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H.C.P.(MD)No.1596 of 2023
and CrI.M.P.(MD)No.1062 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
22.02.2024	29.02.2024

CORAM:

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

H.C.P.(MD)No.1596 of 2023
and
CrI.M.P.(MD)No.1062 of 2024

Revathi, W/o.Periyavan @ Murugan

... Petitioner

vs.

- 1.Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thanjavur District.
- 3.The Superintendent,
Central Prison,
Trichy.

... Respondents



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PRAYER : Habeas Corpus Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the second respondent in Detention Order P.D.No.69/2023, dated 25.11.2023, quash the same and direct the respondents to produce the body or person of the petitioner's husband namely, Periyavan @ Murugan, aged about 44 years, who is detained at Central Prison, Trichy, S/o.Kittappa and set him at liberty forthwith.

For Petitioner : Mr.T.Lajapathi Roy
Senior Counsel
for Mr.B.Jameel Arasu

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu by name, Periyavan @ Murugan. On 08.11.2023, the Inspector of Police, Thiruvudaimarudur Police Station, Thanjavur District, registered a case in Crime No.708 of 2023 against four persons, in which, the fourth accused is the husband of the petitioner. The case was registered for the alleged offences under Sections 25(1A) and 25(1B)(a) of

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the Arms Act, 1959 altered into Sections 294(b), 353 and 506(ii) of I.P.C. r/w. Section 25(1A) and 25 (1B)(a) of the Arms Act, 1959. On 25.11.2023, the husband of the petitioner was detained under the Act 14 of 1982. In the opinion of the District Collector / Detaining Authority, the husband of the petitioner was found indulging in an activity prejudicial to the maintenance of public order and public peace and therefore, he falls within the definition of "Goonda" to be detained preventively under the said Act.

2. Being aggrieved by the detention order, the Habeas Corpus Petition is filed on the ground that the detention order is *ex facie* illegal and liable to be quashed. The detaining authority has passed the order without proper application of mind and has stated that the detenu has obtained bail in connection with Crime No.708 of 2023, therefore, his release from prison is imminent. Whereas, in fact, though bail was granted by this Court in Cr.O.P.(MD)No.21231 of 2023 on 24.11.2023 in Crime No.708 of 2023, the detenu had not furnished sureties and also not executed the bond. To prevent the detenu from being released from the prison as per the bail condition, the detention order has been slapped with *mala fide* intention.

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3. It is contended that the Hon'ble Supreme Court has condemned the act of the Executive detaining a person under the Act 14 of 1982 to circumvent the bail granted by the Courts. The Hon'ble Supreme Court has further stated that the remedy is to seek for cancellation of bail, but not slapping the preventive detention order. In support of the submission, the judgment of the Hon'ble Supreme Court in **Ameena Begum vs. State of Telangana and others** reported in **(2023) 9 SCC 587** been relied upon.

4. Further, the detention order cannot be passed over apprehension of law and order problem. There must be a specific act of disturbance to the public order, which will affect the community or the public at large. In the instant case, there is no material to show that the detenu involved in any of the crime, which will harm or endanger the general public peace and security. In an mechanical manner, the detention order has been passed without proper recording of the subjective satisfaction. The procedure contemplated under the Act before invoking the detention order not been properly followed and in haste, the impugned detention order been passed. Hence, the same is liable to be set aside.



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5. It is also contended that the detenu is an elected President of a Village Panchayat and due to political rivalry, he has been detained. That apart, it is also contended that the paper booklet containing documents relevant for passing the detention order, contains illegible copies, thereby, the detenu was not in a position to make effective representation.

6. The petitioner has also taken out an application in CrI.M.P.(MD)No.1062 of 2024, seeking a direction to the prison authorities to refer the detenu Periyavan @ Murugan, who is detained at Central Prison, Trichy, to send for treatment in any private hospital, since he suffers from severe ailment.

7. A detailed counter affidavit has been filed by the second respondent, wherein it is stated that the grounds of detention both in English and Tamil version with all relied documents been furnished to the detenu in a form of booklet. They are legible and in fact, the detenu had made effective representation. The detention order was passed only after being fully satisfied about the threat to the public peace, if the detenu is allowed to be free. The



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detention order been passed after due adherence to the procedure and being fully satisfied to invoke the preventive detention in the interest of public peace and tranquillity. The claim that the detenu suffers from serious ailment been considered twice and the opinion of the doctors reveals that the detenu was an alcohol addict, suffering from withdrawal syndrome. Later, after due treatment, his health condition is stable and the prison doctors satisfied with his health condition and has stated that no specialized treatment is required. After being treated in the Government Headquarters Hospital, Kumbakonam, the present health condition of the detenu is stable. The detenu is a habitual offender and a history sheeter. He was found involved in serious sensational offences for more than a decade and had been creating fear, terror and insecurity among the public.

