



HCP(MD)No.838 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.838 of 2023

Prabakaran

.. Petitioner / Detenu

Vs.

1.State of Tamil Nadu

Represented by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

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

.. 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 H.S.(M) Confdl. No.30/2023 dated 15.02.2023 on the file of the 2nd respondent herein and quash the same and direct the



HCP(MD)No.838 of 2023

respondents to produce the detenu or body of the detenu namely, Prabakaran, aged about 26 years, S/o.Gurusamy, now detained at the Central Prison, Palayamkottai, before this Court and set him 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 detenu viz., Prabakaran, S/o.Gurusamy, aged about 26 years. The detenu has been detained by the second respondent by his order in H.S.(M) Confdl. No.30/2023 dated 15.02.2023 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.

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.838 of 2023

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 the copy of the initial remand order has not been furnished to the detenu, despite the same has been sought for by the petitioner in his representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4. Counter affidavit has not been filed in this petition. However, the learned Additional Public Prosecutor submitted that on completion of investigation, charge sheet has been filed in SC No.267/2023 and the same is pending before the I Additional District Judge, Tuticorin.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation made by the petitioner dated 28.06.2023, he had sought for the initial remand order, however, the same has not been furnished to the detenu, which vitiates the order of detention.



HCP(MD)No.838 of 2023

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M) Confdl. No.30/2023 dated 15.02.2023 passed by the second respondent is set aside. The detenu, viz., Prabakaran S/o.Gurusamy, aged about 26 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

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,
Thoothukudi District, Thoothukudi.

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

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



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HCP(MD)No.838 of 2023

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

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H.C.P.(MD)No.828 of 2023

16.08.2023