



HCP(MD)No.1263 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.12.2022

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1263 of 2022

Malliga

.. Petitioner/Aunt of the
Detenu

Vs.

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
AR Line Road, Koripallam,
Palayamkottai,
Tirunelveli District- 627 002.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District- 627 002.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records connected with the detention order passed by the 2nd respondent in No. 53/BCDFGISSSV/2022 dated 23.05.2022 and quash the same and direct the respondents to produce the person or body of the detenu by name Balamurugan, son of Alagupandian, aged 29 years, who is now detained in Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

This Habeas Corpus Petition has been filed by the aunt of the detenu against the order of detention passed in No. 53/BCDFGISSSV/2022 dated 23.05.2022 by the second respondent.



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2. The facts of the case is that due to property dispute, the detenu along with five others had premeditated the murder of one Sasikumar and executed the same on 22.04.2022. The case under Sections 341, 294(b), 323, 324, 307 and 506(ii) IPC altered into 341, 294(b), 323, 324, 302, 506(ii) and 120(B) IPC came to be registered in Crime No. 135/2022 and now it is stated that after investigation, final report was filed and is now ripe for trial. Since the murder took place in the public place near vegetable market where the victim was working as a loadman, the authorities thought it fit to detain the detenu, who is the prime accused in the murder case under Act 14 of 1982.

3. The learned counsel appearing for the petitioner submitted that the single incident which arose due to property dispute been projected as disturbance to public peace and tranquillity to slap preventive detention order against the detenu. It is further submitted that the arrest of the detenu not been properly intimated to the family members or person interested. The copies relied while passing the detention order are not legible. Further, the ground case, which is the reason for



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detaining the detenu is now ripe for trial and this detention will deprive him the statutory right of defending the case.

4.The learned Additional Public Prosecutor submits that it is not a singular incident which has prompted the authorities to slap preventive detention order. In fact, the dispute was growing between the deceased Sasikumar and his associates against the family members of the petitioner. On 27.03.2022 Sasikumar along with others damaged the properties of Alagupandian, son of Madasamy. The detenu is the son of Alagupandian. To take revenge for the action committed by Sasikumar, an attempt was made on the life of Sasikumar in the public place on the Subiahpuram- Thevarkulam Road. However, Sasikumar has managed to escape. On 24.04.2022, when Sasikumar was loading vegetables in the vegetable market, Balamurugan, the detenu along with others restrained Sasikumar. Balamurugan severed the left hand, leg and head of Sasikumar. The injured Sasikumar was admitted in Tirunelveli Medical College Hospital for treatment, however, he succumbed to injuries on 25.04.2022 at 4.00 a.m. The detenu Balamurugan was arrested and the



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arrest was intimated to the petitioner herein and therefore, the plea of the petitioner that intimation of arrest was not properly given is incorrect.

5. This Court on perusing the records and considering the materials relied by the detaining authority finds that a singular incident though has occurred in a public place provoked by the property dispute due to the earlier conduct of the deceased Sasikumar cannot be termed as an act of 'Goonda' for detaining the detenu preventively. The ground case is now ripe for trial. The facts of the case as found from the records is not convincing to hold the preventive detention order and it shows the non application of mind on the part of the detaining authority and hence, the detention order is liable to be quashed.

6. In the result, this Habeas Corpus Petition stands allowed and the order of detention in No.53/BCDFGISSSV/2022 dated 23.05.2022 passed by the second respondent is set aside. The detenu, viz., Balamurugan, son of Alagupandian, aged 29 years, is directed to be



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released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
07.12.2022

Index: Yes/No
Internet: Yes/No
PJJL

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.Geroge, Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
AR Line Road, Koripallam, Palayamkottai,
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3.The Superintendent of Prison,
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
SUNDER MOHAN, J.**

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