



HCP(MD)No.206 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.07.2023

CORAM

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

H.C.P.(MD)No.206 of 2023

K.Krishnasamy

... Petitioner / Cousin of the Detenu
Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

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

3.The Inspector of Police,
Pettai Police Station,
Tirunelveli City.

4.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the records relating to the



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detention order passed by the 2nd respondent in No.86/BCDFGISSSV/2022, dated 02.12.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Ilangamani @ Tamilselvan, S/o.Murugan, aged about 30 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the cousin of the detenu viz., Ilangamani @ Tamilselvan, S/o.Murugan, aged about 30 years. The detenu has been detained by the second respondent by his order in No. 86/BCDFGISSSV/2022, dated 02.12.2022, 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 Cr.M.P.No.11775/2022, dated 28.11.2022 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.



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4.The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5.On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in Cr.M.P.No.11775/2022, dated 28.11.2022, the accused therein was enlarged on bail since there was no previous case pending against him. However, in the present case, there is one previous case pending against the detenu. 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.86/BCDFGISSSV/2022, dated 02.12.2022 passed by the second respondent is set aside. The detenu, viz., Ilangamani @ Tamilselvan, S/o.Murugan, 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.)
24.07.2023

NCC : Yes / No
Index : Yes / No

Yuva

To

- 1.The Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The Joint Secretary to Government,
Public Law and Order,
Fort St.George, Chennai-9.
- 3.The Commissioner of Police,
Tirunelveli City, Tirunelveli.



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AND
M.NIRMAL KUMAR, J.**

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- 4.The Inspector of Police,
Pettai Police Station,
Tirunelveli City.
- 5.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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