



H.C.P.(MD)No.835 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

Orders Reserved On 19.07.2023	Orders Pronounced On 21.07.2023
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H.C.P.(MD)No.835 of 2023

V.Meenal

... Petitioner/Wife of the detenu

Vs.

- 1.The Inspector General of Police (South Zone CBCID),
No.77, 4th Street,
Ramond Reserve Line,
Race Course Colony,
Madurai – 625 002.
- 2.The Superintendent of Police (CBCID),
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent of Police (CBCID),
Sivagangai District,
Sivagangai.
- 4.The Superintendent of Police,
Sivagangai District, Sivagangai.



H.C.P.(MD)No.835 of 2023

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5.The Deputy Superintendent of Police (CBCID),
Superintendent of Police Office,
Madurai District, Madurai.

6.The Deputy Superintendent of Police,
CBCID South,
Sivagangai District.

7.The Inspector of Police,
CBCID South,
Sivagangai District.

8.The Inspector of Police,
CBCID South,
Pudukkottai District.

9.The Inspector of Police,
Natchiyarpuram Police Station,
Sivagangai District.

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing the respondents herein to take necessary steps to produce the body or person of the detenu, namely, Velu @ Velukrishnan, S/o.Krishnan, aged about 48 years before this Court and set him at liberty.

For Petitioner : Mr.M.Mohmaed Riyaz
for Mr.K.Suyambulinga Bharathi

For Respondents : Mr.Hasan Mohamed Jinnah
Public Prosecutor
and
Mr.A.Thiruvadikumar
Additional Public Prosecutor



H.C.P.(MD)No.835 of 2023

ORDER

WEB C **M.NIRMAL KUMAR, J.**

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 10.07.2023, which reads as follows:-

"The petitioner, W/o.Velu @ Velukrishnan, had filed this petition seeking to release her husband, who had been illegally taken and detained by the fifth respondent on 06.07.2023.

2.The primary contention of the learned counsel for the petitioner is that the petitioner's husband was taken forcibly from the Hospital without giving reasons by the respondent Police. Hence, she instructed her counsel to make a representation before this Court about the entire episode. Her counsel namely, Mr.K.Suyambulinga Bharathi appeared before this Court on 06.07.2023, informed about the anticipatory bail already obtained by the petitioner's husband in Crl.O.P.(MD)Nos.11607 and 11629 of 2023, dated 27.06.2023 and on perusal of the same, it is seen that this Court, after considering all the facts, including the fact of issuance of 41(A) of Cr.P.C. notice, by order dated 27.06.2023, had granted anticipatory bail to the petitioner's husband.

3.The learned counsel for the petitioner further submitted that the order copy was made ready on 03.07.2023 and the petitioner's husband has got time till 18.07.2023 to execute the sureties as per the orders of this Court.



4. When Mr.RMS.Sethuraman, learned Additional Public Prosecutor was asked to enquire about the same, he took time, on instructions from the Investigating Officer namely, D.Felix Suresh Peter informed that the petitioner's husband was taken only for enquiry and he will be released. At that point of time, the learned Additional Public Prosecutor was reminded about the order passed by this Court dated 27.06.2023, in CrI.O.P.(MD)Nos.11607 and 11629 of 2023 and also the order passed by this Court, dated 07.10.2022, in CrI.O.P.(MD)Nos.18052 and 18053 of 2022. This Habeas Corpus Petition has been filed seeking the relief stated supra.

5. Contrary to the above said orders and the assurance given by the learned Additional Public Prosecutor before this Court, the petitioner's husband has been shown arrest in Crime No.2 of 2023 under Section 174 of Cr.P.C., altered to Sections 120-B and 306 of I.P.C. on 06.07.2023.

6. In this case, the petitioner's husband is a known diabetic and heart patient, who is under constant medication. While he was taking treatment at Apollo Hospital, Karaikudi, he was taken by the fifth respondent and thereafter, he had been remanded to judicial custody by the learned Judicial Magistrate No.II, Pudukottai.

7. Considering the aforesaid facts and circumstances of the case, this Court finds that the arrest and remand has become questionable. In view of the same, this Court directs the Superintendent of Prison, Pudukottai, to release the petitioner's husband namely, Velu @ Velukrishnan forthwith.



