



H.C.P.(MD) No.160 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.160 of 2023

S.Gopal

... Petitioner / Father of detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

3.The Inspector of Police,
Sendhamaram Police Station,
Tenkasi District.

4.The Superintendent,
Central Prison,
Palayamkottai.

...Respondents



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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 detention order passed by the 2nd respondent made in M.H.S.Confdl No.64 of 2022 dated 13.06.2022 and quash the same and consequently set the detenu by name Thiru. Ayyanar, (Male aged 26 years) S/o. Gopal (TPDA No.7261) who is confined at Central Prison, Palayamkottai at liberty.

For Petitioner : Mr.R.Anand

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

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner is the father of the detenu. This Habeas Corpus Petition has been filed by him to call for the records pertaining to the detention order passed by the 2nd respondent made in M.H.S.Confdl No.64 of 2022, dated 13.06.2022 and quash the same and consequently set the detenu by name Thiru. Ayyanar, (Male aged 26 years) S/o. Gopal (TPDA No.7261) who is confined at Central Prison, Palayamkottai at liberty.

2. Heard Mr.R.Anand, learned counsel appearing for the petitioner, who would point out that, there are two accused in the ground



case, insofar as the co-accused one Subramani is concerned, H.C.P. (MD) No.1278 of 2022 has been filed, which has been considered and allowed by a co-ordinate Bench of this Court by order dated 20.02.2023.

3. Insofar as the similarity is concerned, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor, appearing for the respondents, also fairly submitted that, insofar as the co-accused is concerned, since the said Habeas Corpus Petition was allowed, it is for the Court to take a decision.

4. We have gone through the order of the Division Bench of this Court dated 20.02.2023, where the Division Bench has passed the following order:-

“4. This Court, on perusing the records, finds that there is one adverse case against the petitioner registered in the year 2019 for the offences under Sections 147, 148, 364(A), 394, 397 and 506(ii) IPC. Since case referred by the detaining authority where bail was granted is not a similar case, this Court finds that the detention order suffers non-application of mind.

5. In fine, the Habeas Corpus Petition is allowed. The detention order passed in M.H.S.Confdl No.66/2022, dated 13.06.2022, by the 2nd respondent, is set aside. Consequently,



the detenu viz., Muthukumar alias Chainkumar, S/o.Velusamy, aged about 35 years, who is now detained in Central Prison, Palayamkottai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.”

5. Since the present detenu is also similarly placed, as against him also one adverse case and one ground case for the same offences were pending, for which, the said detenu viz., V.Subramani was able to successfully challenge the detention order and the H.C.P.(MD) No.1287 of 2022 since was allowed by a co-ordinate Bench of this Court by order dated 20.02.2022, following the same analogy, we feel that, this Habeas Corpus Petition can also be allowed.

6. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in M.H.S. Confdl. No.64 of 2022 dated 13.06.2022, is set aside. Consequently, the detenu, namely, Ayyanar, son of Gopal, aged about 26 years, who is now detained at Central Prison, Palayamkottai, is directed to be released forthwith unless his



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presence or custody or detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)
17.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SJ

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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Chennai – 600 009.
- 2.The District Collector & District Magistrate,
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Tenkasi.
- 3.The Inspector of Police,
Sendhamaram Police Station,
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- 4.The Superintendent,
Central Prison,
Palayamkottai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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AND
K.K.RAMAKRISHNAN, J.

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