



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P(MD) No.1688 of 2021

Muthuselvi

... Petitioner/Wife of Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

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

4.The Inspector of Police,
Vilathikulam Police Station,
Thoothukkudi.
Thoothukkudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records pertaining to the order of passed by the second respondent in his proceedings H.S.(M) Confdl.No.146/ 2021 dated 30.09.2021 and quash the same and directing the respondents to produce the detenu namely, Ganesamoorthy, son of Umaiyanan, aged about 41 years, now detained in Central Prison Palayamkottai, Tirunelveli District, before this Court and set him at liberty.

For Petitioner : Mr.R.Jegadeeswaran

For Respondents : Mr.S.Ravi,
Additional Public Prosecutor.

**ORDER****R.SUBRAMANIAN, J.****AND****N.SATHISH KUMAR, J.**

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The petitioner is the wife of the detenu, namely, Ganesamoorthy, son of Umaiyanan, aged about 41 years. The detenu has been detained by the second respondent by his order in H.S.(M) Confdl.No.146/2021 dated 30.09.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of the 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.

3. In view of the detenu involvement in more than one criminal case, which, in the opinion of the detaining authority namely, the second respondent would cause breach of peace. After the order of detention, the petitioner /wife of the detenu has sent a representation to the detaining authority on 09.10.2021 and the same was received by the detaining authority on 11.10.2021. By the time the representation was received by the detaining authority and the State Government had approved the order of detention. Therefore, it was incumbent upon the detaining authority, who had forwarded the representation to the State for consideration. Instead of doing that the District Collector, Thoothukudi District, had chosen to reject the representation by himself on 28.04.2022, that too, after a long delay. This by itself would render the detention order illegal. The impugned detention order is, therefore, liable to be quashed.

4. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M) Confdl.No.146/2021 dated 30.09.2021 passed by the second respondent is set aside. The detenu, namely, Ganesamoorthy, son of Umaiyanan, aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thoothukkudi District,
Thoothukkudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai.
Tirunelveli District.
- 4.The Inspector of Police,
Vilathikulam Police Station,
Thoothukkudi.
Thoothukkudi District.
5. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R. JEGADEESWARAN, Advocate (SR-23142[F] dated 02/05/2022)

H.C.P (MD)No.1688 of 2021
29.04.2022

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