



HCP(MD)Nos.1277 & 1345 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.02.2023

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

H.C.P.(MD)Nos.1277 & 1345 of 2022

H.C.P(MD)No.1277 of 2022

Krishnaveni

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

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

3.The Superintendent,
Central Prison,
Madurai.

4.The Inspector of Police,
Ammaiyanaickenur Police Station,
Ammaiyanaickenur,
Dindigul District.

.. Respondents



HCP(MD)Nos.1277 & 1345 of 2022

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 2nd respondent in Detention Order No. 61/2022 on 12.07.2022 and to quash the same and direct the respondents to produce the body or person of the detenu, Anbalagan, S/o.Ganesan, aged about 25 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner :Mr.D.Rameshkumar

For Respondents :Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

H.C.P(MD)No.1345 of 2022

Amirtha Ganesan

.. Petitioner

Vs.

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

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District, Dindigul.

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

.. Respondents



HCP(MD)Nos.1277 & 1345 of 2022

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in Detention Order No.60/2022, dated 12.07.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Manojkumar, son of Amirtha Ganesan, aged about 21 years, now detained as “Goonda” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner :Mr.S.Abdul Rahuman

For Respondents :Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

COMMON ORDER

DR G.JAYACHANDRAN,J.
and
K.K.RAMAKRISHNAN,J.

These two habeas corpus petitions are filed on behalf of the detenus, who were arrayed as accused Nos.1 & 2 in a case of murder of one Rajkumar and murderous attack on Perumal due to previous enmity.



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2. The respondent police on 20.06.2022 has registered a FIR in Cr.No. 132/2022 against these two detenues and they were arrested on 21.06.2022. The detaining authority on subjective satisfaction, that their presence likely to cause disturbance to the public peace, has passed the detention order on 12.07.2022.

3. These Habeas Corpus Petitions are filed on the ground that the detaining authority has not applied his mind properly. Mere possibility of getting bail is infer by the detaining authority based on the bail granted to two other cases, but they are not similar to the facts of the case which will expose the non-application of mind.

4. According to the learned counsel for the petitioners, these two detenues have not even filed bail petition and further more, similar case referred by the detaining authority are not factually similar. In one case, the bail was considered after the arrest of 73 days and in another case it was a singular offence which weighed the mind of the Magistrate to grand bail. So far as A1 is concerned, he has 5 previous cases and therefore, likelihood



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of getting bail is remote. The other point canvassed is that the clean copy of the paper booklet was not furnished and the representation was given to that effect.

5. A detailed counter filed by the State indicates that the similar case to draw the inference that likelihood of getting bail need not be the verbatim similar. In a case of similar nature Courts have been granting bail and the case cited is a case of murder similar to the facts of the present case. As far as the non-furnishing of clean copy, the learned Additional Public Prosecutor states that in the representation there is no specific request to furnish any particular which they claim to be illegible and therefore, no prejudice caused to the detenues.

6. This Court, on perusing the detention orders and the points raised by the learned counsel for the petitioners on behalf of the detenues, finds that the case where attempt to murder were occurred due to previous enmity and it has been carried in a day light in a public, this has led the detaining authority to infer that the presence of the accused person will cause disturbance to the public peace.



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7. The subjective satisfaction of the detaining authority cannot be faulted since no *prima facie*, malice intention or non-application of mind could be made out to the detention order.

8. Regarding the clean copy as pointed out by the learned Additional Public Prosecutor, the pages of paper book which they claim illegible not been mentioned and furthermore on perusal of the paper book this Court finds that though some of the copies like Form-91 are not clear but it is legible so it cannot be termed as illegible.

9. Accordingly, these petitions are dismissed.

(G.J.,J.) (K.K.R.K.,J.)
13.02.2023

Index:Yes/No
Internet:Yes/No
NCC :Yes/No
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DR G.JAYACHANDRAN,J.
and
K.K.RAMAKRISHNAN,J.
am

ORDER MADE IN

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13.02.2023