



HCP.No.70 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.70 of 2024

G.Ellammal

... Petitioner

Vs.

1. State Represented by its
Home Secretary to the Government of Tamil nadu,
Home, Prohibition & Excise Department,
Fort St.George,
Chennnai - 600 009.
2. The District Collector and District Magistrate,
Collectorate,
Kancheepuram District,
Kancheepuram - 631 502.
3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
4. The Inspector of Police,
C-2, Sunguvarchatram Police Station,
Sriperumbudur, Kancheepuram District.



HCP.No.70 of 2024

WEB COPY

5. The Superintendent of Police,
Central Prison,
Puzhal.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in relating to the order of detention order passed by the 2nd respondent dated 14.12.2023 in Rc.No.253/M6/2023/DO No.44/2023 against the petitioner's husband, the Detenue, Guna @ Gunasekaran, Male, aged about 45 years, son of Namasivayam, who is confined at Central Prison, Puzhal and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner	: M/s.G.Mohana Krishnan
For Respondents	: Mr.E.Raj Thilak, Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The preventive detention order passed by the second respondent is sought to be assailed in the present habeas corpus petition.

2. The grounds of detention would reveal that number of cases are



HCP.No.70 of 2024

pending against the detainee.

WEB COPY

3. The impugned detention order has been passed on 14.12.2023.

The detaining Authority was satisfied that the detenu is habitually indulging in robbery, attempt to murder and acting against public tranquility thereby acting in a manner which are prejudicial to the maintenance of public peace and public order and as such he is a "GOONDA" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

4. To substantiate the above reasoning and to establish nexus, Mr.E.Raj Thilak, the learned Additional Public Prosecutor would submit a report stating about the bad antecedents of detainee namely Guna @ Gunasekaran. The number of cases pending against the detainee are as under:



HCP.No.70 of 2024

It is pertinent to note that the following cases were still pending against him.

WEB COPY **MURDER CASES**

S. NO	Police station name	Cr.No. Section	Court Name	Case Stage	Date of next hearing
1.	Guduvanchery PS	470/09 u/s 147, 148, 334, 302 IPC r/w 3,5 Indian Explosive act 3(i) of TNPPDL Act.	PDJ/CPT SC NO 45/2020	For examination of witnesses	19.09.24
2.	Chengalpet Taluk PS	189/08 u/s 147, 148, 334, 302 IPC.	PDJ/CPT SC NO 179/2023	NBW is Pending since 23.07.24	03.09.24
3.	Palur PS	302/13 u/s 302 IPC.	PDJ/CPT SC NO 31/2022	NBW is Pending Since 30.01.2024	20.09.24



HCP.No.70 of 2024

WEB COPY

ATTEMPT TO MURDER CASES

NO	Police station name	Cr. No. Section	Court Name	Case Stage	Date of next hearing
4	Guduvanchery PS	784/17 u/s 147,148,452,294(b),323, 355,307,506(i) IPC r/w 1 (1) TNFPDL Act	Mahila court /CPT PRC NO 03/2018	Committal To Mahila court	03.09.24
5	Sunguvarchatr am PS.	786/2021 u/s 195(A),141,342,447,506(i),307 IPC.	PD1/Kpm SC NO 151/2022	Trail	14.10.24
6	C1 Sriperambadur PS	1179/2021 U/S 294(b),323,341,392,307, 506(2)IPC	DIST SUB COURT KPM SC NO 39/2024	NBW PENDING Since 04/03/2024	05/09/2024
7	C1 Sriperambadur PS	1390/2021 U/S 294(b),323,397,307,506(2)IPC	DIST SUB COURT KPM SC 40/2024	NBW PENDING Since 27/03/2024	20/09/2024

Other cases

S. NO	Police station name	Cr.No. Section	Court Name	Case Stage	Date of next hearing
8	Sunguvarchatr am PS	14/2022 U/s: 430,379 IPC 21(1) MM ACT.	JM/SPR CC 50/2023	FRESH SUMMON	29.08.24
9	Sunguvarchatr am PS	21/2022 U/s: 430,379 IPC 21(1) MM ACT.	JM/SPR CC NO 245/2023	FRESH SUMMON	29.08.24
10	Sunguvarchatr am PS	24/2022 U/s: 430,379 IPC 21(1) MM ACT.	JM/SPR CC NO 246/2023	FRESH SUMMON	29.08.24
11	Sunguvarchatr am PS	28/2022 U/s: 430,379 IPC 21(1) MM ACT.	JM/SPR CC NO 269/2023	FRESH SUMMON	29.08.24
12	C1 Sriperambadur PS	22/2022430,379 IPC 21(1) MM ACT.	JM/SPR	FRESH SUMMON	21/10/2024



