



HCP(MD)No.162 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.07.2023

CORAM

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

H.C.P.(MD)No.162 of 2023

S.Bhuvaneshwari

.. Petitioner / wife
of the Detenu

Vs.

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

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

3.The Superintendent of Prison,
Theni District, Theni.

4.The Superintendent of Prison
Central Prison, Madurai.

5.The Inspector of Police,
Allinagaram Police Station,
Theni District

.. Respondents



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PRAAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records pertaining to the order of detention passed by the 2nd respondent vide his proceedings in Detention Order No.03/2023 dated 06.01.2023 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband Gopinath, S/o.Ammavasai (male, aged 28 years) before this Court and set him at liberty from the detention at Central Prison, Madurai.

For Petitioner : Mr.S.Balaji

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., Gopinath, S/o.Ammavasai, aged about 28 years. The detenu has been detained by the second respondent by his order in Detention Order No.03/2023 dated 06.01.2023 holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 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 though reliance has been placed by the detaining authority on the remand order, the copy of the remand order has not been furnished to the detenu. Therefore, he submitted that 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, when the detaining authority has placed reliance upon the remand order, the same has not been furnished to the detenu, which vitiates the order of detention.



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5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.03/2023 dated 06.01.2023 passed by the second respondent is set aside. The detenu, viz., Gopinath S/o.Ammavasai, aged about 28 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.)
26.07.2023

NCC : Yes / No
Index : Yes / No
RR



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To

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

2. The Joint Secretary
Public (Law and Order)
Secretariat, Chennai.

3. The District Collector and District Magistrate,
Theni District, Theni.

4. The Superintendent of Prison,
Theni District, Theni.

5. The Superintendent of Prison
Central Prison, Madurai.

6. The Inspector of Police,
Allinagaram Police Station,
Theni District

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



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and
M.NIRMAL KUMAR,J.

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