



H.C.P.(MD) No.1307 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Srividhya

... Petitioner / Wife of the Detenue

Vs.

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

2.The District Collector and District Magistrate,
Office of the Collector and District Magistrate,
Theni District, Theni.

3.The Superintendent of Prison,
Madurai Central Prison, Madurai 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 of the 2nd respondent in Detention Order No.59 / 2022, dated 23.06.2022 and quash the same and direct the respondents to produce the body or person of the detenue, namely, Umasankar, S/o.Palanichamy,



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aged about 40 years, now confining as “Goonda” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu, namely, Umasankar, S/o.Palanichamy, aged about 40 years. The detenu has been detained by the 2nd respondent by his proceedings in Detention Order No.59 / 2022, dated 23.06.2022, 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.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3.The ground case is a solitary case for the alleged offence under Section 307 IPC. Based on which, on the basis of the report of the



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sponsoring authority, the detaining authority passed an order slapping the provisions of Act 14 of 1982 against the detainee on 23.06.2022.

4.Insofar as the subjective satisfaction aspect is concerned, the detaining authority has simply stated that the detainee is likely to come out on bail. If he comes out on bail, he will indulge in similar activities in future. That was mainly shown as a reason for coming to the subjective satisfaction by the detaining authority.

5.The very ground case itself is one case for the alleged offence under Section 307 IPC and there has been no previous case. Therefore, on what basis the detaining authority has come to such conclusion that he will indulge in similar activities in future, as he is not a habitual offender and moreover, there has been no other pending cases reported against the detainee. Without any valid material since the subjective satisfaction has been made by the detaining authority, which is a sole basis for passing of the detention order, which is impugned herein, we are inclined to interfere with the same. Therefore, the impugned detention order passed by the 2nd respondent in Detention Order No.59 / 2022, dated 23.06.2022 can be set



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aside, accordingly, it is set aside. Hence, this Habeas Corpus Petition is allowed. As a sequel, the 3rd respondent is hereby directed to set the detainee, namely, Umasankar, S/o.Palanichamy, aged about 40 years, at free, if his presence in the jail is not required for any other cases.

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

20.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

To

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

2.The District Collector and District Magistrate,
Office of the Collector and District Magistrate,
Theni District, Theni.

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

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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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