



HCP(MD)No.890 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2022

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.890 of 2022

T.Kannaki

... Petitioner /Mother of the
Detenu

Vs.

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 Magistrate and District Collector,
Office of the Trichy Magistrate and District Collector,
Trichy District.

3.The Superintendant of Prison,
Trichy Central Prison,
Trichy District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the entire records, connected with
the detention order of the respondent No.2 in Detention Order Cr.M.P.No.



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33/2022 dated 11.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Maheshkumar alias Mahesh alias Thodu Mahesh, Son of Thangam, aged about 36 years, now detained as "Sand Offender" at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the mother of the detenu viz., Maheshkumar alias Mahesh alias Thodu Mahesh, aged about 36 years, S/o.Thangam. The detenu has been detained by the second respondent by his order in Cr.M.P.No.33/2022 dated 11.05.2022 holding him to be a "Sand Offender", as contemplated under Section 2(gg) 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.



3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. Apart from the other grounds, the main ground that was urged by the learned counsel for the petitioner is that the detaining authority, after being aware of the fact that the bail petition filed by the detenu has been dismissed on two occasions, relied upon the order passed in CrI.M.P.No. 1551 of 2018 and came to a conclusion that there is a likelihood of the detenu being let out on bail. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case.

5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.



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6.We have carefully went through the order passed in CrI.M.P.No. 1551 of 2018.

7.That was a case where there was absolutely no objection raised by the public prosecutor and that apart, anticipatory bail was also granted to the other accused persons and the property was also secured. The order that was relied upon by the detaining authority cannot be considered to be a similar case and hence, the detention order clearly suffers from non application of mind. The impugned detention order is, therefore, liable to be quashed.

8.In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.33 of 2022 dated 11.05.2022 passed by the second respondent is set aside. The detenu, viz., Maheshkumar alias Mahesh alias Thodu Mahesh, aged about 36 years, S/o.Thangam, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (N.A.V.,J.)
29.11.2022



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Madurai Bench of Madras High Court,
Madurai.



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