



H.C.P.(MD).No.1195 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.02.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD).No.1195 of 2023

Sasikumar

.. Petitioner/Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Tenkasi District,
Tenkasi – 11.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in M.H.S.Confdl No.48/2023



H.C.P.(MD).No.1195 of 2023

dated 20.06.2023 and quash the same and direct the respondents to produce the detenu by name Sasikumar, S/o.Paramasivan alias Kumar, aged about 30 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The petitioner is detained under the Tamil Nadu Act 14 of 1982 by the impugned order dated 20.06.2023 on the subjective satisfaction of the detaining authority that the presence of the accused is likely to cause disturbance to the public peace. The detention order is under challenge in the present Habeas Corpus Petition.

2. The ground case against the petitioner is that on 22.05.2023, due to previous enmity, the petitioner has caused grievous injury on the head of one Selvarani, neighbouring land owner, who tried to fence her land to



H.C.P.(MD).No.1195 of 2023

protect the produce of her land. In this connection, there was a complaint against the detenu given by Selvarani on 01.04.2023. As a consequence, on 22.05.2023, the detenu has threatened Selvarani to withdraw her complaint and since she refused, the detenu attacked her with deadly weapon on her head causing grievous injury. In this regard, a case in Crime No.171 of 2023 was registered by Puliyangudi Police Station for the offences under Section 427, 341, 294(b), 307 and 506(2) IPC. The detenu was remanded to judicial custody on the next day, i.e., 23.05.2023.

3. The learned counsel appearing for the petitioner/detenu submitted that the translated version of the remand report and the other documents are not accurate and that the same caused prejudice to the detenu while making his representation to the Advisory Board. He further submitted that the detaining authority has not applied his mind and the similar case, which he has referred in the detention order for the likelihood of the detenu coming out on bail, is not similar to the facts of the case in hand, particularly, in the similar case referred, the accused therein had no previous antecedents, whereas, in the case on hand, the detenu is involved in two previous cases,



H.C.P.(MD).No.1195 of 2023

which has been referred in the remand requisition letter. Hence, on the above grounds, the learned counsel prayed to quash the detention order.

4. The learned Additional Public Prosecutor appearing for the respondents submitted that the detaining authority has gone through the records, had perused the previous cases and made a reference about the same in the detention order. Therefore, there is no error in it. He further submitted that as far as the detention order is concerned, it was based on the solitary case, which was registered in Crime No.171 of 2023 by Puliyangudi Police Station. Therefore, the detaining authority had rightly applied his mind and the apprehension of likelihood of the detenu getting bail referring an identical case is also correct.

5. Regarding the inaccuracy in the translated version, the learned Additional Public Prosecutor submitted that the omission to make verbatim translation in respect of the relationship between the accused A1 and A2 has not caused any prejudice to the detenu in making representation effectively. Referring to the photograph, where the accused is wielding a long knife and



H.C.P.(MD).No.1195 of 2023

threatening Selvarani, the learned Additional Public Prosecutor submitted that a clear case of threat to public peace has been made out and only on subjective satisfaction of the materials, the detention order has been passed.

6. This Court has gone through the material placed by the Prosecution in support of the detention order. The antecedents of the detenu, which has drawn an adverse inference about him by the detaining authority, are of the years 2013 and 2014. The instant case, in fact, is borne out of a sudden fight between the neighbouring land owners in respect of the right of passage. The apprehension that the conduct of the detenu has every likelihood to cause disturbance to public peace has no basis. Except the photograph where the accused is wielding a knife, for which he is now being prosecuted, the preventive detention order must state the propensity of the detenu in committing similar crimes, and to avoid such occurrence, the detention is to be ordered to detain the accused preventively. In this case, this Court does not find any such element. Hence, the impugned order of detention is liable to be quashed.



H.C.P.(MD).No.1195 of 2023

WEB COPY

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl No.48/2023 dated 20.06.2023 passed by the second respondent is set aside. The detenu, viz., Sasikumar, S/o.Paramasivan alias Kumar, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (C.K.,J.)
27.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Tenkasi District,
Tenkasi – 11.



H.C.P.(MD).No.1195 of 2023

WEB COPY

3. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD).No.1195 of 2023

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

Lm

H.C.P.(MD).No.1195 of 2023

27.02.2024