



HCP(MD)No.1878 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.12.2022

CORAM

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

H.C.P.(MD)No.1878 of 2022

R.Vijayalakshmi

.. Petitioner/
Mother of the Detenu

Vs.

1.State of Tamilnadu represented by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2. The Commissioner of Police,
Tiruchirappalli City.

3.The Superintendent of Police,
Tiruchirappalli District.

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

5.State rep. by the Inspector of Police,
Ponmalai Police Station,
Tiruchirappalli District.

.. 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 of the 2nd respondent pertaining to the order made in C.No.50/Detention/C.P.O/TC/2022 dated 15.04.2022 in detaining the detenu the Tamilnadu Act 14/1982 as a Goondas and quash the same and direct the respondents to produce the detenu, namely Dineshkumar @ Kundumani, son of Ramesh, male, aged 27 years, who is detained at the Central Prison, Thiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.B.Balamurugan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The mother of the detenu is before this Court challenging the preventive detention order dated 15.04.2022 passed by the second respondent.



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2. The detenu in this case has been preventively detained under Tamilnadu Act 14 of 1982, by the second respondent branding him as 'Goonda'. The ground case indicates that the detenu, on 23.03.2022, stopped the two wheeler of one Parthasarathy, a pettyshop owner and demanded Rs.1000/- for consuming liquor. When he refused to part away money, the detenu, Dineshkumar @ Kundumani took a knife which he has hidden in his hip and pressed it into Parthasarathy's chest and threatened to kill him if he did not give money, meanwhile, Ayyappa Manikandan forcibly took Rs.1100/- from the shirt pocket of Parthasarathy and a case in Crime No. 302/2022 for offence under Sections 302 r/w 397 IPC was registered and subsequently, on the same day, ie., 23.03.2022, the accused were arrested. Later on, considering that the detenu Dinesh Kumar @ Kundumani has two adverse cases of the Ponmalai Police Station Crime Nos.294/2019 and 240/2021 for alleged offence under Sections 294(b), 323, 325, 326, 506(i) and 506(ii) IPC., the Executive Authorities thought fit to detain the detenu under Tamilnadu Act 14 of 1982.

3. The learned counsel for the petitioner seeks to quash the detention order on the ground that the detention order suffers non application of mind



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since the subjective satisfaction that has been arrived at by the detaining authority and the apprehension of the detaining authority that there is likelihood of the detenu coming out on bail is not supported by any materials. He further submitted that the similar bail order referred in the detention order infact is not an order passed in similar facts and circumstances.

4. 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.

5. A detailed counter had been filed by the State opposing this petition. In the counter, it is stated that in a similar case registered in Srirangam Police Station Crime No.861/2021, bail was granted to the accused Kumaresan by the Principal District Judge, Trichy in Cr.M.P.No. 4529/2021 on 23.10.2021 and therefore, the detaining authority has rightly inferred that there is every possibility of the detenu coming out on bail. However, perusal of the petition in Cr.M.P.No.4529/2021 and the order passed by the Principal District Judge, Trichy, dated 23.11.2021, this Court



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finds that the adverse case in Cr.M.P.No.4529/2021 is entirely for a different offence under Section 4(1)A of Tamilnadu Prohibition Act, 1937, and the comparison of prohibition cases with that of extortion cases clearly show that there is non application of mind on the part of the detaining authority while exercising the power under Tamilnadu Act 14 of 1982. For the sole reason, the impugned detention order is liable to be quashed.

6. In the result, this Habeas Corpus Petition stands allowed and the order of detention in C.No.50/Detention/C.P.O/TC/2022 dated 15.04.2022 passed by the second respondent is set aside. The detenu, viz., Dineshkumar @ Kundumani, son of Ramesh, male, aged 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
14.12.2022

Index:Yes/No
Internet:Yes/No
PJJ



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To

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

2. The Commissioner of Police,
Tiruchirappalli City.

3. The Superintendent of Police,
Tiruchirappalli District.

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

5. The Inspector of Police,
Ponmalai Police Station,
Tiruchirappalli District.

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



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and
SUNDER MOHAN, J.**

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