



H.C.P.(MD)No.1291 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.1291 of 2022

V.Muneeswari

... Petitioner

vs.

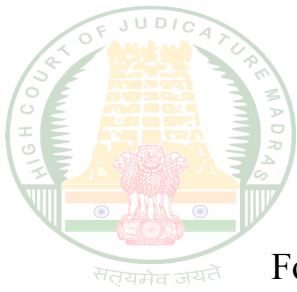
1.State Rep. by its
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai – 625 002.

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

... 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 records of the second respondent in Detention Order No.38/BCDFGISSSV/2022, dated 11.06.2022, quash the same as illegal and direct the respondents to produce the body or person of the detenu namely, Veeramani, aged about 39 years, S/o.Sankarlal, now detained at Central Prison, Madurai, and set him at liberty.



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For Petitioner

: Mr.V.Thiurmal

For Respondents

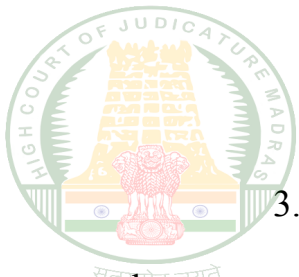
: Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

The wife of the detenu is before this Court challenging the preventive detention order, dated 11.06.2022, slapped on her husband branding him 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].

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 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.



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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.

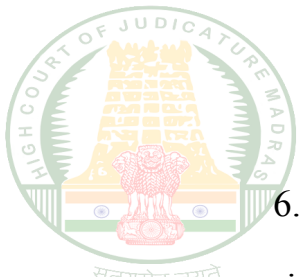
4. The investigation further revealed that as desired by Rathika, her students were incited and seduced to have group sex, by exposing them obscene videos. The group sex activities were videographed by Veeramani and were stored in the cellphone of Veeramani for Rathika to see it in future and enjoy it. 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 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.



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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 the detenu coming out on bail, though his earlier bail petition was dismissed. If he comes out on bail, he will indulge in further activities, which will be prejudicial to the maintenance of public order. Hence, being satisfied that his 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 detenu 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 authority. It was also informed to the detenu that he 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. His right to be heard by the Advisory Board was also informed to him in the detention order.



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

7. 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 wife of the detenu 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 detenu Veeramani under threat and force and deliberately circulated among the public through the social media in order to put the petitioner under 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.

8. The detenu was detained under the Tamil Nadu Act 14 of 1982 on 11.06.2022. The detaining authority taking note of the real possibility of getting bail in the POCSO offence registered by the Inspector of Police, All Women Police Station, Thirupparankundram, in Crime No.23 of 2021 under Sections 11(3), 11(4), 5(l), 6 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Section 67 of the Information Technology Act, 2000. On being satisfied that there is compelling necessity to detain him in order to prevent him from indulging in further



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acts, which are prejudicial to the maintenance of public order under the provisions of the Tamil Nadu Act 14 of 1982.

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9. In the Habeas Corpus Petition filed by the wife of the detenu, it is contended that there is no proximity between the crime and the order of detention. According to the petitioner, the petitioner made a detailed representation to the respondents to furnish the booklet for taking legal action against the detention order. The booklet was served to the detenu only on 17.06.2022, but the signature was forcibly obtained as if it was served on 12.06.2022 at about 07.00 hours. There is grave violation of Article 22(5) of the Constitution of India by the detaining authority. The copy of the remand extension order was not provided in the booklet. The non-supply of the remand extension order will vitiate the detention order.

10. The learned counsel for the petitioner submitted that it is a solitary case against the petitioner and there is no material to show that liberty of the detenu will cause law and order problem and violate the public peace. The detaining authority has not properly applied his mind to arrive at a conclusion that there is an imminent possibility of the detenu coming out on bail. Being a very grave offence and also the allegations made under the POCSO Act, where jail is the rule and bail is the exception. The subjective satisfaction mentioned by the detaining authority suffers non-application of mind. The similar case of Aatheeswaran referred in the detention



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order, according to the learned counsel for the petitioner, is really not a similar case.

The delay in forwarding the cellphone, which was used as a tool for percolating the alleged obscene video clippings were not forwarded to the concerned Magistrate within the time.

11. A detailed counter has been filed by the second respondent/Commissioner of Police, Madurai City, wherein it is stated that the detaining authority has passed the order of detention considering the proximity of the detenu in the crime. The investigation has disclosed that the obscene group sex videos involving three minor boys and a woman have been percolated through social media by the detenu from his cellphone. The persons found in the video clipping were known to the detenu, particularly, the lady found in the video clippings involved in group sex and semi-nude position is his paramour and co-accused. She exploiting her position as Teacher had allured young boys studying in a school and induced them to have a sex with her and also taken videographs of it. The circulation of the obscene group sex video clippings has created panic and fear in the minds of the public, which has prompted the detaining authority to pass the detention order under the Tamil Nadu Act 14 of 1982.

12. Regarding the allegation that the booklet was served belatedly, but the signature was obtained as if it was served on 12.06.2022, is baseless and contrary to the record.



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13. This Court, after giving anxious consideration to the rival submissions, finds that the similar case mentioned in the detention order in respect of Aatheeswaran, who is an accused in a POCSO offence, there is similarity of offence in the case mentioned and the case of the detenu. It is highly preposterous allegation on the part of the petitioner that the booklet was issued belatedly, but the signature was obtained ante-dated. Such allegation cannot be entertained when the detenu has received the booklet and affixed the date as 12.06.2022. Therefore, this Court finds that the detaining authority after considering the material placed before him and being fully satisfied that the sexual offence has been perpetrated by this detenu in connivance with his paramour, if allowed to move freely will cause terror in the mind of the public and be threat to young children.

14. We find no legal or factual error in the said conclusion. Hence, the Habeas Corpus Petition is dismissed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SMN2
To

[G.J., J.] [S.M., J.]
12.01.2023

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

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



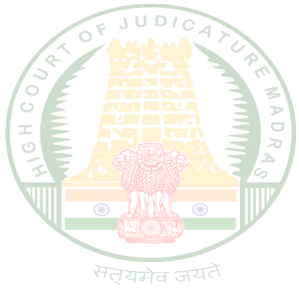
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2.The Commissioner of Police,
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3.The Superintendent of Prison,
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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

SMN2

PRE-DELIVERY ORDER MADE IN
H.C.P.(MD)No.1291 of 2022

DATED : 12.01.2023