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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2022

CORAM

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

H.C.P.(MD)No.1984 of 2022

Periyannan .. Petitioner/Father of the Detenu

Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

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

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

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4.The Superintendent of Police,
Thirupathur All Women Police Station,
Sivagangai District.
(In Crime No. 15/2021) .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records relating to the detention order passed by the 2nd respondent in Cr.M.P.No.08/S.O./2022, dated 10.01.2022 and quash the same and consequently direct the respondents to produce the person or body of the detenu namely, Prabu, son of Periyannan, aged 35 years, now detained at the Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Ms.A.Devaki

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

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ORDER

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

The son of the petitioner, who is arrayed as accused in a POCSO case, has been detained under Tamil Nadu Act 14 of 1982, vide proceedings dated 10.01.2022 by the second respondent. Challenging the said detention order, the petitioner has filed this Habeas Corpus Petition.

2. The detaining authority, being satisfied that the detenu Prabu along with one Ganapathy has committed aggravated penetrative sexual assault on a 12 years old child and his conduct has caused fear in the mind of the general public, detained him exercising the power of preventive detention. The attempt of the detenu to come out on bail also taken note of by the detaining authority and a case where bail granted has been shown as a similar case, where the possibility of getting bail is not ruled out. This Court had occasion to consider this matter when the co-accused, who was also detained under Act 14 of 1982, came for quash of the detention order in

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H.C.P(MD)No.495/2022. After considering the records, this Court has recorded that the bail order cited cannot be treated as a similar case and therefore, for non application of mind on the part of the detaining authority, the detention order has to be quashed. The reasoning found in the order, dated 14.10.2022 in H.C.P(MD)No.495/2022 in respect of co-accused similarly placed, equally applies to this detenu also and drawing parity, the Detention Order is liable to be quashed.

3. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.08/S.O/2022 dated 10.01.2022 passed by the second respondent is set aside. The detenu, viz. Prabu, S/o.Periyannan, aged about 36 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
20.12.2022

Index: Yes/No
Internet:Yes/No
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To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
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Chennai-600 009.

2.The District Collector and District Magistrate,
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Sivagangai.

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

4.The Superintendent of Police,
Thirupathur All Women Police Station,
Sivagangai District.

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

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

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H.C.P.(MD)No.1984 of 2022

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