



HCP(MD)No.1651 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **28.10.2022**

CORAM

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

H.C.P.(MD)No.1651 of 2022

Thennarasi

... Petitioner /Mother of the Detenu

Vs.

1.The State of Tamil Nadu,
Represented by its
Additional Secretary to Government,
Home, Prohibition and Excise Department,
For St.George, Chennai-600 009.

2.The District Collector / District Magistrate,
Thanjavur District, Thanjavur.

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

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent in detention order in P.D.No.33/2022 dated 17.04.2022 and quash the same and direct the respondents to produce the detenue Prasanna @ Paul Emarson @ Paul



HCP(MD)No.1651 of 2022

Merson Prasanna son of Ubakarasamy, male aged about 28 years who is detained at Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.A.Joel Paul Antony

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the mother of the detenu viz., Prasanna alias Paul Emerson alias Paul Merson Prasanna, aged about 28 years, S/o.Ubakarasamy. The detenu has been detained by the second respondent by his order in P.D.No.33/2022, dated 17.04.2022 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 there is statutory violation, wherein the arrest intimation was not given to the near relative of the detenu. Hence, the learned counsel submitted that mandatory requirements of informing the arrest was not made to the relative of the detenu and therefore, the detention order is vitiated on that ground also.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition. He would further submit that the arrest of the detenu has been intimated to the Advocate of the detenu through SMS.

5. We went through the arrest intimation report and we find that the arrest intimation has been sent through an SMS through one mobile number [i.e., 89733 85229]. Neither the mobile number that has been shown is belonging to the Advocate of the detenue, nor the signature of the Advocate has been obtained for having intimated the arrest. In view of the same, there is a statutory violation of passing the detention order and the same can be taken into consideration to interfere with the detention order.



HCP(MD)No.1651 of 2022

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.33/2022, dated 17.04.2022 passed by the second respondent is set aside. The detenu, viz., Prasanna alias Paul Emarson alias Paul Merson Prasanna, aged about 28 years, S/o.Ubakarasamy, 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.)
28.10.2022

Index : Yes/No
Internet : Yes
ta

To:

- 1.The Additional Secretary to Government,
Home, Prohibition and Excise Department,
For St.George, Chennai-600 009.
- 2.The District Collector / District Magistrate,
Thanjavur District, Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.1651 of 2022

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

ta

H.C.P.(MD)No.1651 of 2022

28.10.2022