



HCP(MD)No.1589 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.12.2022

CORAM

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

H.C.P.(MD)No.1589 of 2022

Pasungili

.. Petitioner/ Father of the
Detenu

Vs.

1.The State of Tamil Nadu,
Represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

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

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

.. 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 in Detention Order No.46/2022 dated 25.05.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the petitioner's son namely, Rajkumar, male, Hindu, aged about 20 years, son of Pasungili Thevar, detained as “Goonda” and now confined at Central Prison, Madurai, and set him at liberty forthwith.

For Petitioner : Mr.R.Venkateswaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed on behalf of the detenu Rajkumar, who is arrayed as one of the accused in Crime No.213/2022 on the file of the Dindigul Taluk Police Station for the alleged offence under Sections 147, 148, 294(b), 307 and 302 IPC.



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2. The prosecution case is that on 18.04.2022 at about 9.00 hours, one Prabhakaran and his friends assembled in front of K.T.O.T.C complex building and they were interacting themselves. At that time, one Rajkumar, a resident of Jambuliampatti along with his friends Rajeswaran, a resident of Airport Nagar; Karankumar, a resident of Nadaga Nadigar Colony; Ranjith and Sridhar, residents of Periya Pallapatti (totally 5 accused) came there and interfered the conversation of Prabakaran and his friends which has caused some irritation and led to wordy quarrel between them regarding visiting the area of the accused persons by the said Prabakaran and his friends.

3. The next day, ie. 19.04.2022, when Prabakaran went to Airport Nagar to attend the birthday party of his friend Suriya, Ranjithkumar and his associates, who are all accused in Crime No.213/2022 picked quarrel and caused grievous injuries on the face, head and hands of Prabakaran. His friends Karthick and Vinothkannan were also brutally attacked by the accused persons. Prabakaran died on the way to hospital. Karthick and Vinothkannan were admitted as inpatient for treatment. The accused persons were arrested on 20.04.2022.



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4. Considering the conduct of the accused persons, the detaining authority taking note of the fact that during night hours, the accused persons have murdered one person and caused grievous injuries to two others, due to previous enmity and for visiting their area. This, according to the detaining authority, is peril to the public peace. All the five accused were detained under Act 14 of 1982, branding them as “Goondas”. While passing the detention order, the detaining authority has recorded his subjective satisfaction by stating that the detenu Rajkumar has indulged in similar offence and therefore if he is not preventively detained, there is possibility of recurrence of breach of peace and tranquillity, which has caused an alarm and feeling of insecurity in the minds of the general public.

5. We have heard the learned counsels appearing for the respective petitioners and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records relied by the detaining authority for passing the detention order.



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6. The learned counsel appearing for the petitioner submitted that this is the sole and solitary case against the detenu Rajkumar and no similar case has come to the adverse notice of the law enforcing authority anywhere. However, vague reference been made as if the detenue is a habitual offender committing offence of similar nature and his conduct is a threat to the security of the general public.

7. The learned Additional Public Prosecutor submitted that the investigation in this case is completed and final report has been filed and taken on file as S.C.No.138/2022 on the file of the Principal District and Sessions Judge, Dindigul.

8. This Court, on perusing the records, verified with the learned Additional Public Prosecutor whether these detenues have indulged in any other offence of the similar nature. The learned Additional Public Prosecutor submitted that the detenu Rajkumar is facing trial in two cases for offence under Sections 294(b), 323, 324 and 506(ii) IPC, there is no other case against the other accused persons. The records thus discloses that



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the two adverse cases referred in the detention order are not similar to the ground case. However, the detaining authority has concluded that the detenu is in the habit of indulging in similar offence and committed this type of offence in Dindigul Taluk Police Station limit, which is prejudicial to the maintenance of public order. This shows the total non application of mind on the part of the detaining authority. Hence, on the sole ground of non application of mind, the impugned detention orders are liable to be quashed.

9. In the result, this Habeas Corpus Petition stands allowed and the order of detention in Detention Order No.46/2022 dated 25.05.2022 passed by the second respondent is set aside. The detenu, viz., Rajkumar, aged about 20 years, son of Pasungili Thevar, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
14.12.2022

Index: Yes/No
Internet: Yes/No

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2. The District Collector and District Magistrate,
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3. The Superintendent of Prison,
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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