



H.C.P.(MD) No.998 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.998 of 2022

S.Rajeshwari

... Petitioner / Cousin of the Detenu

Vs.

1.State of Tamil Nadu,

Rep. by The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

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

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

...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 passed in M.H.S.Confdl.No.58 of 2022 dated 27.05.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely, the petitioner's cousin, ie., Saravanakumar @ Kokkikumar, aged about 27



H.C.P.(MD) No.998 of 2022

years, S/o.Maruthaiah, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner is the cousin of the detenu, namely, Saravanakumar @ Kokkikumar, aged about 27 years, S/o. Maruthaiah. The detenu has been detained by the second respondent by his proceedings in M.H.S.Confdl.No.58 of 2022, dated 27.05.2022, 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.

2. It is to be noted that, against another detenu, namely, Saravanakumar, the detaining authority namely the District Collector and District Magistrate, Tenkasi District, Tenkasi had slapped an order of detention by order, dated 27.05.2022 holding him to be a "Goonda".



H.C.P.(MD) No.998 of 2022

3. Challenging the said order, already the said detenu had moved

H.C.P.(MD).No.997 of 2022 which also came to be decided by us today.

4. In the said order, we have given the reasons for allowing the said HCP and the relevant portion of the order can be usefully referred to hereunder :

"10.In the said averment of the counter, the detaining authority has stated that the representation was on 09.06.2022, which was received on 01.07.2022 and remarks sent to the detenu on 11.07.2022.

11.On perusal, this Court finds that all the three dates given in the counter by the detaining authority are false comparing with the dates given by the Government in the proforma, which has been produced before this Court.

12.Therefore, that itself shows that the detaining authority under total non-application of mind has filed the counter.

13.Moreover, no explanation whatsoever has been given either by the Government or on behalf of the Government in the counter affidavit filed by the detaining authority as to why there has been a



delay in consideration, because the representation dated 14.06.2022 was received on 20.06.2022, whereas the order was passed either on 01.07.2022 or 04.07.2022 and these delays have not been explained.

14.Be that as it may, on what basis the detaining authority has informed this Court by filing the aforesaid submission in Paragraph No.17 is not known because all the three dates mentioned therein are not matching with the dates given in the proforma. Therefore, without even having any supportive document if at all the detaining authority has filed this counter giving this kind of information wrongly, that would be serious issue and the detaining authority, being the District Collector and District Magistrate, is expected to put the fact right before this Court, when he files counters on behalf of the authorities concerned.

15.In view of the aforestated flaw on the part of the respondents, we have no hesitation to hold that the impugned detention order would not stand in the legal scrutiny and therefore, the petitioner on behalf of the detinue is entitled to get the benefit of quashment of the detention order. In the result, the impugned detention order passed by the 2nd



respondent in M.H.S.Confdl.No.57 of 2022, dated 27.05.2022 is set aside. Therefore, this Habeas Corpus Petition is allowed. As a sequel, there shall be a direction to the 3rd respondent to set the detenue, namely, Saravanakumar, S/o.Shanmugasundaram, aged about 37 years, at free, if his presence in the jail is not required for any other cases."

5. Here in the case also, with regard to the very same grounds case, this detenu has been detained as Goonda under Act 14 of 1982. Here also the representation had been given on 30.06.2022 which was received by them on 01.07.2022, however, rejection order was passed only on 14.07.2022. Why such delay has occurred has not been explained in the counter affidavit and therefore what was the reason that has been stated for allowing the connected HCP, i.e., H.C.P.(MD).No.997 of 2022 would be applicable to the present case also.

6. Therefore, we are inclined to accept the grounds raised on behalf of the detenu and accordingly, we allow this HCP.



H.C.P.(MD) No.998 of 2022

7. Resultantly, this Habeas Corpus Petition is allowed and the detention order in M.H.S.Confdl.No.58 of 2022, dated 27.05.2022 is set aside. As a sequel, there shall be a direction to the third respondent to set the detenu, namely Saravanakumar @ Kokkikumar, S/o. Maruthaiah, aged about 27 years, at free, if his presence in the jail is not required for any other cases.

(R.S.K., J.) & (K.K.R.K, J.)

08.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR / tsvn



H.C.P.(MD) No.998 of 2022

WEB COPY

To

- 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,
Tenkasi District, Tenkasi.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P.(MD) No.998 of 2022

R.SURESH KUMAR, J.
AND
K.K.RAMAKRISHNAN, J.

MYR / tsvn

H.C.P.(MD)No.998 of 2022

08.03.2023