



HCP(MD)No.608 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.608 of 2023

Mahendran

.. Petitioner / Father of
the detenu

Vs.

- 1.The Principal Secretary to Government
Home Prohibition and Excise Department,
Secretariat, Chennai.
- 2.The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.
- 3.The Superintendent,
Central Prison
Tiruchirapalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in C.No.09/Detention/C.P.O/T.C/2023, dated 02.03.2023 and quash the same as illegal and direct the respondents to produce the detenu Tamilarasan alias Tamil, Son of Mahendran, Male, aged



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23 years who is detained at Central Prison, Tiruchirapalli before this Court and set him liberty.

For Petitioner : Mr.R.Balamuruganantham

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., Tamilarasan alias Tamil, aged about 23 years, S/o.Mahendran. The detenu has been detained by the second respondent by his order in C.No.09/Detention/C.P.O/T.C/2023, dated 02.03.2023 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, after being aware of the fact that the bail application filed by the detenu was dismissed on 24.02.2023 and thereafter, there was no bail application filed by the detenu, 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.356 of 2022, dated 03.02.2022. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not similar 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, the detaining authority was aware of the fact that the bail application filed by the detenu was dismissed on 24.02.2023 and thereafter, there was no bail application filed by the detenu. However, the detaining authority took into consideration the order passed in Cr.M.P.No.356 of 2022, dated 03.02.2022



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and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the order shows that the accused therein was enlarged on bail, since there were no previous cases against him. However, in the present case, the detenu was involved in one previous case and hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

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.09/Detention/C.P.O/T.C/2023, dated 02.03.2023 passed by the second respondent is set aside. The detenu, viz., Tamilarasan alias Tamil, S/o.Mahendran, aged about 23 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
vsm



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- 3.The Superintendent,
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Tiruchirapalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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and
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vsm

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