



H.C.P.(MD) No.1422 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2023

CORAM:

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

H.C.P.(MD) No.1422 of 2022

Boominathan

... Petitioner

-VS-

- 1.The State of Tamil Nadu
Rep. by its
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
St. George Fort, Chennai-600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.
- 3.The Inspector of Police (L&O),
B-3 Theppakulam Police Station,
Madurai City.
- 4.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, call for the records relating to the detention order passed by the second respondent in No.44/BCDFGISSSV/2022, dated 24.06.2022 and quash the same and direct the respondents to produce the body or person of the petitioner's son (detenu) namely as Senbhagamoorthy, aged about 28 years (Now detained at Central Prison, Madurai) before this Court and set him at liberty.

For Petitioner : Mr.A.P.Muthupandian
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

This petition is filed to quash the detention order passed by the second respondent on 24.06.2022. The petitioner is the father of the detenu.

2. Learned counsel for the petitioner submits that the booklet was not furnished to the detenu to make an effective representation. Hence, on behalf of



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the detenu, two representations were made; one on 13.07.2022 and another on 30.07.2022. However, both the representations were rejected for identical reason without any application of mind.

3. The learned counsel for the petitioner relying upon the judgment of this Court rendered in *Selvi vs. State of Tamil Nadu, dated 25.02.2020* submitted that though the detenu has not filed any bail petition in the ground case, referring an un-similar case where the learned Principal Sessions Judge, Madurai has granted bail to the co-accused by name Palanikumar in a case involved in the offence under Sections 392 r/w 397, 306(ii) IPC, submitted that there is non application of mind in the detention order.

4. However, on a perusal of the detention order, this Court finds that the detaining authority has recorded his knowledge that the detenue has not preferred any bail application in the ground case and the fact that Court has granted bail in a similar set of facts in the case of Palanikumar. We see there is a balanced application of mind in considering the matter properly and arrived at the subjective satisfaction from the given material. Hence, we find that the judgment



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of this Court relied upon by the learned counsel for the petitioner is not applicable to the facts of the present case.

5. Further, the learned counsel for the petitioner relying upon the judgment of this Court rendered in ***Pathiyanathan vs. The District Collector and District Magistrate, Tiruppur and another in H.C.P.No.2446 of 2017, dated 14.03.2018*** submitted that the detenu was arrested in the case on 11.05.2022 by B3 Theppakulam Police Station in Cr.No.209 of 2022, whereas, the detention order was passed belatedly with an inordinate delay, therefore, the findings of the Division Bench in Pathiyanathan's case squarely applies to the case.

6. The learned Additional Public Prosecutor appearing for the respondents filed a detailed counter stating that the allegation, booklet was not served to the petitioner is not correct. In fact, the paper booklet was served on 25.06.2022 after getting due acknowledgment. The representation of the petitioner, dated 13.07.2022 was considered and rejected with reasons. There is no application pending before the Government that too, after the matter seized off by the Advisory Board. In this case, the Advisory Board was constituted and the detenu was heard on 09.07.2022 and confirmed the detention. The representation, dated



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30.07.2022 is only a representation in duplicate and it is no bearing on the application of mind of the detaining authority in exercising his jurisdiction.

7. This Court on verifying the records find that the petitioner involved in 5 previous cases, which leads to the registration of the complaint under Sections 392 and 397 IPC. The detaining authority has expressed his opinion that there is a possibility of the detenu coming out on bail and the public peace is under peril due to the conduct of the detenu. We see no infirmity in the detention order.

8. This Court finds that the background facts of this case is not same to the other case cited supra. Each case has to be decided independently on applying the mind to the facts available. In this case, the petitioner started his life by doing small time theft involving the offence under Section 379 IPC., gradually he became notorious involving in chain snatching and causing hurt. Therefore, his presence is a menace to the public, as per the detaining authority. This wisdom is based on the document and therefore, the detention order cannot be quashed.



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9. Further, the grounds raised challenging the detention order is not sustainable in view of the fact that the detainee has received the paper booklet as early as on 25.06.2022 and he has made his representation on 13.07.2022 and the same has been duly considered and rejected. We find no merit to entertain the habeas corpus petition, hence, this habeas corpus petition is dismissed.

Index : Yes / No
Internet : Yes / No
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[G.J.,J.] [S.M.,J.]
09.01.2023



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