



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 27.01.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN  
and  
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**  
**H.C.P. (MD)Nos.848, 965 and 975 of 2021**

**H.C.P (MD)No.848/2021:**

L.Jeyarani

... Petitioner /  
Mother of the Detenue

**Vs.**

- 1.State of Tamil Nadu,  
rep. by the Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George,  
Chennai-600 009.
2. The Commissioner of Police,  
Tirunelveli City,  
Tirunelveli.
- 3.The Superintendent,  
Central Prison,  
Palayamkottai,  
Tirunelveli.

... 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 entire records connected with the detention order passed in No.27/BCDFGISSSV/2021 dated 28.05.2021 on the file of the 2<sup>nd</sup> respondent herein and quash the same and direct the respondents to produce the detenu or body of the Detenu/the petitioner's son, namely, Johnson, son of Lourdusamy, aged about 27 years, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi

Additional Public Prosecutor



**H.C.P (MD) No. 965/2021:**

Mahesh Premkumar

... Petitioner / Detenue

Vs.

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

2. The Deputy Inspector General of Police,  
Tirunelveli Range and Commissioner of Police,  
Tirunelveli City,  
(Full Additional Charge),  
Tirunelveli.

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

... 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 entire records connected with the detention order passed in No.26/BCDFGISSSV/2021 dated 28.05.2021 on the file of the 2<sup>nd</sup> respondent herein and quash the same and direct the respondents to produce the detenu or body of the Detenu, namely, Mahesh Premkumar, son of Kannan, aged about 27 years, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

**H.C.P (MD) No. 975/2021:**

Emily Rathinabai

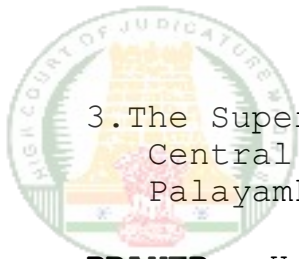
... Petitioner /

Mother of the Detenue

Vs.

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

2. The Commissioner of Police,  
Office of the Commissioner of Police,  
A.R.Line Road,  
Koripallam, Palayamkottai,  
Tirunelveli City.



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

... 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 entire records connected with the detention order passed in No.28/BCDFGISSSV/2021 dated 28.05.2021 by setting aside the said order of detention passed by the 2<sup>nd</sup> respondent and setting the detenu, Naveen, son of Jebarajan Prabhakaran, aged about 20 years, at liberty, now detained in the Central Prison, Palayamkottai.

For Petitioner : Mr.V.Kathir Velu  
Senior Advocate  
for Mr.K.Prabhu

For Respondents : Mr.S.Ravi  
Additional Public Prosecutor

**COMMON ORDER**

**S.VAIDYANATHAN, J.**

**and**

**DR.G.JAYACHANDRAN, J.**

[Order of the Court was made by **DR.G.JAYACHANDRAN, J.**]

Since these Habeas Corpus Petitions are filed challenging the detention order of the detenues, namely, Naveen, Mahesh Premkumar and Johnson, which was passed on the same ground case in Crime No.279 of 2021, these Habeas Corpus Petitions are heard together and disposed of by way of this common order.

2. The ground case, which the detenu involved is registered in Crime No.279/2021 for the offence punishable under Sections 294(b), 341, 302 and 506(ii) IPC. According to the prosecution, on 06.05.2021 at early hours, the detenu, Naveen along with three others had a quarrel with Maharajan, which later ended in fight and attacked with Aruval causing death of Maharajan. When one Raja and Esakkimuthu, who accompanying Maharajan raised alarm, the accused persons had threatened them with dire consequences not to inform the police. The alleged occurrence has happened when there was a quarrel between the group while consuming liquor. The detaining authority, taking note of the gravity of the offence, has passed the detention order, which is now challenged on the ground that the detaining authority has not considered the material papers in proper perspective and the subjective satisfaction of the detention is contrary to the records. Though there is no evidence to show there is imminent possibility of granting bail, the detaining authority has cited that as one of the ground for passing detention.