HCP.No.70 of 2024

WEB COPY

13.	C1 Sriperambadur PS	627/2022 U/S 294(b),323,353,506(i) IPC	JM/SPR CC 266/2023	LW 1 TO 3	04.09.24
14.	C5 ORAGADAM PS	176/14 u/s 341,394,395,397 IPC r/w 34 IPC	PDJ Court KPM SC NO 58/2022	Trial	12/08/2024
15.	C2 SV Chatram ps	147/*2018 u/s 120(b),506(2) IPC	JM/SPR M CC NO 129/2018	For examination of LW 3 TO 5	02.09.24
16.	C2 SV Chatram ps	150/2018 430,379 IPC 21(1) MM ACT.	CC NO 50/2018 JM/SPR M	Service Pending summon	24.09.24
17.	C2 SV Chatram ps	622/2021 u/s 447,448,294(b),506(2) IPC r/w 4 of TNPWH Act.	JM/SPR M CC NO 29/2022	For examination of LW 10 TO 13	02.09.24
18.	C2 SV Chatram ps	36/2022 U/S 448 IPC	JM/SPR M CC NO 266/2022	For fixing trial	21/08/2024
19.	MM NAGAR PS	232/2019 U/S 147,148,506(2) IPC	CPT /JM CC 150/2021	FRESH SUMMON	24/10/2024
20.	PEW KPM	1138/2021 U/S 4(1)(aaa)4(1-A) TNP ACT	DIST COURT KPM SC NO 95/2024	For appearance of the accused	03/09/2024

NTF Cases

1. Guduvanchery P.S. Crime No. 67/2018
2. Guduvanchery P.S. Crime No. 240/2018
3. Sri Perumbudur P.S. Crime No. 1069/2023 u/s. 294(b), 307, 506(ii) IPC
4. Sunguvarachathiram P.S. Crime No. 852/2023 u/s. 294(b), 341, 323, 392, 397, 307, 506(ii) IPC.
5. Somangalam P.S. Crime No. 625/2021 u/s. 341, 294(b), 323, 506(i) IPC Section 3 (i)I (s). 3(ii), (va) of SC/ST POA Act 1989.
6. Manimangalam P.S. Crime No. 272/2014 u/s. 294(b), 384, 506(ii) IPC
7. Otteri P.S. Crime No. 30/2024 u/s. 30/2024 u/s. 341, 294(b), 323, 336, 392, 397, 506(ii) IPC.



HCP.No.70 of 2024

WEB COPY **UI CASES**

1. Manimangalam P.S. Crime No. 182/2021 u/. 447, 427, 386, 506(ii) IPC r/w. 3(1) TNPPDL Act – Accused not arrested,
2. Manimangalam P.S. Crime No. 43/2020 u/s. 272/2014 u/s. 294(b), 448, 384, 379, 506(ii), 3(1) TNPPDL Act – Accused not arrested.
3. Oragadam P.S. Crime No. 906/2023 u/s. 294(b), 341, 392, 307, 506(ii) IPC- Accused not arrested

5. It is brought to the notice of this Court that the detainee has involved in heinous offences. Therefore, the detaining authority has every reason to believe that there is likelihood of causing breach of public order and thus the habeas corpus petition is to be rejected.

6. Mr.G.Mohanakrishnan, the learned Counsel appearing on behalf of the petitioner would submit that the Government Order furnished to the detainee has not been translated and some of the documents are not translated in the language known to the detainee.



HCP.No.70 of 2024

7. Though certain technical grounds are raised, the ground case in the present case, undoubtedly has nexus to the objective sought to be achieved through preventive detention. Therefore, the detaining authority is justified in forming an opinion that there is a likelihood of causing breach of public order. However, the detaining authority has not taken efforts to ensure that the procedures as contemplated under Act 14 of 1982 has been complied with scrupulously.

8. The Government Order has not been translated and some of the documents served on the detainee has not been translated, the said defect caused prejudice to the interest of the detainee to submit representation in an effective manner.

9. That apart, the detainee was arrested on 14.12.2023 and has undergone imprisonment for about 08 months. When a person is under preventive detention for about 08 months and when the procedures are not followed scrupulously, this Court has no option but to invoke discretionary powers, so as to assail the detention order.



HCP.No.70 of 2024

WEB COPY

10. Preventive detention is not penal in nature but is only a regulatory measure to the prevent commission of crimes the balance between the right to personal liberty and the public order must be achieved. While adopting a pragmatic approach, the antecedent of the detenue is also to be taken into consideration by the Courts.

11. In the present case, the detenue has bad antecedents with reference to the number of cases pending against him as furnished by the respondents. However, we took note of the fact that the detenue is under preventive detention for about 08 months and further continuance would not serve any purpose or object sought to be achieved under the preventive detention law.

12. Accordingly, the impugned order of detention passed by the second respondent in proceedings Rc.No.253/2023/M6-D.O.No.44/2023 dated 14.12.2023 is quashed and the habeas corpus petition stands **allowed**. The detenue viz., Guna @ Gunasekaran, S/o. Namachivayam, Male, aged 45



HCP.No.70 of 2024

years, confined at Central Prison, Puzhal, Chennai is is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

20.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda



WEB COPY



HCP.No.70 of 2024

S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

veda

H.C.P.No.70 of 2024

20.08.2024