



HCP(MD)No.400 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.09.2023

CORAM

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

H.C.P.(MD)No.400 of 2023

S.Murugan

.. Petitioner / Father of
the Detenu

Vs.

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

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records in pursuant to the proceedings of the 2nd respondent in Detention Order in H.S. (M).Confdl.No.234/2022, dated 11.11.2022, quash the same and consequently direct the respondents to produce the detenu, namely



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Kapilkumar, S/o.Murugan, aged 26 years, who is now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.C.Susi Kumar
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Kapil Kumar, aged about 26 years, S/o.Murugan. The detenu has been detained by the second respondent by his order in H.S.(M).Confdl.No.234/2022, dated 11.11.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 aware of the fact that the detenu has tried to file bail application, came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in Cr.M.P.No.917/2022, dated 16.08.2022. However, the said bail order relied upon by the detaining authority has not been furnished to the detenu in the grounds of detention 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.

5. On carefully going through the detention order, it is seen that in Paragraph No.6 of the detention order, a reference has been made to a similar case, wherein, the accused therein was released on bail through orders passed in Cr.M.P.No.917/2022 dated 16.08.2022 and by relying upon such an order, the detaining authority had come to the conclusion that there is a real possibility of the detenu coming out on bail by filing bail



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application. Having placed reliance on a similar case, it is incumbent on the part of the detaining authority to furnish the said order, however, the bail order has not been furnished in the grounds of detention and hence, the subjective satisfaction arrived at by the detaining authority may not be proper. Hence, on the sole ground, the impugned detention order is, liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M).Confdl.No.234/2022, dated 11.11.2022 passed by the second respondent is set aside. The detenu, viz., Kapil Kumar, S/o.Murugan, 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.)
07.09.2023

NCC : Yes / No
Index : Yes / No
vsm



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