



HCP(MD)No.911 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2022

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH

AND

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.911 of 2022

V.Sudalai Vadiu

.. Petitioner / wife of the detenu

Vs.

The State rep. by its

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

2.The District Collector and District Magistrate
Thoothukudi District,
Thoothukudi.



HCP(MD)No.911 of 2022

3.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

4.The Superintendent of Prison,
Palayamkottai Central Prison,
Palayamkottai.

5.The Inspector of Police,
Tiruchendur Police Station,
Tiruchendur.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records pertaining to the order of detention dated 12.05.2022 passed by the second respondent H.S. (M) Confdl. No.95/2022, and quash the same and produce the detenu namely, Vaikundaraman @ Rajendran, son of Piramuthu Nadar, aged about 34 years, detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.S.Manoharan

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



HCP(MD)No.911 of 2022

ORDER

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

The petitioner is the wife of the detenu viz., Vaikundaraman @ Rajendran, son of Piramuthu Nadar, aged about 34 years. The detenu has been detained by the second respondent by his order in H.S.(M) Confdl. No.95/2022, dated 12.05.2022 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.

3. Though several grounds have been raised in the Habeas Corpus Petition, 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 was pending, came to a conclusion that there is a likelihood of the detenu being let out on bail, based on the order



HCP(MD)No.911 of 2022

passed in CrI.M.P.No.365 of 2018. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority cannot be considered to be a similar case and hence, the learned counsel submitted that it is clearly a non-application of mind on the part of the detaining authority to come to a subjective satisfaction.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The learned Additional Public Prosecutor on instructions, submitted that the detenu was arrested in this case on 17.04.2022 and the investigation was completed and final report was filed on 28.05.2022 in time before the Judicial Magistrate, Thiruchendur. It was submitted that the final report is yet to be taken on file. There shall be a direction to the



HCP(MD)No.911 of 2022

learned Judicial Magistrate, Thiruchendur, to immediately act upon and proceed further in accordance with law.

6. We have carefully considered the submissions made on either side and also materials available on record.

7. We have carefully gone through the order passed in CrI.M.P.No.365 of 2018. That was a case where the accused was granted bail on the ground that no person has sustained injury and the investigation was almost completed. In the present case, the defacto complainant had sustained injuries and the order that was relied upon by the detaining authority cannot be considered to be a similar case and hence, the detention order suffers from non application of mind on the part of the detaining authority to come to the subjective satisfaction.

8. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.



HCP(MD)No.911 of 2022

WEB COPY

9. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M) Confdl. No.95/2022, dated 12.05.2022 passed by the second respondent is set aside. The detenu, viz., Vaikundaraman @ Rajendran, son of Piramuthu Nadar, aged about 34 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.)
02.12.2022

Index : Yes/No
Internet : Yes/No
RM



HCP(MD)No.911 of 2022

To

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Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.911 of 2022

M.S.RAMESH, J.

and

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H.C.P.(MD)No.911 of 2022

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