



HCP(MD)No.479 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.07.2023

CORAM

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

H.C.P.(MD)No.479 of 2023

Abudhakeer

.. Petitioner / Detenu

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Trichy City.

3.The Superintendent of Prison,
The 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 in C.No.178/Detention/C.P.O/TC/2022 dated 12.12.2022



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passed by the second respondent and quash the same as illegal and consequently directing the respondents to produce the body or person of the detenu by name Abudhakeer son of Jahir Hussain, aged about 26 years, now detained at Trichy Central Prison before this Court and set him at liberty.

For Petitioner : M/s.S.Malaikani

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Abuthahir, aged about 26 years, S/o.Jahir Hussain. The detenu has been detained by the second respondent by his order in C.No.178/Detention/C.P.O/TC/2022 dated 12.12.2022 holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 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 Government Order in G.O.(D).No.291, Home, Prohibition and Excise (XVI) Department dated 13.10.2022 has not been translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Page Nos.121 and 122 of the booklet, it is clear that the Government Order in G.O.(D).No.291, Home, Prohibition and Excise (XVI) Department dated 13.10.2022 has not been translated in vernacular language. Hence, the impugned detention order is liable to be set aside.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.178/Detention/C.P.O/TC/2022 dated 12.12.2022 passed by the second respondent is set aside. The detenu, viz., Abuthahir, S/o.Jahir Hussain, 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.)
25.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi



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3. The Superintendent of Prison,
The Central Prison,
Trichy.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George,
Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
M.NIRMAL KUMAR,J.

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