



HCP(MD)No.1029 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.01.2023

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1029 of 2022

Kasiammal

.. Petitioner /Mother of the
Detenu

Vs.

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

2.The District Collector cum District Magistrate,
Office of the Collectorate,
Ariyalur,
Ariyalur District.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Ariyalur,
Ariyalur District.

4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents to produce the person or



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body of detenu namely Muneeswaran, S/o.Dhatchinamoorthi, aged about 35 years before this Court, who is now detained in the Central Prison, Tiruchirappalli in pursuant to the detention order passed by the 2nd respondent in Cr.M.P.No.5 of 2022 dated 06.04.2022 and to call for the records and quash the same and set the detenu at liberty forthwith.

For Petitioner :Mr.R.Alagumani

For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR. G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

This Habeas Corpus Petition is filed by the mother of the detenu viz., Muneeswaran, aged about 35 years, S/o.Dhatchinamoorthi. The detenu has been detained by the second respondent, by his order in Cr.M.P.No.5 of 2022 dated 06.04.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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.The learned counsel appearing for the petitioner submits that the detention order was passed on 06.04.2022 and the grounds of detention along with materials relied upon by the detaining authority was served on the detenu only on 13.04.2022. The learned counsel further submitted that as per Section 8 of the Tamil Nadu Act 14 of 1982, the grounds of detention along with materials ought to have been served within 5 days from the date of detention. Therefore, the impugned order is liable to be quashed on the ground that the detaining authority has violated the said provision.

4.The learned Additional Public Prosecutor appearing for the respondents submitted that the grounds of detention order could not be served within the time stipulated, since there was some administrative delay in serving the materials relied upon by the detaining authority.

5.Considering the submissions made on either side, this Court finds that the detention order was passed on 06.04.2022 and the grounds along with materials relied upon by the detaining authority was served only on 13.04.2022, which is in violation of the mandate of Section 8 of Tamil Nadu



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Act 14 of 1982. The detaining authority ought to have served the grounds of detention along with materials within 5 days from the date of detention, so as to offer the detenu to make an effective representation against the order of detention.

6. In view of the violation of the statutory provisions, the detention order passed by the detaining authority is vitiated and the same is liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.5 of 2022 dated 06.04.2022 passed by the second respondent is set aside. The detenu, Muneeswaran, aged about 35 years, S/o.Dhatchinamoorthi, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (S.M.,J.)
02.01.2023

Index: Yes/No
Internet: Yes/No
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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