



WEB COPY



HCP(MD)No.1001 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.1001 of 2022

K.Sivaperumal

.. Petitioner / father
of the detenu

Vs.

1.State of Tamil Nadu

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat Chennai-600 009.

2.The District collector and District Magistrate
Tuticorin, Tuticorin District

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention order passed in H.S.(M) Confdl;. No.88 of 2022 dated 11.05.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son ie., Thangakumar, aged about 20 years S/o.Sivaperumal, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.



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For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Thangakumar aged about 20 years, S/o.K.Sivaperumal. The detenu has been detained by the second respondent by his order in H.S.(M)(Confdl) No.88/2022 dated 11.05.2022 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 learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority has taken into



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consideration the similar case bail order passed in CrI.O.P.No.23893/2016 dated 23.12.2016 and came to the conclusion that there is likelihood of the detenu being let out on bail since in similar case bail has been granted by this Court and hence, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that investigation was completed and final report was filed before the Mahila Court, Thoothukudi on 31.05.2022 within the stipulated period and the same has been taken on file in S.C.No.272/2022.

5. On carefully going through the detention order, it is seen that the detaining authority had taken note of the fact that the detenu has filed bail petition in CrI.M.P.No.2348/2022 in Crime No.2348/2022. It is further seen that the order that has been relied upon by the detaining authority in CrI.O.P.No.23893/2016 to come to the conclusion that there is likelihood of the detenu coming out on bail is not similar order, since in the similar case that was relied upon by the detaining authority, bail was granted to the accused therein on the ground that charge sheet has been filed and the same



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is pending. It, therefore, reflects non application of mind on the part of the detaining authority.

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

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)(Confdl) No.88/2022 dated 11.05.2022 passed by the second respondent is set aside. The detenu, viz., Thangakumar, S/o.Sivaperumal, aged about 20 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.)
29.11.2022

Index : Yes/No
Internet : Yes
RR



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To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat Chennai-600 009.
2. The District collector and District Magistrate
Tuticorin, Tuticorin District
3. The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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