



H.C.P(MD)No.1815 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

CORAM

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

H.C.P.(MD)No.1815 of 2022

Jebasta @ Jebasta Gnanamalar

.. Petitioner/ Wife of the
Deten

Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai-600009.

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

3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Inspector of Police,
Uvari Police Station,
Thoothukudi District.

.. Respondents



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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 records relating to the detention order passed by the second respondent in M.H.S.Confdl.No.110 of 2022 dated 01.07.2022 and to quash the same as illegal and direct the respondents to produce the body or person of the petitioner's husband, namely, Packiyaraj, son of Suyambu, aged 36 years, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.V.Sorimuthu

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed challenging the detention order slapped by the second respondent against one Packiyaraj, the husband of the petitioner.



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2. According to the detention order, on 05.06.2022, at about 15.30 hours due to property dispute, the said Packiyaraj has come in his motorcycle and brutally attacked Ganesan with Aruval and caused severe injury all over his body. When others who were standing nearby Ganesan tried to prevent further attack, it is alleged that Packiyaraj wheeled the Aruval and threatened them that they will face the same consequence if they come near him. A case under Sections 294(b), 307 and 506(ii) IPC was registered in Crime No.80/2022 against the accused Packiyaraj which was later altered to Sections 294(b), 302 and 506(ii) IPC on the death of Ganesan, ie. the next day of the occurrence.

3. The learned counsel appearing for the petitioner submitted that it is a solitary case against the detenu and he had no bad antecedents. This has occurred due to previous enmity arose regarding the property dispute and even according to the complaint, due to sudden provocation, occurrence has occurred whereas in the counter filed by the second respondent, it is stated that the occurrence has took place in the broad day light in the public place causing panic in the mind of the persons who were near the deceased and



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talking with him.

4. The possibility of releasing the accused on bail was imminent and if he is released on bail, his presence likely to cause prejudice to the public peace and therefore, the preventive detention order been slapped after due consideration of merit and careful consideration of relevant records. It is stated in the counter that recourse in normal criminal law effectively preventing him from indulging in such activity in future which are prejudice to the maintenance of the public order. The detaining authority has arrived at such a conclusion based on the sole and solitary case against the petitioner that too, arising out of a property dispute which is purely civil in nature and except this one case, there is no adverse record against the detenu to infer that he had been indulging in such activity in the past or he will indulge in such activity in future. Mere apprehension that he will indulge in such activity in future is not suffice to invoke the provision of Act 14 of 1982. There must be some *prima facie* material to arrive at such conclusion. In this case, this Court finds that no such material. Therefore for bereft of supportive documents, the detention order is vitiated.



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5. In fine, the Habeas Corpus Petition is allowed. The detention order passed in M.H.S.Confdl.No.110 of 2022 dated 01.07.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Packiyaraj, son of Suyambu, aged 36 years, who is now detained in Central Prison, Palayamkottai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

[G.J.,J.] & [K.K.R.K.,J.]
21.02.2023

Internet :Yes
Index :Yes/No
NCC :Yes/No
PJL

To

1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai-600009.

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



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3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Inspector of Police,
Uvari Police Station,
Thoothukudi District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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