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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.04.2022

PRONOUNCED ON : 26.04.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND

THE HONOURABLE Mr.JUSTICE A.A.NAKKIRAN

H.C.P.No.1037 of 2021

Karthika ... Petitioner

Vs.

1.Government of Tamil Nadu
Rep. by its Secretary
Public (L&O-F) Department
Fort St. George
Chennai 600 009

2.Government of India
Rep. by its Secretary
Home Affairs (Department of Internal Security)
North Block
New Delhi 100 001

3.District Magistrate and District Collector
Tiruppur District
Tiruppur.

4.Superintendent of Police
Tiruppur District

5.Superintendent of Central Prison-II
Coimbatore

6.Inspector of Police
Kangeyam Police Station
Kangeyam
Tiruppur District

... Respondents



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Petition filed under Article 226 of the Constitution of India, praying to issue a writ of habeas corpus to call for the records in Cr.M.P.No.21/N.S.A./2021 dated 03.06.2021 on the file of the 3rd respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's husband Kannan, S/o.Panchanathan, aged 34 years, now confined in the Central Prison, Coimbatore before this Hon'ble Court and set him at liberty.

For Petitioner : Mrs.R.Subhadra Devi

For Respondents : Mr.M.Babu Muthumeeran
Additional Public
Prosecutor

O R D E R

P.N.PRAKASH, J.

Seeking to set aside the detention order in Cr.M.P.No.21/N.S.A./2021 dated 03.06.2021 passed by the 3rd respondent, under the National Security Act, 1980, and for a consequential direction to the respondents to produce the detainee viz., Kannan, S/o.Panchanathan, aged 34 years, who is now confined in the Central Prison, Coimbatore, his wife Karthika has filed the instant habeas corpus petition.

2. Brief facts leading to the passing of the impugned order of detention are as under :

2.1. On 11.04.2021, the Sub-Inspector of Police, Kangeyam Police Station, was engaged in a routine vehicle checking at Padiyur police check post. Around 08.30 in the morning, the police signalled to stop a person, who was coming by a black colour Bajaj Pulsar motorcycle. On seeing the police, the said person tried to make an U-turn, in order to escape from that place. Immediately, the Sub-Inspector of Police caught him and on being questioned, he was giving contradictory statements. However, after thorough questioning, he revealed his name as Kannan and his residential address. He was in possession of a black colour bag, from which, the Sub-Inspector of Police found counterfeit currency notes totally worth about Rs.2,01,000/- in the following denominations :

- i. 39 numbers of 2000 rupee note
- ii. 83 numbers of 500 rupee note
- iii. 32 numbers of 200 rupee note



iv. 31 numbers of 100 rupee note

v. 36 numbers of undesignated 2,000 rupee note

2.2. The Sub-Inspector of Police seized all the above items under the cover of a mahazar and placed Kannan under arrest and brought him to Kangeyam Police Station, where, a case in Crime No.216 of 2021 was registered for the offences under Sections 489-A to 489-D IPC.

2.3. Based on the disclosure of Kannan, the Inspector of Police, Kangeyam Police Station accompanied Kannan to his house from where, an Epson L385 colour printer was seized. Kannan, along with the seized items, was produced before the Judicial Magistrate, Kangeyam on 12.04.2021, who remanded him in judicial custody till 26.04.2021. Thereafter, the judicial remand of Kannan was extended from time to time.

2.4. In the statement of Kannan given to the Sub-Inspector of Police, he had stated that he is an M.A., M.Phil. graduate; he was running a poultry farm in Tiruvarur; he was into money lending business earlier; due to a money dispute with one Muthu of Kumbakonam, he abducted and murdered him in 2016, in connection with which, he was arrested by Kumbakonam East Police and later, enlarged on bail; since he did not appear before the Court in the murder case, a warrant was issued against him; as he was having financial problems, he decided to print counterfeit currency notes by using the Epson colour printer and learnt how to make counterfeit currency notes through YouTube; he printed counterfeit currency notes during night time over several days and circulated them in the cattle market; with the counterfeit currency notes so manufactured, while he was proceeding to Tiruppur to put them in circulation, he was apprehended by the police.

2.5. It was found that Kannan borrowed the said Bajaj Pulsar motorcycle from one Shanmugam of Tiruvarur, who is known to him, removed its original number plates and while proceeding to Tiruppur on 11.04.2021, he was intercepted by the police.

2.6. The Inspector of Police submitted a report to the District Collector, Tiruppur District, based on which, after arriving at a subjective satisfaction, the District Magistrate and District Collector, Tiruppur District, passed the detention order dated 03.06.2021 under Section 3(2) of the National Security Act, 1980, detaining Kannan, aggrieved by which, the instant habeas corpus petition has been filed by Kannan's wife, Karthika.



3. Heard Mrs.R.Subhadra Devi, learned counsel for Karthika and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor appearing for the respondents/State.

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4. The State has filed a counter affidavit dated 27.08.2021 justifying the order of detention.

5. Mrs.Subhadra Devi contended that there is a delay in the disposal of the representation of the detenu by the Government, on account of which, the detention order stands vitiated.

