



H.C.P.(MD) No.1247 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Santhanakumar @ Kumar

... Petitioner / Detenu

Vs.

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

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

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Habeas Corpus, calling for the entire records connected with



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the detention order passed in H.S.(M)Confdl.No.120 of 2022 dated 23.06.2022 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely, Santhanakumar @ Kumar, aged about 33 years, S/o.Dharmaraj @ Dharmar, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

This Habeas Corpus Petition has been filed challenging the detention order passed in H.S.(M) Confdl.No.120/2022 dated 23.06.2022, on the file of the second respondent, to quash the same and to produce the body of the detenu, namely, Santhanakumar @ Kumar, son of Dharmaraj @ Dharmar, detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

2. Challenging the detention order dated 23.06.2022, passed by the second respondent/Detaining Authority, though several grounds have been



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raised on behalf of the detenu, Mr.N.Pragalathan, the learned counsel appearing for the petitioner has mainly projected the ground that the detenu has been remanded under judicial custody, for which, a remand order has been passed. However, the same has not been supplied to the detenu in the paper booklet.

3. Therefore, the detenu, in his representation, dated 14.07.2022, had specifically requested that the remand report's copy which has not been supplied, shall be supplied to him.

4. Despite his representation having been made to that effect, among various grounds raised therein, there has been no reply from the respondents and no copy of remand report since has been supplied to the detenu, that has been projected as the prime ground under which he claims that the detenu can successfully challenge the impugned detention order.

5. In response to the said ground raised by the petitioner/detenu side, Mr.A.Thiruvadi Kumar, the learned Additional Public Prosecutor appearing for the respondents would submit that though it has been mentioned as one



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of the relied upon documents in the grounds of the detention order passed by the Detaining Authority dated 23.06.2022, a copy of the same has not been furnished. However, non-furnishing of such copy whether would be fatal to the very detention order itself is a question to be decided by this Court, he contended.

6. We have given anxious consideration to the said submissions made by both sides and perused the materials placed before this Court.

7. In the very grounds of detention, it has been specifically relied upon by the Detaining Authority about the remand order passed.

8. In fact, it was a only document under which subjective satisfaction seems to have been arrived at by the Detaining Authority and no other document had been relied upon.

9. When that being the position, such a crucial document which has been mainly relied upon to have the subjective satisfaction of the Detaining Authority, a copy of which should have been furnished to the detenu, has



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admittedly not been furnished. Therefore, we feel that, on that ground itself, the impugned detention order would not be sustained.

10. In the result, the impugned detention order passed in H.S.(M) Confdl.No.120/2022 dated 23.06.2022 by the second respondent is set aside. Therefore, this Habeas Corpus Petition is allowed. As a sequel, the detenu, namely, Santhanakumar @ Kumar, S/o.Dharmaraj @ Dharmar, aged about 33 years, shall be set at liberty, if his further presence is not required in any other cases.

(R.S.K., J.) & (K.K.R.K, J.)

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

ssb



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To

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State of Tamil Nadu,
Home, Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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