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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.02.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD) Nos.1465,1468,1470,1472 and 1475 of 2023

- | | |
|------------------|---|
| 1.R.Vasanth | ... Petitioner/Mother of the detenu in
H.C.P(MD)No.1465 of 2023 |
| 2.S.Santhanamari | Petitioner/Mother of the detenu in
H.C.P(MD)No.1468 of 2023 |
| 3.Petchiammal | Petitioner/Mother of the detenu in
H.C.P(MD)No.1470 of 2023 |
| 4.M.Subbulakshmi | Petitioner/Mother of the detenu in
H.C.P(MD)No.1472 of 2023 |
| 5.M.Maharasi | Petitioner/Mother of the detenu in
H.C.P(MD)No.1475 of 2023 |

-VS-

- 1.The State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,



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Tirunelveli District,
Tirunelveli.

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

... Respondents in all H.C.Ps'

PRAYER in H.C.P(MD)No1465 of 2023: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the Detention Order passed in M.H.S.Confdl.No.100 of 2023, dated 6.9.2023, on the file of the second respondent herein and to quash the same and to direct the respondents to produce the detenu or body of the detenu namely, the Petitioner's son ie.,Muthuraj, aged about 19 years, son of Ramaiah, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

PRAYER in H.C.P(MD)No1468 of 2023: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the Detention Order passed in M.H.S.Confdl.No.98 of 2023, dated 6.9.2023, on the file of the second respondent herein and to quash the same and to direct the respondents to produce the detenu or body of the detenu namely, the Petitioner's son ie.,Vasanth, aged about 23 years, son of Sastha Kumar , now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

PRAYER in H.C.P(MD)No1470 of 2023: Petition is filed under Article



226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the Detention Order passed in M.H.S.Confdl.No.99 of 2023, dated 6.9.2023, on the file of the second respondent herein and to quash the same and to direct the respondents to produce the detenu or body of the detenu namely, the Petitioner's son ie.,Kombaiah alias Left Kombaiah, aged about 23 years, son of Barathan, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

PRAYER in H.C.P(MD)No.1472 of 2023: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the Detention Order passed in M.H.S.Confdl.No.97 of 2023, dated 6.9.2023, on the file of the second respondent herein and to quash the same and to direct the respondents to produce the detenu or body of the detenu namely, the Petitioner's son ie.,Karthick, aged about 22 years, son of Murugan, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

PRAYER in H.C.P(MD)No.1475 of 2023: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the Detention Order passed in M.H.S.Confdl.No.101 of 2023, dated 6.9.2023, on the file of the second respondent herein and to quash the same and to direct the respondents to produce the detenu or body of



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the detenu namely, the Petitioner's son ie.,Kannan, aged about 21 years, son of Malaiyappan @ Pappathi, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan
in all H.C.Ps'

For Respondents : Mr.S.Ravi,
in all H.C.Ps' Addl.Public Prosecutor

COMMON ORDER

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

The detention orders are passed against five accused persons involving in a case of murder and all of the five accused persons are before this Court by filing the above Habeas Corpus Petitions, on the sole ground that it is a solitary case, wherein, the detenus have no bad antecedents and the alleged murder took place since the deceased spoiled the marriage prospect of A1/Karthick by giving bad information about his character to the prospective father-in-law.



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2.The detention orders indicate that the murder of Arunachalam @ Pannaiyar Kumar was on 09.08.2023 while he was walking along Veetirunthan Kulam and that, such occurrence has caused prejudicial to the maintenance of public order. It is contended by the learned counsel for the Petitioners that it is a solitary incident and the manner in which the alleged murder took place does not disclose anything very serious act of endangering public peace.

3.Counter affidavit filed by the second respondent, however, justifies the detention orders on the ground that there is a real possibility of getting bail and committing similar offence. This Court, however, on considering the facts, is of the view that the power of invoking the preventive detention should not be exercised unless there is imminent threat to public peace.

4.In the instant ground case, the manner in which the alleged murder has been committed and the motive for the murder does not disclose any imminent threat to public peace. The application of mind by the detaining authority is perverse and hence, the detention orders needs interference by this Court.



5.In fine, these Habeas Corpus Petitions are allowed. The detention orders in M.H.S.Confdl.Nos.97,98,99,100 and 101 of 2023, dated 6.9.2023, passed by the second respondent, is set aside. Consequently, the detenus' namely:

- (1)Muthuraj, aged about 19 years, son of Ramaiah;
- (2)Vasanth, aged about 23 years, son of Sastha Kumar;
- (3) Kombaiah alias Left Kombaiah, aged about 23 years, son of Barathan;
- (4)Karthick, aged about 22 years, son of Murugan and
- (5)Kannan, aged about 21 years, son of Malaiyappan @ Pappathi;

who are now detained at Central Prison, Palayamkottai are directed to be released forthwith unless their presence or custody or detention is required in connection with any other case.

[G.J.,J.] [C.K.,J.]

28.02.2024



NCS : Yes/No
Index : Yes / No
Internet : Yes / No

vsn

To:

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

vsn

COMMON ORDER MADE IN
H.C.P(MD) Nos.
1465,1468,1470,1472 and
1475 of 2023

28.02.2024