



H.C.P.(MD) No.1059 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

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

H.C.P.(MD) No.1059 of 2022

S.Senthil

... Petitioner

-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 Prison,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: 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 body of detainee namely Prem, S/o.Senthil, aged about 23 years before this Hon'ble

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Court who is now detained in the Central Prison, Tiruchirappalli in pursuant to the detention order passed by the second respondent in Cr.M.P.No.20 of 2022, dated 02.05.2022 and to call for the records and quash the same and set the detenue at liberty forthwith.

For Petitioner : Mr.R.Alagia Nambi
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The father of the detenu has challenged the detention order passed against the detenue, who is branded as 'Sexual Offender' by the detention order dated 02.05.2022.

2. The learned counsel for the petitioner submitted that the detention order is vitiated because the document relied upon by the detaining authority was furnished to the detenue after 5 days from the date of detention order. He would



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further submit that it is a violation of Section 8 of the Tamil Nadu Act 14 of 1982, besides the constitutional mandates of the Article 226 of the Constitution of India.

3. The learned Additional Public Prosecutor appearing for the respondents submitted that the booklet was furnished to the detainee on 10.05.2022, whereas the detention order was passed on 02.05.2022 which is beyond 5 days.

4. Section 8(1) provides that when a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but on later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

5. Since the grounds of detention has been communicated to the detainee after 5 days from the date of order of detention, the detention order is vitiated for violation of Section 8 of the Act 14 of 1982. Hence, the impugned detention order is liable to quashed.



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6. In fine, the Habeas Corpus Petition is allowed. The detention order passed in Cr.M.P.No.20/2022, dated 02.05.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Prem, S/o.Senthil, aged about 23 years, who is now detained in Central Prison, Trichirappalli, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

Index : Yes / No
Internet : Yes / No
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[G.J.,J.] [S.M.,J.]
20.01.2023



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To

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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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