



HCP(MD)No.130 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2023

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

H.C.P.(MD)No.130 of 2023

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.. Petitioner/Mother of the Detenu

Vs.

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Virudhunagar District.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Inspector of Police,
Arupukottai Town Police Station,
Virudhunagar District.

.. 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 passed by the Respondent No.2 in detention order



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Cr.M.P.No.37/2022 dated 30.09.2022 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Jaya Kumar, Son of Viswanathan aged about 23 years, now confined at Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.Siva 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., Jayakumar, aged about 23 years, S/o.Viswanathan. The detenu has been detained by the second respondent by his order in Cr.M.P.No.37/2022 dated 30.09.2022 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, no reference has been made to the detenu's involvement in Crime No.181/2022, which is the adverse case and his likelihood of coming out on bail in the said case. Hence, the subjective satisfaction arrived at by the detaining authority suffers from non-application of mind.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. It is further submitted that investigation has been completed in this case and final report has been filed in S.C.No.214/2022 and the same is pending before the Mahila Court, Srivilliputtur.

5. In paragraph No.5 of the detention order, the detaining authority has made a reference to the adverse case in Crime No.181/2022 as well as the ground case in Crime No.123/2022 and by quoting the bail order passed



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in the case of the co-accused in Cr.M.P.No.2901/2022 dated 23.09.2022 in Crime No.123/2022, the detaining authority has arrived at a subjective satisfaction that the detenu is likely to come out on bail by filing another bail application. However, no reference has been made to the detenu's involvement in Crime No.181/2022, which is the adverse case and his likelihood of coming out on bail in the said case. Thus, the subjective satisfaction arrived at by the detaining authority would amount to non-application of mind. Hence, the impugned order of detention is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.37/2022 dated 30.09.2022 passed by the second respondent is set aside. The detenu, viz., Jayakumar, S/o.Viswanathan, aged about 23 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.)
20.09.2023

NCC : Yes / No
Index : Yes / No
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- 4.The Inspector of Police,
Arupukottai Town Police Station,
Virudhunagar District.
- 5.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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and
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