3. It is further contended that the documents relied by the detaining authority were not supplied to the petitioners for proper representation and the same has not been considered by the first respondent while rejecting the representations.

**H.C.P(MD)No.975 of 2021:**

4. In this case, the learned counsel for the detenu, Naveen, contended that it is a solitary case and there is no bad antecedents because the detenu was alleged to be present at the time of crime. The detention order has been passed when there is no necessity to preventively detain the petitioner.

5. This Court, on perusal of the records, finds that on a solitary case of murder, the petitioner herein has been slapped with the detention order and the reasoning stated by the detaining authority for imposing preventive detention does not satisfy the parameters for imposing preventive detention. Hence, H.C.P(MD)No.975 of 2021 is allowed and the detention order passed by the second respondent in No.28/BCDFGISSSV/2021 dated 28.05.2021 is set aside. Consequently, the detenu, namely, Naveen, son of Jebarajan Prabhakaran, aged about 20 years, who is now detained in Central Prison, Palayamkottai is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

**H.C.P(MD)No.965 of 2021:**

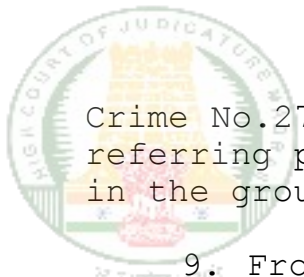
6. The learned Additional Public Prosecutor would submit that the petitioner herein/Detenu, namely, Mahesh Premkumar, who along with other accused had brutally murdered Maharajan in the early hours near graveyard while consuming liquor and he has one adverse case apart from the ground case and therefore, the order of detention has to be upheld.

7. However, on perusing the records, this Court finds that the adverse case against the petitioner is for the offence punishable under Sections 323, 324 and 506(ii) IPC registered in Crime No.784 of 2017 nearly four years prior to the ground case. Therefore, in the considered view of this Court, the detention order does satisfy the parameters for imposing the preventive detention. Hence, H.C.P(MD)No.965 of 2021 is allowed and the detention order passed by the second respondent in No.26/BCDFGISSSV/2021 dated 28.05.2021 is set aside. Consequently, the detenu, namely, Mahesh Premkumar, son of Kannan, aged about 27 years, who is now detained in Central Prison, Palayamkottai is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

**H.C.P(MD)No.848 of 2021:**

8. The detenu, Johnson, who is arrayed as one of the accused in

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



Crime No.279/2021 has been detained preventively under 'Goondas' Act referring possibility of getting bail and the gravity of the offence in the ground case has caused shock to the public.

9. From the records, this Court finds that the detenu in this case had only one adverse case in Crime No.110 of 2017 for the offence under Sections 323 and 506(ii) IPC. Apart from this one adverse case, the detenu had not been under the adverse notice of the police. Being a solitary case, except one adverse case, which was registered four years ago, this Court finds that the detention order does not satisfy the parameters for imposing preventive detention. Hence, H.C.P(MD)No.848 of 2021 is allowed and the detention order passed by the second respondent in No.27/BCDFGISSSV/2021 dated 28.05.2021 is set aside. Consequently, the detenu, namely, Johnson, son of Lourdusamy, aged about 27 years, who is now detained in Central Prison, Palayamkottai is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

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

To

1. The Additional Chief Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai-600 009.
2. The Commissioner of Police,  
Office of the Commissioner of Police,  
A.R.Line Road, Koripallam, Palayamkottai,  
Tirunelveli City.
3. The Commissioner of Police,  
Tirunelveli City, Tirunelveli.



4. The Deputy Inspector General of Police,  
Tirunelveli Range and Commissioner of Police,  
Tirunelveli City, (Full Additional Charge),  
Tirunelveli.

WEB COPY

5. The Superintendent of Prison,  
Central Prison, Palayamkottai

6. The Joint Secretary to Government,  
Public (Law & Order),  
Fort St. George,  
Chennai-600 009.

7. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/S.K.PRABHU , Advocate, SR-2894 dated 28/01/2022

**H.C.P. (MD) Nos. 848, 965  
and 975 of 2021  
27.01.2022**

RK(16/02/2022) 6P 9C