H.C.P.(MD)No.835 of 2023

8.List the matter on 19.07.2023. In the meanwhile, the petitioner's husband shall execute the sureties as per the order passed by this Court, dated 07.10.2022, in Crl.O.P.(MD)Nos.18052 and 18053 of 2022."

2. The learned Public Prosecutor submitted that in this case, the arrest of the petitioner's husband is proper. Due to some miscommunication, complete facts and events could not be placed before this Court on 06.07.2023. The learned Public Prosecutor further submitted that the petitioner's husband was arrayed as Accused No.5 in Crime No.2 of 2023 on the file of the Inspector of Police, CBCID South, Pudukkottai District. On 06.07.2013, the petitioner's husband was taken to the Police Station for enquiry in connection with the above said crime number, where he admitted his guilt. The Arrest Memo was served to one Anbarasan, who is the nephew of the petitioner's husband. Thereafter, he was taken to the Government Hospital for medical check up and after obtaining a fitness certificate, he was produced before the learned Judicial Magistrate No.II, Pudukkottai, who remanded the petitioner's husband on the same day i.e., on 06.07.2023.



H.C.P.(MD)No.835 of 2023

3. The learned Public Prosecutor further submitted that the petitioner's husband obtained anticipatory bail in respect of Crime No.1 of 2023, on the file of the Inspector of Police, CBCID Police Station, South, Sivagangai, from this Court on 27.06.2023, in CrI.O.P.(MD)No.11629 of 2023. Initially, Crime No.1 of 2023 was registered for offences under Sections 211, 384, 389 and 306 I.P.C. Thereafter, the Sections of law were altered into Sections 211, 384 and 389 I.P.C. Section 306 I.P.C. has been deleted and the Alteration Report, dated 29.05.2023, submitted to the learned Judicial Magistrate No.II, Sivagangai, on 30.05.2023. Thus, the claim of the petitioner that her husband was taken by the respondent Police, despite he obtained anticipatory bail in CrI.O.P.(MD)No.11629 of 2023, is not proper.

4. The learned Public Prosecutor further submitted that even in the affidavit, the petitioner confirms that her husband was taken in connection with Crime No.2 of 2023, which is investigated by the CBCID Police, Pudukkottai. The confusion might be for the reason that the Investigating Officer in both the cases namely, CBCID, Pudukkottai and CBCID, Sivagangai, is one and the same.



H.C.P.(MD)No.835 of 2023

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5. The learned Public Prosecutor further submitted that once the accused is produced for remand before the concerned jurisdictional Magistrate and the Magistrate after satisfaction, remanded the accused to judicial custody, there is no question of illegal detention/custody. Hence, there is no question of illegal detainment or any illegality in the arrest of the petitioner's husband in Crime No.2 of 2023.

6. The learned Public Prosecutor further submitted that the above cases have got a long and chequered history. The mother case, namely, Crime No.4 of 2021 was registered by the All Women Police Station, Devakottai, for offences under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 506(i) I.P.C. r/w. Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The said case got transferred to the file of the CBCID, Sivagangai, and re-numbered as Crime No.1 of 2022.

7. On the complaint of one Krishnan, who is the brother-in-law of Nachiyappan, a case in Crime No.33 of 2022 was registered by the



H.C.P.(MD)No.835 of 2023

Inspector of Police, Keeranur Police Station, Pudukkottai District, under

Section 174 Cr.P.C., for the suspicious death of Nachiyappan. In Crime No.

1 of 2022, the said Nachiyappan and Saritha are shown as Accused No.1 and Accused No.2 respectively. Nachiyappan/Accused No.1 made all efforts not to get any case registered against him, on a false complaint by some vested interest people, who extorted huge sums of money to the tune of Rs.50,00,000/-. Not satisfied with the same, they further demanded a bakery and house. The said Nachiyappan despite parting with Rs.50,00,000/-, was made as accused in Crime No.4 of 2021. The said Nachiyappan filed Crl.O.P.(MD)No.399 of 2022 seeking for a direction to the Special Court for exclusively trial under POCSO Act, Sivagangai, to accept his surrender and consider his bail application and grant bail on the same date of surrender in Crime No.4 of 2021, registered on 30.12.2021, by the Inspector of Police, All Women Police Station, Devakottai. This Petition was not entertained and dismissed as withdrawn on 20.01.2022. The said Nachiyappan not only lost his money, but also lost all hopes of his life. Hence, he went to his sister's house at Pudukkottai, on 24.01.2022, where he committed suicide by hanging, for which, a case in Crime No.33 of 2022 was registered under Section 174 Cr.P.C. by Keeranur Police,



H.C.P.(MD)No.835 of 2023

which later, got transferred to the file of the CBCID, Pudukkottai and re-numbered as Crime No.2 of 2023.

