



HCP(MD)No.285 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.285 of 2023

M.Vaikundalakshmi

.. Petitioner / Wife of the Detenu

Vs.

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

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

3.The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.

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

.. Respondents

PRAYER: 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



HCP(MD)No.285 of 2023

detention order passed by the 2nd respondent in M.H.S.Confdl.No.210/2022, dated 29.11.2022 and quash the same and consequently set the detenu by name Murugan (Male aged 36 Years), S/o.Muthu Nadar (TPDA No.7553) who is confined at Central Prison, Palayamkottai at liberty.

For Petitioner : Mr.R.Anand

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., Murugan, S/o.Muthu Nadar, aged about 36 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.210/2022, dated 29.11.2022, 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.

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.



HCP(MD)No.285 of 2023

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 though the detaining authority was aware of the fact that the detenu has not filed any bail application, the detaining authority has relied upon the order passed in CrI.M.P.No. 5531/2021, dated 13.09.2021 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 for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and in the similar case, there are no previous cases, however, in the present case, there are previous cases 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.

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. 5531/2021, dated 13.09.2021, the accused therein was enlarged on bail



HCP(MD)No.285 of 2023

since accused therein had already suffered 81 days incarceration and there was no previous cases pending against him. However, in the present case, there are previous cases 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.210/2022, dated 29.11.2022, passed by the second respondent is set aside. The detenu, namely, Murugan, son of Muthu Nadar, aged about 36 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
vsm



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