



HCP(MD)No.756 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.08.2023

CORAM

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

H.C.P.(MD)No.756 of 2023

D.Thayammal

.. Petitioner /wife of
the 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
Karur District, Karur.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli
Tiruchirappalli District

.. 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
the detention order passed in Cr.M.P.No.03/2023 dated 22.02.2023 on the



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file of the 2nd respondent to produce the detenu or body of the detenu namely the petitioner's husband ie., Duraisamy @ Prasanth, aged about 28 years. S/o.Sundaramoorthi now detained at the Central Prison, Tiruchirappalli, before this Court and set her at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Duraisamy @ Prasanth S/o.Sundaramoorthi, aged about 28 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.03/2023 dated 22.02.2023 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. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that while passing the detention order, the detaining authority has relied upon an order, whereby the bail application was dismissed in CrI.M.P.No.339/2023 dated 22.02.2023. However, though the bail was dismissed on 22.02.2023, the said order was made ready only on 24.02.2023. When that be so, it is the contention of the learned counsel that when the document that has been relied upon by the detaining authority is not at all available, while passing the detention order on 22.02.2023, it clearly shows the non application of mind on the part of the detaining authority and hence, he prays for quashing the order of detention.



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4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. On consideration of the submissions made on either side, it is seen that based on the materials placed before the detaining authority, the detaining authority had stated that they are fully satisfied that the detenu is a Goonda and therefore, there is a compelling necessity to detain him under Act 14 of 1982. In the said detention order, he had also placed reliance on an order dismissing the bail application of the detenu in CrI.M.P.No. 339/2023 dated 22.02.2023. However, the order of dismissal reveals that the same was made ready only on 24.02.2023, which is after the date of detention. Apparently, the detaining authority seems to have relied upon the documents, which was not made ready, when the detention order was passed and as such, there is a possibility that the detention order itself could have been pre-dated. Consequently the subjective satisfaction arrived at by the detaining authority may not be proper. Hence, the impugned detention order is liable to be set aside.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.03/2023 dated 22.02.2023 passed by the second respondent is set aside. The detenu, viz., Duraisamy @ Prasanth, S/o.Sundaramoorthi, aged about 28 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.)
16.08.2023

NCC : Yes / No
Index : Yes / No

RR



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To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Joint Secretary to Government
Public (Law and Order)
Secretariat, Chennai.
3. The District Collector and District Magistrate
Karur District, Karur.
4. The Superintendent of Prison,
Central Prison,
Tiruchirappalli
Tiruchirappalli District
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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and
M.NIRMAL KUMAR,J.

RR

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