8. The learned Public Prosecutor further submitted that the wife of Nachiyappan namely, Sakunthaladevi suspecting the death of her husband, lodged a complaint with Kallal Police Station, Sivagangai District, and C.S.R.No.21 of 2022 assigned and thereafter, no action taken. Hence, she approached this Court by filing Crl.O.P.(MD)Nos.18052 and 18053 of 2022, seeking to transfer the investigation of her complaint in C.S.R.No.21 of 2022 from the file of the Inspector of Police, Kallal Police Station, Sivagangai District, to the file of the Deputy Superintendent of Police, CBCID, Madurai District and to transfer the investigation of the complaint in Crime No.33 of 2022, from the file of the Inspector of Police, Keeranur Police Station, Pudukkottai District, to the file of the Deputy Superintendent of Police, CBCID, Madurai District and a consequential direction to the Deputy Superintendent of Police, CBCID, Madurai District, for conducting proper investigation along with Crime No.4 of 2021 in an expeditious manner. This Court, by order dated 07.10.2022, gave a positive direction, directing the transfer of all the cases to the file of the Deputy Superintendent



H.C.P.(MD)No.835 of 2023

of Police, CBCID, Madurai District, to conduct a detailed enquiry by clubbing all the cases and to submit a report within a period of three months from the date of receipt of a copy of that order with a rider "in the manner known to law". The above said complaint in C.S.R.No.21 of 2022 registered as Crime No.1 of 2023, on the file of the CBCID, Sivagangai.

9. Now, there are three cases, viz.,

(i) Crime No.1 of 2022, on the file of CBCID, Sivagangai, for the offences under Sections 7 and 8 of the POCSO Act, and Section 506 (i) I.P.C. r/w. Section 3(1)(xi) of SC/ST Act.

(ii) Crime No.2 of 2023, on the file of CBCID, Pudukkottai, under Section 174 of Cr.P.C. @ Sections 120-B and 306 I.P.C.

(iii) Crime No.1 of 2023, on the file of the CBCID, Sivagangai, for the offences under Sections 211, 384, 389, 306 I.P.C. @ 120-B, 211, 384 and 389 I.P.C.

10. Insofar as the petitioner's husband is concerned, he is an accused in Crime No.2 of 2023, on the file of CBCID, Pudukkottai; and in Crime No.1 of 2023, on the file of CBCID, Sivagangai.



H.C.P.(MD)No.835 of 2023

11. The petitioner's husband obtained anticipatory bail in Crime No.1 of 2023, on the file of CBCID, Sivagangai, from this Court on 27.06.2023 in CrI.O.P.(MD)No.11629 of 2023. Hence, the arrest of the petitioner's husband namely, Velu @ Velukrishnan in Crime No.2 of 2023, on the file of CBCID, Pudukkottai, on 06.07.2023 is proper. On his arrest, he was produced before the learned Judicial Magistrate No.II, Pudukkottai and remanded to judicial custody on the same day for the offences under Sections 306 and 120-B I.P.C. There is no illegal detention of the petitioner's husband and therefore, there is no cause of action or reason to entertain this Habeas Corpus Petition and therefore, the same is liable to be dismissed.

