



HCP(MD) No.802 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2022

CORAM

The Honourable Mr.Justice **P.N.PRAKASH**
and

The Honourable Mrs.Justice **R.HEMALATHA**

H.C.P.(MD) No.802 of 2022

T.Pappathi

.. Petitioner / wife of the
detenu

Vs.

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

2.The District Collector and District Magistrate,
O/o. The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

... Respondents

Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus to call for the entire records in detention
order passed in P.D.No.103/2021, dated 13.08.2021 on the file of the second



HCP(MD) No.802 of 2022

respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Tamilarasan, S/o.Marimuthu, male aged 38 years, who is detained in Central Prison, Tiruchirappalli.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

[Order of the Court was made by **P.N.PRAKASH, J.**]

The petitioner is the mother of the detenu viz., Tamilarasan, S/o.Marimuthu, male aged 38 years. The detenu has been detained by the second respondent by his order in P.D.No.103/2021, dated 13.08.2021 holding him to be a “Goonda”, as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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.



HCP(MD) No.802 of 2022

WEB COPY

3. Apart from other grounds, it is seen that the detenu in this case was arrested by the police in the ground case in Crime No.933/2021, namely, Nachiyarkoil Police Station Crime No.933/2021, under Sections 294(b), 307 IPC read with Section 25(1) of the Arms Act, 1959 on 11.07.2021. Pursuant to the arrest of the detenu in the said ground case, the present detention order has been clamped on him. In Paragraph No.5 of the grounds of detention, the detaining authority has relied upon the case in Madukkur Police Station Crime No.218/2016 under Sections 294(b), 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 read with Section 25(1A) of Arms Act, 1959, wherein, bail appears to have been granted to the accused therein. It is pertinent to state that in Madukkur Police Station Crime No.218/2016, Section 307 IPC is not there. Thus, there appears to be non application of mind on the part of the detaining authority in passing the order of detention and hence, the impugned detention order is liable to be quashed.

4. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.103/2021, dated 13.08.2021 passed by the



HCP(MD) No.802 of 2022

second respondent is set aside. The detenu, viz., Tamilarasan, S/o.Marimuthu, male aged 38 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P.,J.) (R.H.,J.)
24.06.2022

Index : Yes/No

Internet : Yes

RR

To

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

2.The District Collector and District Magistrate,
O/o. The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

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



WEB COPY



HCP(MD) No.802 of 2022

P.N.PRAKASH, J.
and
R.HEMALATHA, J.

RR

H.C.P.(MD)No.802 of 2022

24.06.2022