



HCP(MD)No.2012 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.12.2022

CORAM

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

H.C.P.(MD)No.2012 of 2022

Jemisha

.. Petitioner /Wife of the
Detenu

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.
- 2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tiruchirappalli.
- 4.The Inspector of Police,
O/o.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order in M.H.S.No.189/2022 (Goondas) dated 26.10.2022 on the file of the respondent No.2 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Thamson, S/o.Yaccopu Seenivasan, aged about 33 years, now confined at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner :Mr.G.Prabhu Rajadurai
For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition is filed by the wife of the detenu, viz., Thamson,, aged about 33 years, S/o.Yaccopu Seenivasan. The detenu has been detained by the second respondent, by his order in M.H.S.No. 189/2022, dated 26.10.2022 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. When the detention order was challenged, it was brought to the notice of this Court that in the case which was taken as a ground case for detaining the accused, bail was granted, but before coming out on bail after executing the bond, the detention order was served on the accused thereby, prevented him from enjoying the bail order. On the said ground, this Court has felt that the detenu must be released on forthwith by way of an interim order and thereafter, the second respondent was given opportunity to file their counter.

4. Today, the counter affidavit is filed by citing the reason for serving the detention order to the accused after furnishing the surety and executing the bail bond. The reason given in the counter is reasonable and justifiable, since Section 4 of Act 14 of 1982 does not mandate that the accused should be in the prison. Even a free man, if cause disturbance to the public peace and order, can be detained under Act 14 of 1982 and the detention order can



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be served and thereafter, he should be taken into custody. Therefore, this Court, after perusing the counter, finds that there was no hastiness in serving the detention order. However, now, it is brought to our notice that out of four accused, two were detained under Act 14 of 1982 and one Alex Prabhakar, who is the co-accused, was detained under Act 14 of 1982, was released by the Advisory Board. This detenu, who similarly placed is also entitled to enjoy the parity and therefore, for the said reason, the detention order is quashed. The detenu is already enjoying the interim order of release. No further direction is required.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.No.189/2022, dated 26.10.2022 passed by the second respondent is set aside.

(G.J.,J.) (S.M.,J.)
21.12.2022

Index: Yes/No
Internet: Yes/No
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- 4.The Inspector of Police,
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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