



HCP(MD)No.6 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.6 of 2023

Chithra

.. Petitioner /Mother of the Detenu

Vs.

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

2.The Commissioner of Police,
Trichy City,
Trichy.

3.The Inspector of Police,
Government Railway Police Station,
Trichy.

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to

Page 1 of 6



HCP(MD)No.6 of 2023

issue a writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the second respondent in his proceedings C.No. 107/Detention/C.P.O/T.C/2022 dated 17.08.2022 and quash the same as illegal and produce the detenu namely Sridhar, S/o.Sankar, aged about 22 years, now he is confined in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the mother of the detenu viz., Sridhar, aged about 22 years, S/o.Sankar. The detenu has been detained by the second respondent by his order in C.No.107/Detention/C.P.O/T.C/2022 dated 17.08.2022 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.



HCP(MD)No.6 of 2023

WEB COPY

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 the detaining authority, after being aware of the fact that there was no bail application filed by the detenu, came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in Cr.M.P.No.23/2022 dated 05.01.2022. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not similar and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.



HCP(MD)No.6 of 2023

5. On carefully going through the detention order, the detaining authority was aware of the fact that no bail application was filed by the detenu. There is no finding by the detaining authority that the relatives of the petitioner are taking steps to file bail application. However, the detaining authority took into consideration the order passed in Cr.M.P.No. 23/2022 dated 05.01.2022 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the order shows that the accused therein had already suffered 32 days incarceration and substantial part of investigation is over. Hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.107/Detention/C.P.O/T.C/2022 dated 17.08.2022



HCP(MD)No.6 of 2023

passed by the second respondent is set aside. The detenu, viz., Sridhar, S/o.Sankar, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
06.07.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Principal Secretary to Government,
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Chennai - 600 009.
- 2.The Commissioner of Police,
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- 3.The Inspector of Police,
Government Railway Police Station,
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- 4.The Superintendent of Prison,
Central Prison, Trichy.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.6 of 2023

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and
M.NIRMAL KUMAR,J.

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H.C.P.(MD)No.6 of 2023

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