



HCP(MD)No.31 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 26.09.2023

CORAM

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

H.C.P.(MD)No.31 of 2023

Chitradevi

.. Petitioner / Wife of the
detenu

Vs.

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Magistrate Cum District Collector,
Office of the District Magistrate and District Collector,
Madurai District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Inspector of Police,
Thirumangalam AWPS Police Station,
Maudurai District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records, in detention order



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No.B.C.D.F.G.I.S.S.V.No.92/2022, dated 14.12.2022 and set aside the same and direct the respondents herein to produce the detenu Archunan, aged 32 years, S/o.Sadaiyandi, who has been termed as “Sexual Offender”, now confined in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.S.Sivaprakash

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Archunan, aged about 32 years, S/o.Sadaiyandi. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.V.No.92/2022 dated 14.12.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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.



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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 has relied upon the order passed in Crl.M.P.No.2031 of 2022 dated 21.11.2022 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.

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

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in Crl.M.P.No.2031 of 2022, dated 21.11.2022, the accused therein had suffered more than 70 days of incarceration and the accused therein was enlarged on bail under Section



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167(2) Cr.P.C. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

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 B.C.D.F.G.I.S.S.S.V.No.92/2022, dated 14.12.2022 passed by the second respondent is set aside. The detenu, viz., Archunan S/o.Sadaiyandi, aged about 32 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.)
26.09.2023

NCC : Yes / No
Internet : Yes / No
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M.S.RAMESH, J.
and
M.NIRMAL KUMAR, J.

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