



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 08.04.2025

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No. 1420 of 2024

M. Esakkiammal

.. Petitioner

Vs.

1. State of Tamil Nadu,

Represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,

Tirunelveli City,
Tirunelveli.

3.The Superintendent of Prison,

Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, to call for the entire records connected with the detention order passed in No.52/BCDFGISSSV/2024 dated 03.09.2024 on the file of the 2nd respondent herein and quash the same and direct the



WEB COPY

respondents to produce the detenu or body of the detenu namely the petitioner's husband i.e., Petchimuthu, aged about 34 years, S/o.Sankaralingam @ Vellapandi, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Pragalathan

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

The detention order passed by the District Collector, dated 03.08.2024 is under challenged on the specific ground that the registration of the complaint under Section 302 of IPC, as well as appointing the Investigating officer, raises doubt about the integrity of the sponsoring authority. That apart the incident alleged to have occurred due to property dispute among neighbours, and in the absence of any element of threat to public order, invocation of Act 14 of 1982 is unconstitutional.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the



respondents. We have also perused the records produced by the Detaining Authority.

3. This Court finds that, in view of the property dispute between neighbouring land owners, earlier a case in Crime No.63 of 2024 was registered by the Seethaparpanallur Police Station, based on a complaint given by Ameer Hamsa on 01.03.2024 for the alleged offences under Section 447, 120(b) of IPC and 3(1) of Tamil Nadu Property [Prevention of Damage and Loss] Act, 1992. The detenu had obtained anticipatory bail in the said case and on midnight of 05.08.2024 alleged to have trespassed into the shop of the deceased Ameer Hamsa along with co-accused and murdered him. In this connection, a case in Crime No.228 of 2024 for the offences under Section 103(1), 127(2), 351(3) of BNS Act, 2023, been registered on 06.08.2024 at 00.10 hours. The detention order been passed on 03.09.2024 citing the earlier case in Crime No.63 of 2024 as the adverse case and case registered in Crime No.228 of 2024 as the ground case.



WEB COPY

4. The Learned Counsel appearing for the petitioner, referring the proceedings of the Assistant Commissioner of Police dated 05.08.2024, submits that the case in Crime No.228 of 2024 under Section 103(1) of BNS Act, was registered only on 06.08.2024. The proceedings appointing the Investigation Officer a day earlier indicate non-application of mind and possible manipulation of documents.

5. The counter filed by the respondents indicates that, since the occurrence took place during the night of 5th and 6th of August, the date mentioned as 05.08.2024 in the proceedings is an inadvertent error. The detaining authority, after considering the nature of the ground case, soon after obtaining anticipatory bail in the adverse case, had disturbed the public peace. Hence, the accused been preventively detained.

6. This Court finds that the occurrence alleged to have taken place at 10.45 p.m. inside the shop, in respect of the property dispute between two neighbours. The seal on the proceedings issued by the Assistant Commissioner of Police clearly show that it was issued on



05.08.2024, whereas the First Information Report was registered only thereafter.

7. In view of the above fact, the detention order suffers want of particulars regarding disturbance to public peace as well as non application of mind.

8. Accordingly, this Habeas Corpus Petition is allowed and the detained order, dated 03.09.2024 in No.52/BCDFGISSSV/2024 passed by the 2nd respondent is hereby quashed. The detenue, Petchimuthu, aged about 34 years, S/o.Sankaralingam @ Vellapandi, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J., J.] & [R.P., J.]
08.04.2025

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

KSA

Note : Issue a copy of order on 09.04.2025



WEB COPY To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli



WEB COPY



DR.G.JAYACHANDRAN, J.

and

R.POORNIMA, J.

KSA

H.C.P.(MD)No.1420 of 2024

08.04.2025