



H.C.P.(MD).No.1508 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 23.02.2024

CORAM

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

H.C.P.(MD).No.1508 of 2023

Nagarathinam

.. Petitioner/Mother of Detenu

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 Detention Order No.51/2023 dated 23.08.2023 and quash the same and to direct the respondents to



H.C.P.(MD).No.1508 of 2023

produce the body or person of the detenu by name Ondi @ Ollikutchi, son of Sangili @ Sangili Karuppan, aged about 24 years, now confining as “Goonda” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Prakash

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The present Habeas Corpus Petition is filed by the mother of the detenu to quash the detention order passed against one Ondi @ Ollikutchi by the detaining authority vide Detention Order No.51/2023 dated 23.08.2023.

2. The impugned order of detention is challenged on the following two grounds:

(i) The accused was arrested in the ground case on 15.07.2023, whereas, the detention order was passed on 23.08.2023. There is no live link and proximity between the offence and the detention order; and



(ii) The subjective satisfaction of the detaining authority results with infirmity and non-application of mind, since the similar case relied for likelihood of the detenu coming out on bail is not factually similar to the case in hand.

3. A detailed counter has been filed by the second respondent, wherein, it is stated that the detenu is involved in three adverse cases and one ground case. Out of the three adverse cases, two cases are pending trial and in one case, he was convicted. As far as the ground case is concerned, due to previous enmity, the detenu stabbed one Vinothkumar on his vital organ and a case under Section 307 IPC was registered initially, which was later altered to Section 324 and 302 IPC on the death of the victim, Vinothkumar. There are totally six accused in this case.

4. It is further stated in the counter that the sponsoring authority in the course of investigation found that the presence of the accused is endangering to the public order and therefore, collected material about the co-accused as well as the previous antecedents of the accused to place it before the competent authority for passing the detention order and in the



H.C.P.(MD).No.1508 of 2023

said course, there was a delay of 20 days, which is explainable and there is proximity between the incident and the detention order.

5. This Court, after giving anxious consideration to the above submissions and on perusal of the records, finds that it is a case of murder due to previous enmity and rivalry. After declaring that the victim, Vinothkumar, will be done away with, the detenu along with others have gone to the market place and attacked Vinothkumar with knife and wooden rod. The injured Vinothkumar was taken to the hospital on 13.07.2023 and succumbed to injuries on 14.07.2023. The scene of occurrence is a public place, where public gather and the manner in which the crime was committed, clearly indicates that it would have caused fear and disturbance in the mind of the general public. Therefore, this Court finds no error in the subjective satisfaction arrived at by the detaining authority. Hence, the Habeas Corpus Petition stands dismissed.

(G.J.,J.) (C.K.,J.)
23.02.2024

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



H.C.P.(MD).No.1508 of 2023

To

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



WEB COPY



H.C.P.(MD).No.1508 of 2023

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

Lm

H.C.P.(MD).No.1508 of 2023

23.02.2024