8. Earlier, a Writ Petition in W.P.(MD)No.27787 of 2023 was filed for a direction to refer the husband of the petitioner to any private hospital for treatment. The said Writ Petition came to be dismissed on 23.11.2023 after being satisfied about the medical records of the detenu. A similar request been renewed. Though the detenu does not require any specialized medical care, it is a ruse to come out from the prison to carry on his notorious activities and therefore,

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the Habeas Corpus Petition and the Miscellaneous Petition are liable to be dismissed.

9. Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

10. The ground case against the detenu [husband of the petitioner] and others reveals that during the vehicular check, the detenu Periyavan @ Murugan and his associates tried to escape from screening and after a chase, they were subjected to search and from them, deadly weapons were recovered attracting the provisions of the Arms Act, 1959. A safety guard pin of a pistol was recovered from the two wheeler tank cover. As a follow up, search been conducted in the house of the detenu. Two Pistols and 13 rounds of bullets were recovered. Further investigation has revealed that the detenu and others were indulging in unlawful activities using deadly weapons. In this case, showing his medical record, the detenu was able to get anticipatory bail from this Court. However, when he was in the Hospital, the detention order was passed and he was taken to custody. The petitioner relies upon the opinion given by the private doctor at

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Kumbakonam, which indicates that the detenu was treated conservatively and his health needs further reference to Neuro Physician and Gastroenterologist.

11. In this connection, earlier, this Court sought for opinion of the prison doctor, who had opined that the detenu suffers from alcohol withdrawal syndrome/scrub typhus. Having been treated at Mahatma Gandhi Memorial Government Hospital, Trichy, his medical condition is stable and he is on drugs. His current medical condition **does not** require referral to tertiary care institution (Hospital). This Certificate is dated 31.01.2024, issued by the Assistant Surgeon attached to the Central Prison Dispensary, Trichy. [Emphasis added]

12. As far as the detenu Periyavan @ Murugan, the learned Additional Public Prosecutor has furnished list of 38 cases pending against him, which includes several cases for the offences under Sections 307 and 302 I.P.C., including the offences under the Arms Act. The adverse cases pending against the detenu are listed below:-



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Sl. No.	Police Station and Crime No.	Sections of law
1.	Kkm East PS Cr.No.04/98	147, 148, 341, 324, 326, 307 IPC
2.	Kkm East PS Cr.No.19/2000	341, 324, 506(ii) IPC
3.	Kkm East PS Cr.No.208/2000	294(B), 323, 506 (ii) IPC
4.	Kkm East PS Cr.No.213/2000	307 IPC
5.	Kkm East PS Cr.No.215/2000	323, 324, 506 (ii) IPC
6.	Kkm, East PS Cr.No.387/2000	341, 324, 506 (ii) IPC
7.	Kkm Taluk PS Cr. No.219/01	341, 323, 324 IPC
8.	Kkm East PS Cr. No.541/2001	147, 148, 341, 307 (ii) IPC
9.	Kkm East PS Cr. No.86/04	147, 148, 341, 323, 302, 109 IPC
10.	Kkm East PS Cr. No.345/2005	399 IPC
11.	Tvmr Cr.No.323/2001	147, 148, 341, 302 IPC
12.	Kkm Taluk PS Cr.No.188/06	341, 324, 307, 302 IPC
13.	Vallam PS Cr.No.78/07	147, 148, 324, 302, 120 (B) IPC
14.	Tvmr PS Cr.No.342/09	147, 148, 341, 324, 506(ii) IPC
15.	Tvmr PS Cr.No.343/09	147, 148, 341, 324, 506(ii), 395 IPC
16.	Kkm Tk PS Cr.No.373/09	4(i) (aa) TNP Act
17.	Kkm PEW Cr.No.472/18	4(1-A) 4(1) (aaa) TNP Act
18.	Kkm Taluk PS Cr.No.319/13	147, 148, 120(b), 109, 212, 341, 342, 324, 302 IPC r/w 3(2)(v) SC/ST Act
19.	Tvmr PS Cr.No.168/12	294(b), 506(ii), r/w 26(1) & 27(2) Indian Arms Act.