12. The contention of the learned counsel for the petitioner is that the petitioner's husband already approached this Court along with one Athimoolam, who is arrayed as A6 in Crime No.1 of 2023, seeking anticipatory bail in CrI.O.P.(MD)No.11629 of 2023. This Court, by order dated 27.06.2023, granted anticipatory bail to them. In the anticipatory bail order, the petitioner's husband and other accused are alleged to have extorted a sum of Rs.50,00,000/- from the victim namely, deceased



H.C.P.(MD)No.835 of 2023

Nachiyappan on assurance to withdraw the case registered against him in Crime No.4 of 2021, on the file of the Inspector of Police, All Women Police Station, Devakottai, Sivagangai District, under the POCSO Act and other offences recorded. The suicide by hanging of Nachiyappan in his brother-in-law's house is also recorded. Further, the deceased Nachiyappan committed suicide because of humiliation given by Accused Nos.1 to 3 and the deceased Nachiyappan had written some names in his diary, including the name of the petitioner's husband. Further, this Court observed that such writings would not amount to any instigation or abetment for Nachiyappan to commit suicide are also recorded.

13. Furthermore, after considering the issuance of notice under Section 41(A) Cr.P.C., for enquiry, this Court granted anticipatory bail to the petitioner's husband and Accused Nos.6 and 7. The said order copy was made ready on 03.07.2023. Within 15 days thereof, the petitioner's husband was to execute sureties before the concerned Court. In the meanwhile, due to ill-health, the petitioner's husband got admitted in Apollo Reach Hospital, Karaikudi. He is taking treatment in the said Hospital for a long time. He had taken treatment for his Coronary Artery disease and while he was taking



H.C.P.(MD)No.835 of 2023

treatment as inpatient from 02.07.2023, on 06.07.2023 at about 06.45 a.m., the CBCID Police forcibly took him from the Hospital against the medical advice. The Hospital authorities also lodged a complaint with Nachiyapuram Police Station, Sivagangai and C.S.R.No.187 of 2023 assigned. The petitioner, who was present in the Hospital, pleaded with the Police to consider his health condition and also about the anticipatory bail granted by this Court. The CBCID Police personnel refused to listen to the same, pushed her away and forcibly took her husband, for which, she sent a complaint to the Deputy Superintendent of Police, Madurai and Thiruppathur, Sivagangai District and to the Inspector of Police, Nachiyapuram Police Station, Sivagangai District, by way of registered post, as well as by online. Further, she instructed her counsel to make a representation before this Court about the brutality and violation of Article 22 of the Constitution of India.

14. The learned counsel for the petitioner further submitted that a bare reading of both the complaints in Crime No.1 of 2023, registered by the CBCID, Sivagangai and Crime No.2 of 2023 registered by the CBCID, Pudukkottai are one and the same and identical. When already investigation



H.C.P.(MD)No.835 of 2023

commenced on the complaint of Sakunthaladevi, W/o.Nachiyappan [Crime No.1 of 2023, on the file of CBCID, Sivagangai], there is no necessity for altering and registering a case in Crime No.2 of 2023 by the CBCID, Pudukkottai. It is significant to see that the Investigating Officer in both the cases is one and the same person, who was aware about the complaint, substance of allegation and the persons involved in both the cases. On coming to know about the petitioner's husband obtaining anticipatory bail in Crime No.1 of 2023, the Investigating Officer to wreak vengeance, with *mala fide* intention, arrested the petitioner's husband.

15. The learned counsel for the petitioner further submitted that at the time of consideration of anticipatory bail petition, the Investigating Officer was very much present, who in all fairness, ought to have informed about the parallel investigation being conducted in Crime No.2 of 2023 for the similar offence. The Investigating Officer on his own cannot delete Section 306 I.P.C. from Crime No.1 of 2023 and to include the same in Crime No.2 of 2023, which is nothing but arbitrary.



H.C.P.(MD)No.835 of 2023

16. The learned counsel for the petitioner further submitted that both the cases arise on the suicide of Nachiyappan on 24.01.2022 and the happenings before and after. The inclusion of the petitioner's husband's name in Crime No.2 of 2023 is for the reason that his name also found place in a diary left by the deceased Nachiyappan. Thus, both the cases are on the same set of facts and allegations. Hence, altering the Section of law from 174 Cr.P.C. to Sections 120-B and 306 I.P.C. in Crime No.2 of 2023 on 29.05.2023 is nothing, but a colourable exercise. Likewise, deletion of Section 306 I.P.C. from Crime No.1 of 2023 on the file of CBCID, Sivagangai, on the same day is also a colourable exercise. The Investigating Officer cannot be permitted to act in such a manner to circumvent the order passed by this Court, dated 27.06.2023, in CrI.O.P.(MD)No.11629 of 2023.

