



HCP(MD)No.847 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.08.2023

CORAM

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

H.C.P.(MD)No.847 of 2023

Suresh

.. Petitioner /Detenu

Vs.

1.State of Tamil Nadu

Represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

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 M.H.S.Confdl No.14/2023 dated 23.02.2023



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on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Suresh, aged about 33 years, S/o.Pathipooranam, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

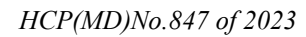
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Suresh, aged about 33 years, S/o.Pathipooranam. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.14/2023 dated 23.02.2023 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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.



5. On carefully going through the detention order, it is seen that the detaining authority, while arriving at a subjective satisfaction, had made a statement that the detenu is committing sexual crimes and also acting in a manner prejudicial to the maintenance of public order. However, no reference has been made to any previous or adverse cases that involves the detenu herein and as such, the subjective satisfaction arrived at by the detaining authority would amount to non-application of mind. Hence, the consequential detention order cannot be sustained.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl No.14/2023 dated 23.02.2023 passed by the second respondent is set aside. The detenu, viz., Suresh, S/o.Pathipooranam, aged about 33 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.)
18.08.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Tenkasi District,
Tenkasi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.



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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.



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

Lm

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