



HCP(MD)No.120 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.120 of 2023

Saraswathi

.. Petitioner/Wife of the Detenu

Vs.

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

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in M.H.S.Confdl.No.92 of 2022, dated 26.10.2022, in detaining



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the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda, quash the same and direct the respondents to produce the detenu namely, Muppudathi @ Aaru, aged about 27 years, S/o.Ravichandran, now detained at Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.C.Gangai Amaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Muppudathi @ Aaru, aged about 27 years, S/o.Ravichandran. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.92/2022, dated 26.10.2022, 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.



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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, but by relying upon an order passed in Cr.M.P.No.743/2015, came to the conclusion that there is a real possibility of the detenu coming out on bail, since in similar cases, bails are granted by the appropriate Courts. The learned counsel pointed out that to arrive at such a conclusion, there was no material at all relied on by the detaining authority 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.



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5. On carefully going through the detention order, it is seen that the detaining authority was aware of the fact that no bail application was filed by the detenu. However, the detaining authority took into consideration the order passed in Cr.M.P.No.743/2015 and came to the conclusion that there is a likelihood of the detenu coming out on bail, since in similar cases, bails are granted by the appropriate Courts. Perusal of the order dated 11.02.2015, passed in Cr.M.P.No.743/2015, shows that the learned Principal Sessions Judge, Tirunelveli, after considering the submission of the learned Public Prosecutor that nobody sustained injury in that case and the accused therein namely, Mariappan @ Mavatta Mariappan had no previous antecedents, had granted bail to him and hence, that bail order relied upon by the detaining authority cannot be considered to be a similar one. Even there is no material placed before this Court to prove that the relatives or friends of the detenu have filed bail application for the detenu and therefore, the apprehension of the detaining authority that there is a real possibility of the detenu coming out on bail, is unfounded.



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6. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and therefore, 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 M.H.S.Confdl.No.92/2022, dated 26.10.2022 passed by the second respondent is set aside. The detenu, viz., Muppudathi @ Aaru, aged about 27 years, S/o.Ravichandran, 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
smn2/yuva

To

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