6. We called for the file and perused the same. The detention order in this case was passed on 03.06.2021. Kannan had given a representation on 09.06.2021 through the prison authorities and the same was received by the Government on 21.06.2021. Remarks were called for on the same day i.e., on 21.06.2021 and the file was placed before the Hon'ble Minister for Law on 23.06.2021 and later, before the Hon'ble Chief Minister on 24.06.2021 and the same was rejected on 25.06.2021. The said rejection order was also communicated to Kannan through the prison authorities. Thus, it is seen that the said representation was disposed of by the Government within a period of 5 working days calculated from 21.06.2021 to 25.06.2021.

7. Similarly, Karthika, W/o.Kannan, gave another representation dated 24.06.2021, which was received by the Government on 16.07.2021. Remarks were called for on 16.07.2021 and the file was placed before the Hon'ble Minister for Law on 20.07.2021 and thereafter, placed before the Hon'ble Chief Minister on 20.07.2021 and the same was rejected on 21.07.2021. The said rejection order was communicated to Kannan through the prison authorities. Thus, it is clear that the said representation was disposed of by the Government within a period of 4 working days, including 2 Government Holidays viz., Saturday and Sunday (17.07.2021 & 18.07.2021). Thus, the ground raised by Mrs.Subhadra Devi that there is a delay in disposal of the representations of Kannan and his wife Karthika fails.

8. Mrs.Subhadra Devi further contended that there are no materials to show that Kannan had acted in any manner prejudicial to the maintenance of public order and hence, the order of detention is illegal.



9. We carefully perused the grounds of detention, both in Tamil as well in English. The detaining authority has stated that the act of Kannan would not only eat into the vitals of the economy, but it would also be prejudicial to the security of the State as well for the maintenance of public order. At this juncture, it may be apposite to extract the following lines from the English version of the grounds of detention :

"4. ... Accordingly, Thiru.Kannan coming out on bail by filing bail petition before the concerned court after lapse of time, again he will indulge in such activities in future which would be prejudicial to the maintenance of public order and security of the State and it has been confirmed that as he has not taken any steps to make his precious life with the education learnt by him attempted to earn money in a crooked way. Further, I am aware the normal criminal law will not have the desired effect of effectively preventing him from indulging in such activities, which are prejudicial to the maintenance of public order and security of the state. On the materials placed before me, I am satisfied that there is a compelling necessity to detain Thiru.Kannan in order to prevent him from indulging in such further activities in future which are prejudicial to the maintenance of public order and security of the State under Section 3(2) of the National Security Act 1980 (Central Act 65 of 1980) and G.O.Ms.No.234, Public (Law and Order-F) Department dated 19.04.2021."

Thus, from a reading of the above, it is clear that the detention order is not merely clamped on the basis of being prejudicial to public order, but also on the ground that the activities of Kannan would be prejudicial to the security of the State. Printing and circulating counterfeit currency notes would undoubtedly undermine the economy and would have a deleterious effect on the security of the State.

10. Mrs.Subhadra Devi submitted that the detaining authority has not stated anything about the likelihood of Kannan coming out on bail. In this regard, we have the authoritative pronouncement of the Supreme Court in State of Tamil Nadu and Another Vs. Nabila and Another [(2015) 12 SCC 127], wherein, the Supreme Court has relied upon the following passage from Ahamed Nassar Vs. State of Tamil Nadu [(1999) 8 SCC 473] :

"... Thus in spite of rejection of the bail application by a court, it is open to the detaining authority to come to his own satisfaction based on the contents of the bail application keeping in mind the



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circumstances that there is likelihood of the detenu being released on bail. Merely because no bail application was then pending is no premise to hold that there was no likelihood of his being released on bail. The words 'likely to be released' connote chances of being bailed out, in case there be pending bail application or in case if it is moved in future is decided. The word 'likely' shows it can be either way. So without taking any such risk if on the facts and circumstances of each case, the type of crime to be dealt with under the criminal law, including contents of the bail application, each separately or all this compositely, all would constitute to be relevant material for arriving at any conclusion."

11. In fact, in paragraph 4 of the grounds of detention, the detaining authority has stated that he is aware that Kannan has filed a bail application in CrI.M.P.No.864 of 2021 in the Sessions Court, Tiruppur and the same was dismissed on 27.05.2021. The detaining authority has also stated that he is aware that Kannan is in judicial custody and the same is being extended. Therefore, we find no infirmity in the impugned order of detention warranting interference.

In the result, the instant habeas corpus petition stands dismissed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

- 1.The Secretary to Government,
Public (L&O-F) Department,
Fort St. George, Chennai 600 009.
- 2.The Secretary to Government,
Home Affairs (Department of Internal Security),
North Block,
New Delhi 100 001.



3.The District Magistrate and District Collector,
Tiruppur District, Tiruppur.

4.The Superintendent of Police,
Tiruppur District.

5.The Superintendent of Central Prison-II,
Coimbatore.

6.The Inspector of Police,
Kangeyam Police Station,
Kangeyam, Tiruppur District.

7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1037 of 2021

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