



HCP(MD)No.1357 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2023

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1357 of 2022

Mariammal

.. Petitioner/Mother of the
Detenu

Vs.

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

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

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

4. The Inspector of Police,
All Women Police Station,
Srirangam,
Trichy District.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, by calling for the records relating to the impugned order of detention made in C.No.87/Detention/C.P.O./T.C./2022 dated 23.06.2022 on the file of the Commissioner of Police, Tiruchirappalli City, the 2nd respondent herein, branding the petitioner's son/detenu by name Prabu, S/o.Vellaisamy, aged about 38 years, as 'SEXUAL OFFENDER' who is now confined in Central Prison, Tiruchirappalli, Tiruchirappalli District and quash the impugned order of detention and set him at liberty forthwith.

For Petitioner : Mr.T.A.Om Prakash

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

Based on the complaint given by one Tilagavathi to the Srirangam All Women Police Station on 14.05.2022, case was registered against one Prabu, owner of a laundry shop alleging that said Prabu been indulging in



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homosexual activity with the minor son of the defacto complainant.

Pursuant to that, said Prabu was arrested in Crime No.12 of 2022 on 14.05.2022 for the offence under POCSO Act. Thereafter, the detaining authority has passed a preventive detention order dated 23.06.2022 invoking the provisions of Act 14 of 1982 apprehending that the presence of the accused cause disturbance to the public peace and public health pointing out the reason for detaining assigned in the detention order.

2. The learned counsel for the petitioner states that it is a solitary case and there is no allegation of causing disturbance to public health. While so, the detention order passed without application of mind is liable to be quashed.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and perused the records produced before us.

4. On considering the definition of 'Sexual Offender' as found in Section 2(iv-B) of the Tamilnadu Act 14 of 1982, the detaining authority



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can detain a person if he is subjectively satisfied that his presence is adversely affect the maintenance of public order. Whereas the reasons assigned by the detaining authority in this case is that the presence of the accused may cause disturbance to the public health, the said ground does not available to detain a person as 'Sexual Offender' under Act 14 of 1982.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.87/Detention/C.P.O./T.C./2022 dated 23.06.2022 passed by the second respondent is set aside. The detenu, viz., Prabu, S/o.Vellaisamy, aged about 38 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
03.02.2023

Index: Yes/No
Internet: Yes/No
NCC : Yes/No
PJJ



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To

1. The Principal Secretary to Government,
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Secretariat,
Chennai-600 009.

2. The Commissioner of Police,
Trichirappalli District,
Trichirappalli.

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

4. The Inspector of Police,
All Women Police Station,
Srirangam,
Trichy District.

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



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**DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.**

PJL

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