



HCP(MD)No.827 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 25.07.2023

CORAM

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

H.C.P.(MD)No.827 of 2023

Devi .. Petitioner / Mother of the detenu
Vs.

1.The Principal Chief Secretary to Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent of Prison,
Central Prison
Tiruchirappalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, pertaining to the impugned detention order passed by the second respondent in his proceedings in C.No.182/Detention/C.P.O./T.C./2022, dated 19.12.2022, in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda, quash the same and direct the respondents to produce the detenu, namely, Koluppu @ Bharathidasan, aged about 24 years, S/o.Selvaraj, now



HCP(MD)No.827 of 2023

detained at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is mother of the detenu viz., Koluppu @ Bharathidasan, aged about 24 years, S/o.Selvaraj. The detenu has been detained by the second respondent by his order in C.No. 182/Detention/C.P.O./T.C./2022, dated 19.12.2022, 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.



HCP(MD)No.827 of 2023

is a likelihood of the detenu coming out on bail, since in similar cases, bails are granted by the appropriate Courts. Perusal of the order dated 23.10.2021, passed in Cr.M.P.No.4529/2021, shows that though the learned Principal District and Sessions Judge, Tiruchirappalli, took note of the fact that a common verbatim of allegation is made in all other similar cases, considering the submission made by the learned Public Prosecutor that the accused therein namely, Kumaresan, had a previous case under Section 4(1) (a) of the Tamil Nadu Prohibition Act, 1937, bail was granted in Cr.M.P.No. 4529/2021. In our opinion, the said similar case relied upon by the detaining authority cannot be made applicable for the detenu, for the reason that, though the detenu herein had three pervious cases, till date, no bail application has been moved by the detenu in anyone of the cases and as on date, he is incarceration. Even there is no material placed before this Court to prove that the relatives or friends of the detenu have filed bail application for the detenu and therefore, the apprehension of the detaining authority that there is a real possibility of the detenu coming out on bail, does not at all arise.



HCP(MD)No.827 of 2023

6. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.182/Detention/C.P.O./TC/2022, dated 19.12.2022 passed by the second respondent is set aside. The detenu, viz., Koluppu alias Bharathidasan, aged about 24 years, S/o.Selvaraj, is directed to be released forthwith unless his detention is required in connection with any other case.

NCC : Yes / No
Index : Yes / No
smn2/RR

(M.S.R., J.) (M.N.K., J.)
25.07.2023

To

1.The Principal Chief Secretary to Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.



HCP(MD)No.827 of 2023

3. The Superintendent of Prison,
Central Prison
Tiruchirappalli.

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



WEB COPY



HCP(MD)No.827 of 2023

M.S.RAMESH, J.
and
M.NIRMAL KUMAR,J.

smn2/RR

H.C.P.(MD)No.827 of 2023

25.07.2023