



H.C.P.(MD) No.1204 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.1204 of 2022

Athithyan

... Petitioner

-VS-

**1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
St. George Fort,
Chennai-600 009.**

**2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.**

**3.The Superintendent of Police,
Dindigul District,
Dindigul.**

**4.The Superintendent of Prison,
Central Prison,
Madurai.**

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, calling for the entire records pertaining to the order of detention passed by the second respondent vide his proceedings in Detention Order no.51/2022 dated 10.06.2022 and quash the same as illegal and consequently direct the respondents herein to produce the detenue (Athithyan, S/o.Krishnamoorthi, Male, aged 20 years) before this Court and set him at liberty from the detention at Central Prison, Madurai.

For Petitioner : Mr.A.Kesavan
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The detenue has challenged the detention order, dated 10.06.2022 branding him as 'Goonda'.

2. The detention order cited two adverse cases and one ground case to invoke Act 14 of 1982. The learned counsel appearing for the petitioner would submit that the satisfaction recorded by the detaining authority in paragraph-4 of



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the grounds of detention that the detenue has committed this type of offences continuously in Ammaiyaickenur Police Station limit and also acted in a manner prejudicial to the maintenance of Public Order suffers from non-application of mind. The first adverse case which was registered on 04.06.2020 in Nilakottai Police Station in which, the name of the detenue does not find place in the FIR. The major offence in the said alleged FIR is under Section 379 of IPC.

3. The learned counsel for the petitioner submitted that as regards the second adverse case is concerned, it is a case which arose out of a dispute on account of love affair and hence, it cannot be said to be a case which was prejudicial to the public order. Therefore, the satisfaction recorded by the detaining authority suffers from non-application of mind. Further, two adverse cases are of the year 2020 and therefore, all for that reason also the satisfaction is vitiated and hence, prayed for quashing of the detention order.

4. The learned Additional Public Prosecutor appearing for the respondents submitted that the second adverse case relates to an offence under Section SC/ST



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act and the ground case also relates to an offence under Section SC/ST Act, wherein, the act of the detenue amounted to acting in a manner prejudicial to the maintenance of public order and therefore, the satisfaction of the detaining authority is not vitiated.

5. We have perused the FIR in the two adverse cases. In the first adverse case as rightly pointed out by the learned counsel for the petitioner that the name of the detenue is not found and it is for the offence under Section 379 IPC. The FIR in the second adverse case also has been registered on account of a dispute relating to a love affair and a reading of the FIR does not suggest that the act of the detenu was prejudicial to the maintenance of public order.

6. Therefore, we are of the view that the satisfaction recorded by the detaining authority in paragraph-4 of the grounds of detention that the detenue had been committed this type of offence continuously in Ammaiyaickenur police station suffers from non-application of mind and hence, the detention order is liable to be quashed.



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7. In fine, the Habeas Corpus Petition is allowed. The detention order passed in No.51/2022, dated 10.06.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Athithyan, S/o.Krishnamorthi, aged about 20 years, who is now detained in Central Prison, Madurai 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.]
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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