



HCP(MD)No.619 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2023

CORAM

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

H.C.P.(MD)No.619 of 2023

V.Muthuselvi .. Petitioner / mother of the detenu

Vs.

- 1.The Additional Chief Secretary to Government
Government of Tamil Nadu
Home Prohibition and Excise IX Department,
Secretariat, Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate
Tenkasi District, Tenkasi.
- 3.The Superintendent of Central Prison,
Palayamkottai Central Prison
Tirunelveli.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, on the file of the 2nd respondent in M.H.S.Confdl.No.89/2022, dated 22.10.2022 and set aside the order of detention passed therein and directing the respondents to produce the detenue namely U.Sathya, male, aged 22 years, S/o.Ukramasingam, before this Court and set him at liberty forthwith.



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For Petitioner : Mr.J.William Christopher
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Sathya, aged about 22 years, S/o.Ukramasingam. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.89/2022, dated 22.10.2022 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. 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.

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



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aware of the fact that 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.743/2015. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not similar and in the ground case, FIR was registered for offences under Sections 147, 148, 294(b), 353, 307, 506(ii) IPC and Section 25(1)(A) of Indian Arms Act, 1959 and Section 8(c) read with 20(b)(xii)(A) of NDPS Act 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 no bail application was filed by the detenu. However, the detaining authority took into consideration the order passed in Cr.M.P.No.743/2015 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 had already suffered 13 days incarceration and



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substantial part of investigation is over. However, in the present case, the FIR was registered for offences under Sections 147, 148, 294(b), 353, 307, 506(ii) IPC and Section 25(1)(A) of Indian Arms Act, 1959 and Section 8(c) read with 20(b)(xii)(A) of NDPS Act 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 M.H.S.Confdl No.89/2022, dated 22.10.2022 passed by the second respondent is set aside. The detenu, viz., Sathya, S/o.Ukramasingam, aged about 22 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.)
17.07.2023

NCC : Yes / No
Index : Yes / No
vsm



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Madurai Bench of Madras High Court, Madurai.



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