



HCP(MD)No.606 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.09.2023

CORAM

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

H.C.P.(MD)No.606 of 2023

Kamaraj

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Tiruchirappalli City
Tiruchirappalli.

3.The Superintendent,
Central Prison,
Tiruchirappalli District.

.. Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the entire records relating to the detention order passed by the 2nd respondent in C.No. 10/Detention/CPO/TC/2023 dated 08.03.2023 and quash the same as illegal and direct the respondents to produce the detenu Pradheep @ Keda Son of



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Kamaraj, male aged 26 years who is detained at Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.S.Balamuruganantham

For Respondents : Mr.A.Thiruvadikkumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Pradeep @ Keda, aged about 26 years, S/o.Kamaraj. The detenu has been detained by the second respondent by his order in C.No.10/Detention/CPO/TC/2023 dated 08.03.2023 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 the detaining authority has mentioned in the order of detention that though it is a solitary case against the detenu, his act is termed to be an act of habitual and experienced offender. However, there is no materials whatsoever to substantiate the same. Hence, on that ground, 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, the detaining authority has observed that though the case against the detenu is a solitary case, his act is an offence, which has similar to the act of a habitual and experienced offender. However, such a statement is not bagged by any materials. Hence, we are unable to countenance as to how a person, who has not been involved in any other criminal case, can be termed to be a habitual offender. Thus, the impugned order is vitiated as one of non



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application of mind.

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6. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.10/Detention/CPO/TC/2023 dated 08.03.2023 passed by the second respondent is set aside. The detenu, viz., Pradeep @ Keda, S/o.Kamaraj, 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.)
08.09.2023

NCC :Yes / No
Internet : Yes
RR



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To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.The Joint Secretary
Public Law and Order
Secretariat, Chennai.
- 3.The Commissioner of Police,
Tiruchirappalli City
Tiruchirappalli.
- 4.The Superintendent,
Central Prison,
Tiruchirappalli District.
- 5.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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