



HCP(MD)No.1331 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.09.2022

CORAM

**THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.1331 of 2022

Raju

... Petitioner
/Father of the Detenu

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-600 009.

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

3.The Inspector of Police,
Perambalur Police Station,
Perambalur District.

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

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the second respondent in his proceedings Cr.M.P.No. 02/2022 dated 02.02.2022 and quash the same as illegal and produce the detenu namely, Rajkumar, son of Raju, aged about 25 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the father of the detenu viz., Rajkumar, son of Raju, aged 25 years. The detenu has been detained by the second respondent by his order in Detention Order Cr.M.P.No.02/2022 dated 02.02.2022 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. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the following grounds.

(i) the copy of the remand order has not been furnished to the detenu in vernacular language, despite the same has been sought for by the petitioner, who is the father of the detenu, in his representation.

(ii) the Detaining Authority, while arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, in paragraph No.5 of the grounds of detention, has referred to the order dated 23.10.2021, passed in a similar case in Cr.M.P.No.4529/2021 by the Principal District and Sessions Judge, Trichy, and in the said case, bail was granted to the accused Kumaresan. Though the Detaining Authority has referred to the similar case particulars in the grounds of detention, the documents relating to similar case were not at all furnished to the detenu.



Therefore, according to the learned counsel for the petitioner, non-furnishing of entire documents relating to the similar case and non-furnishing of the remand order in vernacular language are totally baseless and reflecting the total non application of mind of the Detaining Authority.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation made by the petitioner dated 05.08.2022, the petitioner had sought for the remand order of the District Collector and District Magistrate, Perambalur District. However, the same has not been furnished to the petitioner, who is the father of the detainee, in vernacular language, which vitiates the order of detention. Further, on perusal of the detention order, especially at Paragraph No.5, we see force in the contention of the learned counsel for the petitioner that though the Detaining Authority, while arriving at a subjective satisfaction, has observed that the accused in a similar case was released on



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bail in Cr.M.P.No.4529/2021. Except the *ipse dixit* statement of the Detaining Authority, no other materials have been furnished to the detenu as to the bail application filed by the accused and the order passed in the said case. In view of the same, the detenue was not in a position to effectively make a representation. Thereby, the right guaranteed to the detenu has been violated. Therefore, on that score, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order Cr.M.P.No.02/2022 dated 02.02.2022 passed by the second respondent is set aside. The detenu, viz., Rajkumar, son of Raju, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[J.N.B.,J.] [N.A.V.,J.]
23.09.2022

Index : Yes/No
Internet : Yes
PJJ



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



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