



HCP(MD)No.1123 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.02.2023

CORAM

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

H.C.P.(MD)No.1123 of 2022

P.Kalaivani

.. Petitioner /Wife of the
Detenu

Vs.

1.The Additional Chief Secretary to Government,
Government of Tamil Nadu Home,
Prohibition and Excise Department,
Secretariat,
George Fort,
Chennai-600 009.

2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent of Prison,
Tiruchirapalli Central Prison,
Triuchirappalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records on the file of the 2nd



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respondent in P.D.No.51/2022 dated 23.05.2022 and set aside the order of detention passed therein dated 23.05.2022; direct the respondents to produce the detenu by name Pavusu Senthil alias Senthilkumar male aged 35 years, S/o.Alagar, male before this Court, now detained at Central Prison, Trichirappalli and set him at liberty forthwith.

For Petitioner :Mr.J.William Christopher

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 wife of the detenu viz., Pavusu Senthil alias Senthilkumar, aged about 35 years, S/o.Alagar. The detenu has been detained by the second respondent, by his order in P.D.No. 51/2022 dated 23.05.2022 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.



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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. The learned counsel appearing for the petitioner submitted that the subjective satisfaction of the detaining authority as regards the possibility of the detenu coming out on bail suffers from non application of mind. The detaining authority has relied upon a bail application in CrI.M.P.No.1499 of 2022, filed by the accused therein who was charged for the offences under Sections 294(b), 341, 392, 397 and 506(ii) IPC, r/w Sections 25(1A) and 27(2) of Arms Act, 1959, whereas, the detenu was charged, in the ground case, for the offence under Sections 147, 148, 294(b), 342 and 307 IPC, r/w. 25(1A) and 27(2) of Arms Act, 1959. The learned counsel appearing for the petitioner further submitted that the case that was taken into consideration by the detaining authority to come to a conclusion that there is a likelihood of the detenu being released on bail, is not a similar case and therefore, the detention order is vitiated on that ground.



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4. We have perused the order passed in the case relied upon by the detaining authority and found that it is not a similar case. In the said case, the offences charged against the accused is not similar to the offences charged against the detenu in the present case. Therefore, we find that the subjective satisfaction arrived at by the detaining authority as regards the possibility of the detenu coming out on bail is vitiated. The impugned detention order is, therefore, liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.51/2022 dated 23.05.2022 passed by the second respondent is set aside. The detenu, viz., Pavusu Senthil alias Senthilkumar, aged about 35 years, S/o. Alagar, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (S.M.,J.)
01.02.2023

Index: Yes/No
Internet: Yes/No
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Madurai Bench of Madras High Court,
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