



H.C.P(MD)No.752 & 765 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.02.2025

PRONOUNCED ON : 18.03.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS JUSTICE R.POORNIMA**

H.C.P(MD)No.752 & 765 of 2024

HCP(MD)No.752/2024:

Vigneswaran

... Petitioner/Detenuue

-Vs-

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

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

3.The Superintendent of Police,
Madurai Central Prison,
Madurai District.

... Respondents



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PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying this Court to call for the entire records, connected with the detention order of the respondent No.2 in Detention Order No.43/2024 dated 18.05.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Vigneswaran, son of Muthuraj, aged about 32 years, now detained as 'Sexual Offender' at Madurai Central Prison before this Court and set him at liberty forthwith.

HCP(MD)No.765/2024:

Murugavel

... Petitioner/Detenu

-Vs-

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

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

3.The Superintendent of Police,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying this Court to call for the entire records, connected with the



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detention order of the respondent No.2 in Detention Order No.44/2024 dated 18.05.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Murugavel, son of Palpandi, aged about 38 years, now detained as 'Sexual Offender' at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani (in both cases)

For Respondents : Mr.S.Ravi
Additional Public Prosecutor (in both cases)

COMMON ORDER

DR.G.JAYACHANDRAN., J
AND
R.POORNIMA.,J

The petitioners/accused facing trial before the Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul. Victims are 13 & 12 years old children of the complainant.

2. Based on the complaint by Kaneeswari, W/o Duripandi, case in Crime No.9/2024 under Sections 5(l)(m)(n) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 342 and 506(i) IPC was registered on



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26.04.2024 against the detenues. The trial in the case is progressing and it is reported that it is posted for examination of the Investigating Officer.

3. The present Habeas Corpus Petitions are filed to quash the detention order passed under Act 14, 1982 on 18.05.2024, stating that the petitioners were arrested on 28.04.2024 whereas the detention order was passed after 22 days without any live and proximate link between the ground of detention and purpose of detention. Further, the Detention Order Nos.43 and 44 of 2024 suffer the legal infirmity like non-consideration of representation in time given to the detaining authority, non-furnishing of clean copies of the documents relied and non-application of mind regarding possibility of getting bail when the detenues never applied for bail.

4. The learned counsel for the petitioners submitted that it is the sole case against the petitioners and there is no bad antecedents complaining paramour of the detenu Vigneswaran. The other detenu Murugavel is the complainant's sister's husband. Money dispute between them turn into complaint under the POCSO Act using the children into it. That apart, the detention orders do not disclose how the



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public peace will be disturbed if these detenues are not detained preventively.

5. In the counter, it is stated that the proximity between the accused and the victims due to the illegal intimacy of the victim's mother with one of the detenu Vigneswaran is threat and possibility of recurrence. Further, no prejudice caused to the petitioners in slapping the detention order after 22 days of their arrest. Though the detenues had not filed any bail petition at the time of detention order, the possibility of getting bail is not ruled out.

6. Heard the learned counsel for the detenues/accused and the learned Additional Public Prosecutor for the respondents. Perused the records produced by the detaining authority carefully.

7. Likelihood of getting bail cannot be a ground for passing detention order. There must be a threat to public peace for detaining a person preventively. When explicit reasons to the apprehension of threat to public peace, not made out but mere possibility of getting bail alone stated in the order of detention such order will not sustain. In these cases, we find that there is no other antecedents



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against these detainees. There is no material to show that their presence in the public will be threat to the peace and tranquility of the general public. Further, from the report of the learned Additional Public Prosecutor, we find that the trial in this case has almost completed and the matter is listed for the examination of the Investigating Officer.

8. In such circumstances, we find force in the submission made by the learned counsel for the petitioners that the detention orders suffer from non-application of mind and hence, these Habeas Corpus Petitions are liable to be allowed.

9. In the result,

(i) H.C.P(MD)No.752/2024 is **allowed**. The impugned Detention Order passed by the second respondent in Detention Order No.43/2024 dated 18.05.2024 is quashed. The detainee, by name, Vigneswaran, son of Muthuraj, aged about 32 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.



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(ii) H.C.P(MD)No.765/2024 is **allowed**. The impugned Detention Order passed by the second respondent in Detention Order No.44/2024 dated 18.05.2024 is quashed. The detinue, by name, Murugavel, son of Palpandi, aged about 38 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

[G.J.,J.] [R.P.,J.]
18.03.2025

NCS : Yes/No

Index : Yes / No

Internet : Yes / No

PJL

To

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

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

3.The Superintendent of Police,
Madurai Central Prison,
Madurai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
R.POORNIMA ,J.

PJL

PREDELIVERY ORDER MADE IN
H.C.P(MD)Nos.752 & 765 of 2024

18.03.2025