



HCP(MD)No.1266 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.07.2023

CORAM

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

H.C.P.(MD)No.1266 of 2022

Subha Lakshmi

.. 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, Fort st. George, Chennai-600 009.

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

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records, relating to the detention order passed by the 2nd respondent in M.H.S.Confdl. No.70/2022 dated 12.07.2022 and quash the same and direct the respondents to produce the body or person of the detenu namely Ramkumar @ Kumarpandian, son of



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Singadurai aged about 37 years now detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.G.Anto Prince

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., Ramkumar @ Kumarpandian, aged about 39 years, S/o.Singadurai. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No. 70/2022 dated 12.07.2022 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.

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.



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3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority has relied upon the order passed in CrI.M.P.No.3754/2018 dated 01.06.2018 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.

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

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No. 3754/2018 dated 01.06.2018, the accused therein was enlarged on bail on the ground that substantial part of investigation might have been over and



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the offences are under Sections 294(b) and 506(II) IPC. However, in the present case, the investigation is still pending and the offences are not similar. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

6. Incidentally, when the petitioner herein had sought for release of the detenu on parole before the Additional District Munsif cum Judicial Magistrate, Sivagiri, an order came to be passed granting parole by the learned Magistrate. This Court had taken note of the fact that the Magistrate does not have such powers in view of the amendment to Section 15(1) of Act 14 of 1982 and therefore, had placed the issue before the Hon'ble Acting Chief Justice, who, in turn had placed the issue before the Administrative Committee. Accordingly, the issue is pending on the administrative side. However, it is seen that the detention order dated 12.07.2022, expires on 12.07.2023. Since the petitioner has made out an acceptable legal ground for quashing the order of detention, the pendency of the issue, with regard to grant of parole, by the administrative side may not have any bearing.



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7. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.70/2022 dated 12.07.2022 passed by the second respondent is set aside. The detenu, viz., Ramkumar @ Kumarpandian S/o.Singadurai, aged about 37 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.)
10.07.2023

Internet : Yes
RR

Note: Copy to
The Additional Registrar General
Madurai Bench of Madras High Court.



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To

1. The Additional Chief Secretary to Government
Home Prohibition and Excise Department,
Secretariat, Fort st. George, Chennai-600 009.
2. The District Collector and District Magistrate
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3. The Superintendent of Prison,
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and
M.NIRMAL KUMAR,J.

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