



HCP(MD)No.78 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2023

CORAM

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

H.C.P.(MD)No.78 of 2023

Esakkipandi

... Petitioner / Detenu

Vs.

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

.. Respondents

Page 1 of 6



HCP(MD)No.78 of 2023

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in H.S.(M)Confdl.No.224 of 2022, dated 31.10.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Esakkipandi, S/o.Mookkan, aged about 37 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Esakkipandi, S/o.Mookkan, aged about 37 years. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.224 of 2022, dated 31.10.2022, 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.



HCP(MD)No.78 of 2023

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 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 copy of the initial remand order has not been furnished to the detenu, despite the same has been sought for by the petitioner in his representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation made by the petitioner dated 07.01.2023, he had sought for the initial remand order, however, the same has not been furnished to the detenu, which vitiates the order of detention.



HCP(MD)No.78 of 2023

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.224 of 2022, dated 31.10.2022 passed by the second respondent is set aside. The detenu, viz., Esakkipandi, S/o.Mookkan, aged about 37 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.)
18.07.2023

NCC : Yes / No
Index : Yes / No

Yuva

To

- 1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
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Page 4 of 6



HCP(MD)No.78 of 2023

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



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HCP(MD)No.78 of 2023

**M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.**

Yuva

H.C.P.(MD)No.78 of 2023

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