



HCP(MD)No.956 of 2022

WEB COPY

DATED: 14.12.2022

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.956 of 2022

M.Veeranan

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, to call or the records pertaining to the
proceedings of the 2nd respondent made in proceedings in



HCP(MD)No.956 of 2022

B.C.D.F.G.I.S.S.S.V.No.28/2022 dated 13.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu, by name, Veeranan, son of Marugan, aged about 38 years, now detained as Sexual Offender and confined in Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.R.Aravindraj

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

The petitioner is an accused for offence under POCSO Act. The Executive thought fit to detain him under preventive detention and detained him vide detention order in B.C.D.F.G.I.S.S.S.V.No.28/2022 dated 13.05.2022 branding him as a 'sexual offender' as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under



HCP(MD)No.956 of 2022

challenge in this Habeas Corpus Petition.

WEB COPY

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. The learned counsel for the petitioner would submit that the detention order suffers from non application of mind in as much as the detaining authority has stated in the grounds of detention that the detenu is likely to come out on bail. The learned counsel further submits that the offence alleged against the detenu is under Sections 5(i) and 6 of POCSO Act. There is no possibility of getting bail as alleged in the detention order which is one of the reason stated for slapping the detenu. Hence, he seeks quash of the detention order on the ground of non application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor, on instructions, would submit that the case against the detenu in Crime No.06/2022 been



HCP(MD)No.956 of 2022

investigated and final report has been filed before the Special Court for POCSO Act Cases, Madurai. The Special Court has taken cognizance of the offence under Spl.S.C.No.113/2022 and the matter is now adjourned for supply of copies.

5. We find from the grounds of detention the detaining authority has merely stated that he is likely to come out on bail. Apart from that the detaining authority has not stated any specific reason or placed any materials for arriving such a satisfaction. The detenu is facing trial for offence under Sections 5(l) r/w 6 of POCSO Act. We also find from the records that the respondent police has filed final report as against the accused within the statutory period and the same was taken on file and the trial is in progress. The detenu, who is branded as 'sexual offender' has no other antecedents except the sole case of causing aggravated penetrative sex. The detaining authority has mistakenly construed that the detenu is facing trial for offence under Section 5(i) of POCSO Act, though the case is registered against him for offence under Section 5(l) of POCSO Act. In such view of the matter, we find that the order passed by the detaining authority



HCP(MD)No.956 of 2022

suffers from non application of mind and has been passed without any basis.

Therefore, the impugned detention order is liable to be quashed.

6. In the result, this Habeas Corpus Petition stands allowed and the order of detention in B.C.D.F.G.I.S.S.S.V.No.28/2022 dated 13.05.2022 passed by the second respondent is set aside. The detenu, viz., Veeranan, son of Marugan, aged about 38 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
14.12.2022

Index: Yes/No
Internet: Yes/No

PJL

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



HCP(MD)No.956 of 2022

2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District,
Madurai.

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

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



WEB COPY



HCP(MD)No.956 of 2022

**DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.**

PJL

H.C.P.(MD)No.956 of 2022

14.12.2022