



HCP(MD)No.894 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2022

CORAM

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

H.C.P.(MD)No.894 of 2022

Thangapandi

.. Petitioner /detenu

Vs.

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

2.The District Magistrate and District Collector  
Office of the District Magistrate and District Collector  
Dindigul District

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records connected with the detention order of the respondent No.2 in detention order No.43/2022 dated 05.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Thangapandi, son of Mariyappan, aged about 25 years, now detained as Sexual Offender at Madurai Central Prison, before this Court and set him at liberty forthwith.



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For Petitioner : Mr.R.Alagumani  
For Respondents : Mr.A.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

**(Order of the Court was made by N. ANAND VENKATESH,J.)**

The petitioner is the detenu viz.,Thangapandi, aged about 25 years, S/o.Mariyappan. The detenu has been detained by the second respondent by his order in detention order No.43/2022 dated 05.05.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 the detaining authority has relied upon a case in CrI.M.P.No.311 of 2020, wherein, bail was granted to the accused therein. The detaining authority was aware of the fact that the



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detenu has not filed any bail petition and hence, it is submitted by the learned counsel for the petitioner that the subjective satisfaction that has been arrived at by the detaining authority at Paragraph No.5 of the order shows non application of mind.

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

5. On carefully going through the materials, it is seen that the detaining authority was aware of the fact that the detenu did not file any bail application. However, the detaining authority took into consideration the order passed in CrI.M.P.No.311/2020 dated 10.03.2020 and came to the conclusion that there is likelihood of the detenu coming out on bail. On carefully going through the order in CrI.M.P.No.311/2020, it is seen that bail was granted since the prosecution did not raise any serious objection and hence, the order that was relied upon by the detaining authority cannot be considered to be a similar one.

6. In the present case, the detenu seems to have developed a relationship with the victim girl, who was aged 17 years. The detenu was aged 25 years. Even assuming that there was physical relationship between the detenu and the victim girl and there was penetrative sexual assault, it



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could be dealt with effectively under the POCSO Act and this case did not warrant a detention order under Tamil Nadu Act 14 of 1982 and for a solitary case, this Court has already passed a detailed order in this regard and has made it very clear that henceforth where the detention order is passed in a routine manner, cost will be imposed. This is a fit case where such cost has to be imposed. However, this Court does not want to give a retrospective operation to the order.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in detention order No.43/2022 dated 05.05.2022 passed by the second respondent is set aside. The detenu, viz., Thangapandi S/o.Mariyappan , aged about 25 years, 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.)  
28.11.2022

Index : Yes/No  
Internet : Yes  
**RR**



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**M.S.RAMESH, J.**  
and  
**N. ANAND VENKATESH, J.**

**RR**

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