17. The learned counsel for the petitioner submitted that this Court in CrI.O.P.(MD)Nos.18052 and 18053 of 2022, vide order dated 07.10.2022, directed the Deputy Superintendent of Police, CBCID, Madurai, to conduct a detailed enquiry by clubbing all the three cases. This being so, interpreting this Court's order for the convenience of the Investigating Officer, cannot be permitted. If at all the Investigating Officer is aggrieved



H.C.P.(MD)No.835 of 2023

on the orders or any observation made, then, it is for him to file a petition for cancellation of anticipatory bail or file a petition seeking clarification.

18. The learned counsel for the petitioner further submitted that on 06.07.2023, when a representation was made before this Court, the learned Additional Public Prosecutor, on instructions, submitted that the petitioner's husband was taken only for enquiry. Now, under what circumstance, the said enquiry changed to arrest, for which, no justifiable reason given. There is no mention about the orders passed by this Court and the trajectory of the case from 24.01.2022 in the remand request. He further submitted that since both the cases in Crime Nos.1 and 2 of 2023 are similar and arise out of the same set of facts, the test of sameness is to be applied and hence, Crime No. 2 of 2023 is nothing, but second F.I.R. In such circumstances, there is no question of arrest.

19. In support of his contentions, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in **Amitbhai Anilchandra Shah vs. The Central Bureau of Investigation and others** reported in **AIR 2013 SC 3794** and submitted that the Hon'ble



H.C.P.(MD)No.835 of 2023

Supreme Court consistently followed **T.T.Anthony vs. State of Kerala** reported in **2001 (6) SCC 181**, and held that a second FIR in respect of an offence or different offences committed in the course of the same transaction is not only impermissible, but it violates Article 21 of the Constitution.

19.1. The learned counsel for the petitioner further relied on the judgment of the Hon'ble Supreme Court in **Arnab Ranjan Goswami vs. Union of India (UOI) and others** reported in **AIR 2020 SC 2386**, wherein the Hon'ble Supreme Court held that the complaints are worded in identical terms and leave no manner of doubt that an identity of cause of action underlies the allegations levelled against the petitioner and in view of the same, successive F.I.Rs. and complaints bearing the same foundation has a stifling effect.

19.2. The learned counsel for the petitioner further relied on the judgment of the Hon'ble Supreme Court in **Krishna Lal Chawla and others vs. State of U.P. and another** reported in **CDJ 2021 SC 184** and submitted that Article 21 of the Constitution of India guarantees that the



H.C.P.(MD)No.835 of 2023

right to life and liberty shall not be taken away except by due process of law. Permitting multiple complaints by the same party in respect of the same incident, whether it involves a cognizable or private complaint offence, will lead to the accused being entangled in numerous criminal proceedings.

19.3. The learned counsel for the petitioner further relied on the judgment of the Hon'ble Supreme Court in **Tarak Dash Mukharjee and others vs. State of Uttar Pradesh and others** reported in **2022 LiveLaw (SC) 731** and submitted that successive F.I.Rs. on the same set of facts and allegations at the instance of the same informant will not stand the scrutiny of Articles 21 and 22 of the Constitution of India.

19.4. The learned counsel for the petitioner further relied on the judgment of this Court in **K.Kathiresan vs. State of Tamil Nadu** reported in **2018 (4) MLJ (Cri) 59** and submitted that this Court had directed that all F.I.Rs. registered in connection with happenings of 22.05.2018 and related in any manner to the Anti-Sterlite protests at Thoothukudi, be treated as 161(3) Cr.P.C. statements.



H.C.P.(MD)No.835 of 2023

19.5. The learned counsel for the petitioner also relied on the judgment of the Hon'ble Supreme Court in **Gautam Navlakha vs. National Investigation Agency** reported in **CDJ 2021 SC 344** and submitted that if the order of remand is passed absolutely in a mechanical manner, the person affected can seek the remedy of Habeas Corpus.

