



HCP(MD)No.493 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.08.2023

CORAM

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

H.C.P.(MD)No.493 of 2023

Bharath

.. Petitioner /Detenu

Vs.

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Palayamkottai,
Tirunelveli District.

.. 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 detention order



HCP(MD)No.493 of 2023

H.S(M)Confdl.No.33/2023 dated 16.02.2023 and quash the same and to direct the respondents to produce the body or person of the detenu by name Bharath son of Vijayakumar, aged about 20 years, now confining as “Goonda” at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Prakash

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., Bharath, aged about 20 years, S/o.Vijayakumar. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.33/2023 dated 16.02.2023 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.



HCP(MD)No.493 of 2023

WEB COPY

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 has relied upon the order passed in Cr.M.P.No.80/2023 dated 11.01.2023 and came to the conclusion that in a similar case bail has been granted to the same accused and that there is likelihood of the detenu released on bail. 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 the detaining authority has placed reliance on the adverse case of the detenu in Crime No.421/2022 under Section 392 IPC, whereby, bail was granted to him in Cr.M.P.No.80/2023 vide order dated 11.01.2023. By making



HCP(MD)No.493 of 2023

reference to the said bail order, the detaining authority has inferred that there is a real possibility of the detenu coming out on bail. Though reliance was placed on the similar case bail order in Cr.M.P.No.80/2023 dated 11.01.2023, the same has not been furnished to the detenu 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.33/2023 dated 16.02.2023 passed by the second respondent is set aside. The detenu, viz., Bharath, S/o.Vijayakumar, aged about 20 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.)
10.08.2023

NCC : Yes / No
Index : Yes / No
Lm



HCP(MD)No.493 of 2023

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Palayamkottai Central Prison,
Palayamkottai,
Tirunelveli District.
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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HCP(MD)No.493 of 2023

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

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H.C.P.(MD)No.493 of 2023

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