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20.	Kkm Taluk PS Cr.No.383/13	147, 148, 294(b), 352, 341, 354, 506 (ii) IPC and Sec. 4 of TN Women Harassment Act. r/w. 3(1) (X) of SC/ST Act
21.	Kkm Taluk PS Cr.No.204/12	294(b), 307 IPC r/w 26 and 27 of Indian Arms Act
22.	Kkm West PS Cr.No.339/12	147, 148, 307 IPC r/w 26 and 27 (2) of Arms Act
23.	Tpl. PS Cr.No.247/18	8(c) r/w 20(b)(ii)(B) NDPS Act
24.	Kkm East PS Cr.No.580/05	341, 386, 294(b), 323, 506(ii) IPC
25.	Kkm Taluk PS Cr.No.496/13	399 IPC r/w 25(1)(b) Arms Act
26.	Swamimalai PS Cr.No.295/13	147, 148, 294(b), 506 (ii) IPC r/w 3(i) TNPPDL Act
27.	Kkm Taluk PS Cr.No.223/18	4(1) (aaa) r/w 4(1-A) TNP Act
28.	Kkm Taluk PS Cr.No.148/18	4(1) (aaa) & 4(1-A) TNP Act (Transport)
29.	Kkm Taluk Cr.No.1570/20	294(B), 353, 506(ii) r/w 26(2) Arms Act
30.	Tvmr PS Cr.No.291/18	399 IPC
31.	Tng PS Cr.No.88/14	294(b), 352, 386, 506(ii) IPC r/w. 3(1) PPDL Act.
32.	Tvmr PS Cr.No.110/14	307 IPC @ 294(b), 506(ii), 307 IPC r/w. 25(1)(a) (1-(B)) of Indian Arms Act 1959 r/w. 34 IPC



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33.	Tvmr PS Cr.No.166/18	4(1) (aaa) r/w. 4(1-A) TNP Act
34.	Kkm Taluk PS Cr.No.507/10	353, 307 IPC, 26 (ii) Arms Act 1959 and r/w 4 of Explosive Substance Act, 158 (2) r/w 177 MV Act
35.	Sulur PS Cr.No.592/15	147, 109, 148, 341, 307, 302 IPC r/w. 5(1B) (a), 27(1) Arms act and 120(B), 149 IPC
36.	Kkm Taluk PS Cr.No.72/23	4(1) (aaa) & 4(1-A) TNP Act & Transport and 328 IPC
37.	Kkm Taluk PS Cr.No.606/23	25(1-B) (a) Arms Act
38.	Tvmr PS Cr.No.709/23	379 IPC r/w 21(1) M & M Act

13. Though earlier during the month of November, 2023, the detenu was in hospital for treatment for his withdrawal syndrome, the latest medical report indicates that his health condition is stable and he does not require any tertiary treatment.

14. Regarding the likelihood of coming out on bail, the contention of the learned Senior Counsel appearing for the petitioner that the observation of the detaining authority lack fairness, does not carry any merit. It is an uncontroverted



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fact that the detenu was granted anticipatory bail in the ground case on the health ground. Whereas, his present health condition is stable and his preventive detention is based on his antecedents and the nature of the ground case, which clearly shows that in spite of facing criminal trial in cases of grave offences, it has not deterred the detenu [husband of the petitioner] from repeatedly committing grave offences, including murder, attempt to commit murder and dacoity. The notoriety of the detenu is evident from the list of cases pending against him, which have been extracted above. The preventive detention of the detenu is imminent to maintain public peace and the same has been rightly imposed.

15. In view of the above facts, this Court confirms the detention order, which is based on subjective satisfaction of the detaining authority arrived based on the record. Hence, this Habeas Corpus Petition is devoid of merits and the same is liable to be dismissed. Accordingly, it is dismissed. Consequently, connected Miscellaneous Petition is also dismissed.

Index : Yes
NCC : Yes / No
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[G.J., J.] & [C.K., J.]
29.02.2024

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and Crl.M.P.(MD)No.1062 of 2024

To

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



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

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PRE-DELIVERY ORDER MADE IN
H.C.P.(MD)No.1596 of 2023
and
CrI.M.P.(MD)No.1062 of 2024

29.02.2024