



HCP(MD)No.958 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.08.2023

CORAM

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

H.C.P.(MD)No.958 of 2023

S.Mahalakshmi

.. Petitioner /Wife of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
George Fort,
Chennai – 600 009.

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records on the file of the second respondent in M.H.S.Confdl No.88/2022 dated 22.10.2022 and set-aside the order of detention passed therein in; direct the respondents to



HCP(MD)No.958 of 2023

produce the detenu by name Suresh Kannan @ Nettur Kannan, male, aged 35 years, S/o.Subbaiahthevar (the detenu) before this Court, now detained at Central Prison, Madurai and set-aside the order of detention passed therein in; and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

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., Sureshkannan alias Netturkannan, aged about 35 years, S/o.Subbaiahthevar. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.88/2022 dated 22.10.2022 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.958 of 2023

WEB COPY

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, after being aware of the fact that there was no bail application filed by the detenu, came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in Cr.M.P.No.743/2015 dated 11.02.2015. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not similar and on that score, the detention order is liable to be interfered with.

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

5. On carefully going through the detention order, the detaining authority was aware of the fact that no bail application was filed by the detenu. However, the detaining authority took into consideration the order passed in Cr.M.P.No.743/2015 dated 11.02.2015 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the



HCP(MD)No.958 of 2023

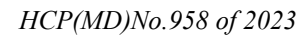
order shows that the accused therein was enlarged on bail since there were no previous cases against him. However, in the present case, the detenu was involved in one previous case and hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

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 M.H.S.Confdl No.88/2022 dated 22.10.2022 passed by the second respondent is set aside. The detenu, viz., Sureshkannan alias Netturkannan, S/o.Subbaiahthevar, aged about 35 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.)
17.08.2023

NCC : Yes / No
Index : Yes / No
Lm



1. The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
George Fort,
Chennai – 600 009.
2. The District Collector and District Magistrate,
Tenkasi District,
Tenkasi.
3. The Superintendent of Central Prison,
Madurai Central Prison,
Madurai.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.958 of 2023

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

Lm

H.C.P.(MD)No.958 of 2023

17.08.2023