



HCP(MD)No.959 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2023

CORAM

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

H.C.P.(MD)No.959 of 2023

Vasanth Meri

.. Petitioner / Mother of the Detenu

Vs.

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

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

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

.. 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 of the Respondent No.2 in C.No. 13/Detention/C.P.O/T.C/2023 dated 10.03.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name



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Aabu @ Abraham, son of Anthonysamy, aged about 26 years, now confining as 'Goonda' at Tiruchirappalli Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

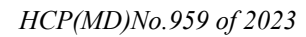
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Aabu @ Abraham, aged about 26 years, S/o.Antonysamy. The detenu has been detained by the second respondent by his order in C.No.13/Detention/C.P.O/TC/2023 dated 10.03.2023 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.



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.3651/2018 dated 31.08.2018 and came to the conclusion that there is a likelihood of the detenu coming out on bail.



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Perusal of the order shows that the accused therein was enlarged on bail since the learned Public Prosecutor had not raised any serious objection for granting bail. 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 C.No.13/Detention/C.P.O/TC/2023 dated 10.03.2023 passed by the second respondent is set aside. The detenu, viz., Aabu @ Abraham, S/o.Antonysamy, 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.)
20.09.2023

NCC : Yes / No
Index : Yes / No
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Tiruchirappalli.
3. The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli.
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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and
M.NIRMAL KUMAR,J.

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