



HCP(MD)No.1101 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.04.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

H.C.P.(MD)No.1101 of 2022

Syed Ibrahim

.. Petitioner

Vs.

The State rep by,

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

2.The Commissioner of Police,
Office of Commissioner and Police,
Madurai City.

3.The Superintendent of Prison,
Central Prison Madurai,
New Jail Road, Madurai.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the entire records relating to the detention of the petitioner's son namely Yasin Mohammed Ali, S/o.Syed Ibrahim, aged about 25 years vide detention order No.16/BCDFGISSSV/2022 dated 30.04.2022 and quash the same and consequently direct the respondents to



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produce the body or person of the detenue now detained at Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.P.Karthick

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

This Habeas Corpus Petition has been filed to quash the Detention Order dated 30.04.2022 of the 2nd respondent in No.16/BCDFGISSSV/2022 and to direct the respondents to produce the body or person of the detenu, Yasin Mohammed Ali, S/o.Syed Ibrahim, aged about 25 years.

2. The detenu was arrested in the ground case on 07.04.2022, which is a case registered for the alleged offence punishable under Section 392 r/w 397 and 506(ii) IPC. Challenging the same, the petitioner's father is before this Court with this petition.



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3. Among various grounds that has been taken by the petitioner, according to the learned counsel for the petitioner, one such ground was that even though the detention order has been passed on 30.04.2022, within 5 days period, the detention order paper book has not been served on the detenu. In this context, on his behalf a representation dated 08.05.2022 has been given to the Commissioner of Police, ie, the detaining authority, where he has stated the following specific statement:

“மேலும், அவரை குண்டர் தடுப்புச் சட்டத்தில் அடைத்தது குறித்து முறைப்படி எங்களுக்கு தெரியப்படுத்தப்படவில்லை. இன்று வரை எனது மகனுக்கு குண்டர் தடுப்புகாவல் புத்தகம் தரவில்லை சிறையில் புத்தகம் கேட்டதற்கு, இன்னும் ஜெயிலர் கையொப்பம் இடவில்லை என்று தராமல் இருக்கின்றனர். இதனால் எனது மகனால் மேல் அதிகாரிகளுக்கு முறையீடு செய்ய முடியவில்லை. எங்களது அடிப்படை உரிமை இதன் மூலம் பறிக்கப்பட்டுள்ளது.”

Therefore, the learned counsel for the petitioner seeks indulgence of this Court on this ground.

4. However, the learned Additional Public Prosecutor would submit that certainly on 2nd May 2022, the booklet has been supplied to the detenu



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through the jail authorities, for which, there is a proof. When that being so, this kind of ground cannot be taken, based on which, the detenu cannot seek for any shelter.

5. We have considered the said submissions and perused the materials available on record.

6. It is the plea on behalf of the detenu that the Jail Superintendent has not signed the papers, ie., the booklet to the detenu and he had kept it for ten days or more. Thereafter only, he signed the same. This point has been specifically raised by the petitioner in his representation on 08.05.2022, as according to the petitioner, though detention order is dated 30.04.2022, the booklet has not been supplied to him. The said point has not been specifically met by the respondent in this context. The learned Additional Public Prosecutor would submit that it is a factual matrix as to whether booklet given to the Jail Superintendent for serving the same to the detenu was served before five days period is not, for which, the report has to be obtained from the Jail Superintendent and without which or without verifying the same, the said stand taken by the learned counsel for the



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petitioner cannot be taken.

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7. However, it is seen that this Habeas Corpus Petition has been filed before this Court long back, where a copy of the representation dated 08.05.2022 also has been annexed, wherein, the afore-stated specific ground has been taken or complaint has been given, as we noted hereinabove, despite that no denial or no reason whatsoever has been given by the Jail Superintendent as to why the paper book has not been submitted before 5 days period. When that being so, at the fag end of the detention order, which is going to be completed in another few days, we are of the view that based on such point, the detention order can be interfered with.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.16/BCDFGISSSV/2022 dated 30.04.2022 passed by the second respondent is set aside. The detenu, viz., Yasin Mohamed Ali, S/o.Syed Ibrahim aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.



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9. It is made clear that in this case, since this peculiar ground has been taken, it cannot be treated as a precedent for any other case. It is further made clear that if any such specific plea is raised in this context on behalf of any detenu in Habeas Corpus Petitions that point should be specifically met by the respondents, after getting written instructions to that effect or counter to that effect shall be filed by the Jail Superintendent.

(R.S.K.,J.)

(K.K.R.K.,J.)

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Index : Yes/No

Internet : Yes

RR



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To

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