20. The learned Public Prosecutor, by way of reply, submitted that the petitioner cannot enlarge the scope of Habeas Corpus. She had filed this Habeas Corpus Petition on the ground of apprehension for the life of her husband and illegal detention. Admittedly, in Crime No.2 of 2023, the petitioner's husband not obtained anticipatory bail or any protection. He played an active role and conducted Kangaroo Court, extorted huge sums of money to the tune of Rs.50,00,000/- and further, put the victim under fear of life. Ultimately, on 24.01.2023 Nachiyappan committed suicide. The petitioner's husband along with the other accused abetted the suicide of said Nachiyappan. The names of the persons, who are reason behind the suicide, recorded by the deceased in his own handwriting, which was collected during the investigation and the same was sent to Expert opinion and the Expert opinion confirmed the handwritings of the deceased and thereafter,



H.C.P.(MD)No.835 of 2023

during investigation, several witnesses examined and the money withdrawal its trail and the role played by each of the accused was confirmed both by statement of witnesses and documents. The petitioner's husband is the leader of the Kangaroo Court, who conspired with other accused and acted in tandem with others including Police Officials. Finding sufficient material and the petitioner's husband's active involvement in the case, he was arrested and his arrest was duly intimated to his nephew, who signed in the Arrest Memo. The petitioner's husband was taken to the Government Hospital for medical check up and after obtaining fitness certificate, he was produced before the Magistrate. Before the remanding Magistrate, no allegation of illegal detention, ill-treatment and illegal remand made. The remanding Magistrate thereafter, remanded him to judicial custody.

21. The petitioner's Advocate was also present during the remand. In this case, the petitioner's contention with regard to similarity of offence, the test of sameness is not proper and applicable on the facts and circumstances of the case. Now, the case is under the stage of investigation and after completion of investigation, appropriate steps can be taken, if required. It is out of place to mention that one F.I.R. may lead to several charge sheets and



H.C.P.(MD)No.835 of 2023

several F.I.Rs. may lead to one charge sheet. It all depends upon the outcome of the investigation and facts and circumstances of each case. In this case, the petitioner dramatized the entire issue and got the indulgence of this Court. The remanding Magistrate finding that there are grounds and the information well founded, had authorized the detention of the petitioner's husband to judicial custody. Once a judicial remand order has been passed, there is no question of illegal detention. Hence, the Habeas Corpus Petition is liable to be dismissed and the petitioner's husband to surrender before the jail authorities without further delay.

22. The learned Public Prosecutor referring to the decision of the Hon'ble Supreme Court in **Gautam Navlakha's case [cited supra]** submitted that the Hon'ble Apex Court had considered under what circumstance, Habeas Corpus Petition lies against an order of remand under Section 167 Cr.P.C. and held that if the remand is absolutely illegal or the remand is afflicted with the vice of lack of jurisdiction, a Habeas Corpus petition would indeed lie. Equally, if an order of remand is passed in an mechanical manner, the person affected can seek the remedy of Habeas Corpus. In the present case, Crime No.2 of 2023 is registered on the



H.C.P.(MD)No.835 of 2023

direction of this Court by the C.B.C.I.D. and thereafter, during investigation, the petitioner's husband was arrested following the Supreme Court's guidelines and he was produced before the jurisdictional Magistrate namely, the learned Judicial Magistrate No.II, Pudukkottai, who on satisfying the reason and necessity of remand, applied his mind and thereafter, remanded him to judicial custody. Hence, no Habeas Corpus Petition will lie.

23. We have heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the State and perused the materials available on record.

24. This Court had occasion to peruse the case diary of the cases. It is not in dispute that the petitioner's husband obtained anticipatory bail in Crime No.1 of 2023, investigated by CBCID, Sivagangai. Though the said case was initially registered for the offences under Sections 211, 384, 389 and 306 I.P.C., later, it was altered to Sections 211, 384 and 389 I.P.C., deleting Section 306 I.P.C on 29.05.2023. The said Alteration Report submitted to the learned Judicial Magistrate No.II, Sivagangai and the same



H.C.P.(MD)No.835 of 2023

received by the Magistrate on 30.05.2023 and a copy of the Alteration

Report with Court seal and signature produced before this Court.

25. Admittedly, in this case, anticipatory bail in respect of Crime No. 1 of 2023 was granted on 27.06.2023. Thus, on the said date, the offences investigated in Crime No.1 of 2023 are for the offences under Sections 211, 384 and 389 I.P.C alone considered. It is also seen that the offence in Crime No.2 of 2023 has been altered from Section 174 Cr.P.C. to Sections 306 and 120-B I.P.C. on 29.05.2023 and the same also informed to the learned Judicial Magistrate No.II, Pudukkottai.

