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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1005 of 2021

Akbar Ali

... Petitioner/Detenu

Vs.

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

2.The District Collector and District Magistrate,
District Collector's Office,
Thanjavur,
Thanjavur District.

3.The Superintendent of Prison,
Central Prison,
Trichy.

...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 in P.D.No.33/2021, dated 24.03.2021 on the file of the second respondent and set aside the same as illegal and direct the respondents to produce the person or body of the petitioner namely, Akbar Ali, S/o.Mohammed Ismail, aged about 34 years, who is detained Central Prison, Trichy, before this Court and set him at liberty.

For Petitioner : Mr.S.Gokulraj

For Respondents : Mr.S.Ravi,

Additional Public Prosecutor.

O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the detenu, namely, Akbar Ali, S/o.Mohammed Ismail, aged about 34 years. The detenu has been detained by the second respondent by his order in P.D.No.33/2021, dated 24.03.2021, 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 for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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3. The learned counsel for the petitioner would submit that the detention order has been passed without considering any materials which resulted in non-application of mind on the part of the detaining authority.

4. The detaining authority has passed the order mainly on the ground that the detenu's wife is taking action to take out her husband on bail and passed the impugned detention order without even bail application being filed. Therefore, we are of the view that the detaining authority had mechanically passed the order anticipating the release of bail, which shows clear non-application of mind on the part of the detaining authority. The impugned detention order is, therefore, liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.33/2021, dated 24.03.2021, passed by the second respondent is set aside. The detenu, namely, Akbar Ali, S/o.Mohammed Ismail, aged about 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Deputy Registrar (LA&MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

<https://hcservices.ecourts.gov.in/hcservices/>



2.The District Collector and District Magistrate,
District Collector's Office,
Thanjavur,
Thanjavur District.

3.The Superintendent of Prison,
Central Prison,
Trichy.

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

**H.C.P (MD) .No.1005 of 2021
15.02.2022**

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GC(08.03.2022) 3P 5C