



HCP(MD)No.358 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.08.2023

CORAM

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

H.C.P.(MD)No.358 of 2023

Vijayalakshmi

.. Petitioner /mother
of the detenu

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Perambalur District, Perambalur.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.02/2023 dated



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19.02.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name Vimal, son of Elangovan, aged about 31 years, now confined at Trichy Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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., Vimal, S/o.Elangovan, aged about 31 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.02/2023 dated 19.02.2023 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.



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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 bail applications filed by the detenu were dismissed in earlier occasions and no bail application has been filed by the detenu in the ground case, by relying upon the similar case bail order granted in CrI.M.P.No.530/2021 dated 09.07.2021, the detaining authority came to the conclusion that there is likelihood of the detenu released on bail. However, the learned counsel submitted that the said similar case bail order copy has not been provided to the detenu and therefore submitted that 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 the order that was relied upon by the detaining authority in CrI.M.P.No.CrI.M.P.No.530/2021 dated 09.07.2021 has not been provided to the detenu and hence, it vitiates the order of detention.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.02/2023 dated 19.02.2023 passed by the second respondent is set aside. The detenu, viz., Vimal S/o.Elangovan, aged about 31 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.)
16.08.2023

NCC : Yes / No
Index : Yes / No
RR



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To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Joint Secretary to Government
Public (Law and Order)
Secretariat, Chennai.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Perambalur District, Perambalur.
3. The Superintendent of Prison,
Trichy Central Prison,
Trichy.
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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