



HCP(MD)No.166 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2023

CORAM

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

H.C.P.(MD)No.166 of 2023

Thirunavukarasu @ Thiruna

.. Petitioner / Detenu

Vs.

1.The State represented by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent,
Central Prison,
Madurai.

4.The Inspector of Police,
D2 Sellur Police Station,
Madurai City.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, by calling for the records relating to the impugned order of detention made in No.84/BCDFGISSSV/2022 dated 26.11.2022 on the file of the Commissioner of Police, Madurai City, the second respondent herein, branding the petitioner/detenu by name Thirunavukarasu @ Thiruna, S/o.Ganesan, aged about 30 years as 'Goonda' who is now confined in Central Prison, Madurai, Madurai District and quash the impugned order of detention and set him at liberty by producing him before this Court.

For Petitioner : Mr.T.J.Ebenezer Charles

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., Thirunavukarasu @ Thiruna, S/o.Ganesan, aged about 30 years. The detenu has been detained by the second respondent by his order in No.84/BCDFGISSSV/2022 dated 26.11.2022 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 has relied upon the order passed in CrI.M.P.No.404/2017 dated 24.05.2017 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.

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 in the order that was relied upon by the detaining authority in CrI.M.P.No.404/2017 dated 24.05.2017, the accused therein were enlarged on bail for the offences under Sections 147, 148, 448, 294(b), 323, 324, 506(ii), 307 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. However, in the present case, the offences involved are under Sections 143, 341, 294(b), 308, 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 altered into Sections 143, 341, 294(b), 323, 324, 308, 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.84/BCDFGISSSV/2022 dated 26.11.2022 passed by the second respondent is set aside. The detenu, viz., Thirunavukarasu @ Thiruna, S/o.Ganesan, aged about 30 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.)
21.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi



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To

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1. The Principal Secretary to Government,
The State,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
2. The Commissioner of Police,
Madurai City,
Madurai.
3. The Superintendent,
Central Prison,
Madurai.
4. The Inspector of Police,
D2 Sellur Police Station,
Madurai City.
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,
Madurai.



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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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