



H.C.P.(MD)No.1180 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the order	Date of Pronouncing the order
02.01.2023	12.01.2023

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1180 of 2022

Ramuthai, W/o.Rama Saamy

... Petitioner

vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

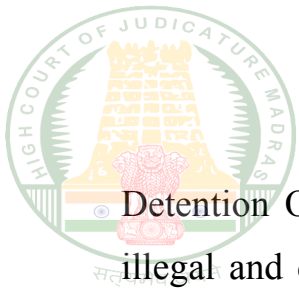
2.The Commissioner of Police,
O/o. the Commissioner of Police,
Madurai City.

3.The Superintendent of Prison,
Central Prison,
Special Prison for Women,
Madurai.

4.The Inspector of Police,
Thiruparangundram All Women Police Station,
Madurai District.

... Respondents

Prayer :- Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed by the second respondent in



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Detention Order No.37/BCDFGISSSV/2022, dated 11.06.2022, quash the same as illegal and direct the respondents to produce the body or person of the petitioner's daughter namely, Rathika, aged about 45 years, W/o.Radhakrishnan, now confined at Central Prison [Special Prison for Women], Madurai, before this Court and set her at liberty forthwith.

For Petitioner : Mr.S.M.A.Jinnah
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

One Rathika, W/o.Radhakrishnan, has been detained as Sexual Offender under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders, Forest Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982], by virtue of the detention order dated 11.06.2022. The mother of the detenue is before this Court seeking to quash the detention order on the ground of violation of statutory provisions.

2. The facts of the case are that on 31.03.2022 at about midnight, the Deputy Superintendent of Police, Peraiyur Sub-Division, Madurai District, received an information that one Veeramani, S/o.Sankarlal, sharing obscene photographs of a



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woman and three young boys. The Inspector of Police, who got the information, went into lookout of the said Veeramani. On 01.04.2022 at about 11.00 hours, the said Veeramani was secured and his cellphone was seized. The examination of the SIM Card containing video clippings of obscene sexual acts by a woman with few boys were found.

3. The further investigation with the said Veeramani disclosed the fact that the woman found in the video clippings, indulging in group sex activities with boys was Rathika, a Teacher in Potta Panaiyur Government Primary School, with whom, the said Veeramani has developed acquaintance and friendship in the year 2010 and continue to have illicit relationship with her.

4. The investigation further revealed that as desired by Rathika, her students were incited and seduced to have group sex, by exposing them obscene videos. The group sex activities were videographed by Veeramani and were stored in the cellphone of Veeramani for Rathika to see it in future and enjoy it. Later, in the month of June 2021, the photographs were shared to others by them. To threaten the three boys, who were forced to have group sex with Rathika, those video clippings subsequently percolated to others. In this connection, an F.I.R. was registered by the All Women Police Station, Thilagarthidal Police Station, in Crime No.16 of 2022 under Sections 5(l) and 5(n) read with Sections 6, 13, 14(1) and 15 of the Protection



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of Children from Sexual Offences Act, 2012 and Sections 292-A and 506 (i) I.P.C.

and Sections 67-A and 67-B of Information Technology Act, 2000. The said

Veeramani and Rathika were arrested on 01.04.2022. Mobile phones were seized from Rathika. They were taken into Police custody. Their statements were recorded.

5. From the investigation, the Police has come to know that Rathika and Veeramani were in the habit of sexually abusing small children by enticing them and later threatened them to repeat the activity by showing the video clippings recorded. Therefore, the detaining authority being satisfied that Rathika as well as Veeramani by the said activities, causing panic to the general public residing in their area and they are scared to send the children outside. Attempts are made by the relatives of the accused persons to get them released on bail and in similar cases, most of them were obtained bail and therefore, there is a real possibility of Rathika coming out on bail, though her earlier bail petition was dismissed. If she comes out on bail, she will indulge in further activities, which will be prejudicial to the maintenance of public order. Hence, being satisfied that her detention to prevent the threat and panic in the minds of the general public is required. Accordingly, the detention order was passed on 11.06.2022, informing that the detainee is entitled to make representation in writing against the detention order within 12 days from the date of detention and if any such representation is received by the detaining authority before the approval of the Government, the said representation was duly considered by the detaining



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authority. It was also informed to the detainee that she has a right to make representation in writing to the State Government and the Chairman, Advisory Board through the appropriate authorities mentioned in the order. Her right to be heard by the Advisory Board was also informed to her in the detention order.

