



HCP(MD)No.1170 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.12.2022

CORAM

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

H.C.P.(MD)No.1170 of 2022

Mariammal

.. Petitioner /Mother of the
Detenu

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.

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

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

4.The Superintendent of Prison,
District Jail,
Perurani,
Thoothukudi District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S(MD)Confdl No.108/2022, dated 31.05.2022 on the file of the 2nd respondent herein and quash the same as illegal and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son ie., Mariya Antony Sam, aged about 19/2022 years, S/o.Iruthaiya Raj, to be detained at Central Prison, Palayankottai, District Jail, Perurani, Thoothukudi, before this Court and set him at liberty forthwith.

For Petitioner :Mr.S.Maha Shanmugam

For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed by the mother of the detenu viz., Mariya Antony Sam, aged about 19/2022 years, S/o.Iruthaiya Raj. The detenu has been detained by the second respondent, by his order in H.S(MD)Confdl No.108/2022, dated 31.05.2022 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.



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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.As per the prosecution, the deceased engaged the accused persons to murder a person at Namakkal and received a sum of Rs.1,50,000/- as advance. The deceased, who is a notorious person, engaged the other accused persons, later, it appears that the deceased has developed a cold feet that he may inform the police about their criminal activities. Prabhu @ Kattai Prabhu @ Ganja Prabhu, came to death by the accused persons on 06.05.2022, after intoxicating him. All the five accused persons were arrested, within a few days of the registration of the complaint.

4.The detention order came to be passed on 31.05.2022. The petitioner, who is aged about 19 years, was arrayed as A5. The detention order indicates that the detaining authority is being satisfied that the accused Mariya Antony Sam is committing grave crime and also acted in a manner prejudicial to the maintenance of public order.



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5. When this Court asked the learned Additional Public Prosecutor to furnish the details of his previous antecedent, he submitted that there is no previous case against the detenu. However, after this ground case, history sheet has been opened.

6. The learned counsel appearing for the petitioner submitted that the petitioner is a school going student. While he returned to home, after attending his examination, he was falsely arrested in this case.

7. Since there is no previous case against the detenu adverse to him, the detaining authority has presumed that the detenu has involved in similar crime, which is factually incorrect. Hence, the detention order clearly suffers from non-application of mind and the impugned detention order is, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S(MD)Confdl No.108/2022, dated 31.05.2022 passed by the second respondent is set aside. The detenu, Mariya Antony Sam, aged



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about 19/2022 years, S/o.Iruthaiya Raj, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (S.M.,J.)
19.12.2022

Index: Yes/No

Internet: Yes/No

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
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- 2.The District Collector and District Magistrate,
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Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
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Perurani,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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