



HCP(MD)No.342 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 20.07.2023

CORAM

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

H.C.P.(MD)No.342 of 2023

Elizabeth Rose Paul

... Petitioner / Sister of the Detenu

Vs.

1.The State of Tamil Nadu,

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 9.

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

3.The Superintendent of Central Prison,
Palayamkottai, Tirunelveli District.

.. Respondents

Page 1 of 6



HCP(MD)No.342 of 2023

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 detention order passed by the 2nd respondent in H.S.(M)Confdl.No.251/2022, dated 18.11.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Ernest Paul, S/o.Sathya Prakash, aged about 42 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Adithya Vijayalayan,
for Mr.D.Venkatesh
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the sister of the detenu viz., Ernest Paul, S/o.Sathya Prakash, aged about 42 years. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.251/2022, dated 18.11.2022, 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.



HCP(MD)No.342 of 2023

WEB COPY

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 the copy of the remand order has not been furnished to the detenu, despite the same has been sought for by the petitioner in her representation. Therefore, 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, the representation made by the petitioner dated 21.02.2023, she had sought for the remand order, however, the same has not been furnished to the detenu, which vitiates the order of detention.



HCP(MD)No.342 of 2023

WEB COPY

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.251/2022, dated 18.11.2022 passed by the second respondent is set aside. The detenu, viz., Ernest Paul, S/o.Sathya Prakash, aged about 42 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.)
20.07.2023

NCC : Yes / No
Index : Yes / No

Yuva / RR

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 9.

2.The Joint Secretary to Government,
Public Law and Order,
Fort St.George, Chennai-600 009.



HCP(MD)No.342 of 2023

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

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

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



WEB COPY



HCP(MD)No.342 of 2023

**M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.**

Yuva / RR

H.C.P.(MD)No.342 of 2023

20.07.2023