6. To revoke the detention order, the mother of the detainee has sent a representation to the Commissioner of Police and the Additional Chief Secretary, Government of Tamil Nadu, Home and Excise Department, Chennai.

7. From the postal tracking record, this Court finds that the said representation to the Commissioner of Police was sent by RPAD on 20.06.2022 and delivered at the hands of the Commissioner of Police on 22.06.2022. The representation was received by the Additional Chief Secretary, Government of Tamil Nadu, Home and Excise Department, Chennai, on 27.06.2022 and the same was rejected on 01.07.2022.

8. In the light of the above said facts and circumstances, the petition under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus filed by the mother of the detainee on the ground that the detention order was passed after 72 days of the arrest without applying the mind. Obscene videos were in fact taken by the other accused Veeramani under threat and force and deliberately circulated among the public through the social media in order to put the petitioner under



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constant threat and fear. The satisfaction of real possibility of getting bail quoting another case, which involves the accused by name, Aatheeswaran, is not a similar case and grant of bail in a POCSO offence, is not a real possibility.

9. The learned counsel for the petitioner would further submit that there is an inordinate delay in considering the representation and the said delay has not been properly explained to enure the right of the detainee. The rejection order contains wrong date of representation, which indicates non-application of mind. The Paper Booklet furnished contains illegible copies and translation of remand order not furnished.

10. The learned Additional Public Prosecutor representing the State filed a counter affidavit and submitted that the detainee is a Teacher and the co-accused is her paramour. Obscene video clippings through Mobile Phone No.7708245225 was under circulation in the social media. The video clippings involving a woman and three young boys indulged in group sex, caused panic in the minds of persons known to those boys. The Police started tracking the perpetrator of the crime and found that the lady in the video clippings was the detainee and the boys were her students. The Video was taken by the other co-accused Veeramani. Considering the attempt of the detainee's relatives to get bail in Crime No.23 of 2021, where she was booked for the offence punishable under the POCSO Act and on the fear among the general public, the detaining authority was satisfied that the activity of the detainee is prejudicial to



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the maintenance of public order. The likelihood of getting bail could be seen from the similar case involved one Aatheeswaran under the POCSO Act and the Information Technology Act. There is no error in the subjective satisfaction of the detaining authority. The representation has been duly considered and rejected. The detention order dated 11.06.2022, was approved by the Government on 22.06.2022 and the copy was served to the detenue through the Superintendent of Special Prison for Women on 27.06.2022 and the detenue has received the order and acknowledged the same.

11. On perusing the record, this Court finds that the subjective satisfaction arrived at by the detaining authority does not suffer from any infirmity. The real possibility of getting bail could be inferred from the bail granted to Aatheeswaran, which is shown as a similar case. The representation of the detenue has been duly considered and rejected within the time prescribed and there is no delay in considering the representation. The satisfaction of the detaining authority about the threat to the public peace is well found.

12. For the above said reasons, this Court finds no merit in the Habeas Corpus Petition. Hence, the Habeas Corpus Petition is dismissed.

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

SMN2

<https://www.mhc.tn.gov.in/judis>

[G.J., J.] [S.M., J.]

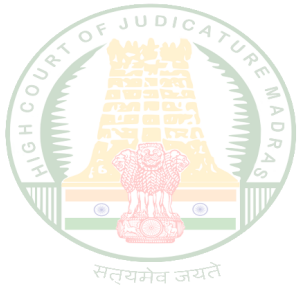
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- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

SMN2

PRE-DELIVERY ORDER MADE IN
H.C.P.(MD)No.1180 of 2022

DATED : 12.01.2023