



HCP(MD)No.287 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

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

H.C.P.(MD)No.287 of 2023

Pandeeswari

.. Petitioner / mother of
the detenu

Vs.

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

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

3.The Superintendent of Prison,
Central Prison,Tiruchirappalli

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records, pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in C.No.144/Detention/CPO/TC/2022 dated 07.10.2022 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Mugil @ Mugilkumar S/o.Sivakumar, male aged about 26 years, who is



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detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Mugil @ Mugilkumar aged about 26 years, S/o.Sivakumar. The detenu has been detained by the second respondent by his order in C.No.144/Detention/CPO/TC/2022 dated 07.10.2022 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.

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 after being



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aware of the fact that there was no bail application filed by the detenu came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in CrI.M.P.No.5618/2021. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not a similar and the offence involved is under Sections 397 and 506(ii) IPC 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 by filing his counter and would submit that in the present case, on completion of investigation, charge sheet has been filed in S.C.No.66/2023.

5. On carefully going through the detention order, the detaining authority was aware of the fact that no bail application was filed by the detenu. However, the detaining authority took into consideration the order passed in CrI.M.P.No.5618/2021 dated 13.12.2021 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the order shows that the accused therein was enlarged on bail for



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the offences under Sections 397 and 506(ii) IPC. However, in the third adverse case and in the ground case, the offences are different and hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

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 C.No.144/Detention/CPO/TC/2022 dated 07.10.2022 passed by the second respondent is set aside. The detenu, viz., Mugil @ Mugilkumar S/o.Sivakumar, aged about 26 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.)
14.07.2023

Internet : Yes
RR



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To

1. The Principal Secretary to Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Tiruchirappalli City
Tiruchirappalli.
3. The Superintendent of Prison,
Central Prison
Tiruchirappalli
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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

RR

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