26. Insofar as Crime No.2 of 2023 is concerned, the petitioner's husband has not obtained any anticipatory bail or protection order. The reference made with regard to the suicide and the circumstance of suicide by Nachiyappan in the anticipatory bail order in CrI.O.P.(MD)No.11629 of 2023, would not automatically give any protection or insulate the petitioner's husband from any coercive action by the Investigating Officer, namely, the C.B.C.I.D., Pudukkottai.



H.C.P.(MD)No.835 of 2023

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27. The Investigating Officer, by person, being one and the same in both Crime Nos.1 of 2023 and 2 of 2023 would not automatically lead to an inference that the alteration, deletion and inclusion in both the cases ought to have been informed, while considering the anticipatory bail application of the petitioner's husband in CrI.O.P.(MD)No.11629 of 2023. The Investigating Officer cannot be expected to disclose all the details of his investigation, when the investigation is in progress.

28. It is also seen that the co-accused namely, Gunalan/Accused No.1, Balaji/Accused No.4 and Devendran/Accused No.11 were arrested in Crime No.2 of 2023 by the C.B.C.I.D., Pudukkottai, on 29.05.2023, 30.05.2023 and 02.06.2023 respectively and later, P.T. Warrant taken and they have been shown arrest in another case. Thus, the investigation in both the cases is ongoing. As and when the accused are arrested in one case, they have been produced in another case by way of P.T. Warrant and there has been transparency of investigation in this aspect. In such circumstances, it cannot be gainsaid as a revenge for the petitioner's husband obtaining anticipatory bail in respect of Crime No.1 of 2023 from this Court on 27.06.2023 in



H.C.P.(MD)No.835 of 2023

CrI.O.P.(MD)No.11629 of 2023, he had been forcibly taken without any reason and later shown arrest with *mala fide* and illegal intention.

29. In view of the above, this Court finds that there is no threat to the life of the petitioner's husband, no illegal detention and no violation of Articles 21 or 22 of the Constitution of India. Hence, this Habeas Corpus Petition is dismissed.

30. The Prison Superintendent, Pudukkottai, by communication dated 11.07.2023, informed this Court that the petitioner's husband was set at liberty as per the orders of this Court, dated 10.07.2023. Now, in view of the dismissal of this Habeas Corpus Petition, the petitioner's husband is directed to surrender before the prison authorities forthwith. The petitioner's husband namely, Velu @ Velukrishnan, S/o. Krishnan, shall be taken into custody forthwith. It is however made clear that it will be open to the accused to apply for bail before the appropriate Court in accordance with law.



H.C.P.(MD)No.835 of 2023

31. It is made clear that the observations made herein are only for the disposal of the Habeas Corpus Petition. The Courts concerned while deciding the petitioner's husband's bail application or any other applications shall pass orders on its own merits, without being influenced by the observations and findings in this order.

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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(M.S.R., J.) (M.N.K., J.)
21.07.2023

To

- 1.The Inspector General of Police (South Zone CBCID),
No.77, 4th Street,
Ramond Reserve Line,
Race Course Colony,
Madurai – 625 002.
- 2.The Superintendent of Police (CBCID),
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent of Police (CBCID),
Sivagangai District,
Sivagangai.
- 4.The Superintendent of Police,
Sivagangai District, Sivagangai.

26/28



H.C.P.(MD)No.835 of 2023

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- 5.The Deputy Superintendent of Police (CBCID),
Superintendent of Police Office,
Madurai District, Madurai.
- 6.The Deputy Superintendent of Police,
CBCID South,
Sivagangai District.
- 7.The Inspector of Police,
CBCID South,
Sivagangai District.
- 8.The Inspector of Police,
CBCID South,
Pudukkottai District.
- 9.The Inspector of Police,
Natchiyarpuram Police Station,
Sivagangai District.
- 10.The Superintendent of Prison,
Pudukkottai.
- 11.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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H.C.P.(MD)No.835 of 2023

M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.

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Pre-delivery order made in

H.C.P.(MD)No.835 of 2023

21.07.2023