



HCP(MD)No.1324 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)No.1324 of 2022
and
CrL.M.P(MD)Nos.15758 & 15759 of 2022**

Murugesan

.. Petitioner

Vs.

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

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

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

.. Respondents



HCP(MD)No.1324 of 2022

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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the order dated 20.06.2022 made in Detention Order No.57/2022 on the file of the 2nd Respondent and quash the same and consequently direct the respondents to produce the petitioner's father namely "Rajendran, S/o.Bommaian, aged about 56 years" who is now detained as a detenu at Central Prison, Madurai, Madurai District or his corpus or body before this Court and set him at liberty forthwith.

For Petitioner :Mr.Ashok Padmaraj

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

ORDER

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

Son of the detenu is before this Court challenging the detention order dated 20.06.2022 on the ground that the detaining authority has not applied his mind properly to arrive at the subjective satisfaction that the presence of the detenu will be prejudicial to the maintenance of public order and public peace.



HCP(MD)No.1324 of 2022

2. According to the petitioner, a case has been registered against the detenu and he has been arrested on suspicion that the father of the detenu found with severe injury on 23.04.2022 and got admitted in the hospital, but died after 5 days on 28.04.2022. The investigation has indicated that the detenu, due to family dispute, has killed his father. The occurrence has taken place inside the house and it is single incident which has no relevance to the maintenance of public order and public peace. Hence, the learned counsel appearing for the petitioner submitted that the detention order is vitiated by non-application of mind.

3. A detailed counter been filed by the State, wherein, the detention order been justified stating the reasons. The learned Additional Public Prosecutor further submits that it is needless to say the offence should be committed in public, it is suffice that the said act will create fear in the mind of the public and disturbed the current life of the community. The explanation to public order as found in Section 2-A of the Act been relied by the learned Additional Public Prosecutor would state that the activity of the detenu though not done in the public it has a direct make in the minds of the public to feel insecure.



HCP(MD)No.1324 of 2022

4. This Court, on considering the facts of the case, finds that the alleged incident has taken place due to the dispute between the family members regarding the division of property held by the deceased. The detenu is the son of the deceased, who alleged to have committed patricide.

5. The detenu has been arrested on suspicion since body of his father Bommaiyan in a pool of blood was found in the varanda of the house by one of the relative, who happens to be a defacto complainant. Based on the circumstances, the detenu is now suspected and arrested.

6. This Court finds that the single incident happened inside the house due to family dispute as in this case will not attract the explanation of public order as found in the statue, hence, the detention order is vitiated and therefore the same is quashed.

7. In fine, the Habeas Corpus Petition is allowed. The detention order passed in Detention Order No.57/2022, dated 20.06.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Rajendran, S/o.Bommaian, aged about 56 years, who is now detained in Central



HCP(MD)No.1324 of 2022

Prison, Madurai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

Consequently, connected Miscellaneous Petitions Crl.M.P(MD)Nos.15758 & 15759 of 2022 are closed.

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

Index: Yes/No
Internet: Yes/No
NCC : Yes/No
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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Theni District,
Theni.
- 3.The Superintendent,
Central Prison,
Madurai District,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.1324 of 2022

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

ORDER MADE IN

H.C.P.(MD)No.1324 of 2022

13.02.2023