agniraj was arrested and
<https://hcservices.ecourts.gov.in/hcservices/>



later released on bail on 24.02.2021. He was directed to report before Manamadurai Police daily. On 05.03.2021 when Agniraj returning home after reporting at Manamadurai Police, Arun @ Poochi Irulappan and his associates assembled unlawfully armed with deadly weapons, intercepted Agniraj, S/o.Thangamani and attacked him indiscriminately all over the body, causing his death. Hence, Manamadurai Police has registered a case in Cr.No.82/2021 under Sections 147, 148, 341, 302 IPC altered into Sections 147, 148, 341, 120(B), 109 and 302 IPC. The said Arun @ Poochi Irulappan was arrested on 06.03.2021 and remanded to judicial custody and his custody is extended time to time.

3. While so, the detaining authority being satisfied that the conduct of the said Arun @ Poochi Irulappan is prejudicial to the maintenance of public order and his conduct falls within the definition of Goonda, as defined under Section 2(f) of the Tamil Nadu At 14/1982, issued the detention order dated 22.04.2021, which is under challenge in this habeas corpus petition.

4. The learned counsel appearing for the petitioner submitted that there is a delay in passing the detention order and the detention order was not intimated to the family members of the detenu. The detenu has not sought for any bail and therefore, apprehension of likelihood of granting bail is un-found. It only indicates the non-application of mind by the detaining authority.

5. The learned Additional Public Prosecutor appearing for the respondents, per contra, would submit that it is a case of retaliatory murder, third in the chain. The deceased Agniraj is an accused in the earlier murder case. He was granted bail on 24.02.2021, but was done to death by the rival group on 05.03.2021 within a span of 7 days. Being a group rivalry leading to chain of murders, to maintain the peace and tranquility, the detaining authority had passed the detention order to prevent the persons, who are involved in the gangwar from further escalation. The grounds raised by the petitioner to quash the detention order does not deserve any merit and sought for dismissal.

6. This Court after giving anxious consideration to the rival submissions and on perusal of the records finds that the manner in which the crime being committed and the antecedents of the accused persons does not indicate that if they are given liberty, the tranquility of the public will not be disturbed.

7. The detaining authority has applied his mind and had passed the detention order to prevent them from indulging further in such activities. There is no malafide or non-application of mind in the detention order. The delay, which is pointed out, does not cause any prejudice to the petitioner herein and it only indicates due to consideration of relevant records and merits.



8. In view of the above, the habeas corpus petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

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 Additional Chief Secretary to Government,
Prohibition & Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.
- 3.The Superintendent
Central Prison,
Trichy.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort. St.George,
Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.931 of 2021

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