



HCP(MD)No.26 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.07.2023

CORAM

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

H.C.P.(MD)No.26 of 2023

Senthamarai

.. Petitioner / mother of the Detenu

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

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

.. Respondents

PRAYER: 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 of the respondent No.2 in C.No. 148/Detention/C.P.O/T.C/2022 dated 18.10.2022 and quash the same and



HCP(MD)No.26 of 2023

direct the respondents to produce the body or person of the detenu by name David, son of Bastin, aged about 22 years, now confining as 'Goonda' at Tiruchirappalli Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

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

The petitioner is mother of the detenu viz., David, S/o.Bastin, aged about 22 years. The detenu has been detained by the second respondent by his order in C.No.148/Detention/C.P.O/T.C/2022, dated 18.10.2022, 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.

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.



HCP(MD)No.26 of 2023

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the Government Order in G.O.(D).No.291, Home, Prohibition and Excise (XVI) Department dated 13.10.2022 has not been translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on the sole ground, the detention order is liable to be quashed.

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

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Page Nos.121 and 122 of the booklet, it is clear that the Government Order in G.O.(D).No.291, Home, Prohibition and Excise (XVI) Department dated 13.10.2022 has not been translated in vernacular language. Hence, the impugned detention order is liable to be set aside.



HCP(MD)No.26 of 2023

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.148/Detention/C.P.O/T.C/2022, dated 18.10.2022 passed by the second respondent is set aside. The detenu, viz., David, S/o.Bastin, 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.)
17.07.2023

NCC : Yes / No
Index : Yes / No

vsm



HCP(MD)No.26 of 2023

To

WEB COPY

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
3. The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.26 of 2023

M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

vsm

H.C.P.(MD)No.26 of 2023

17.07.2023