



HCP(MD)No.882 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.09.2023

CORAM

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

H.C.P.(MD)No.882 of 2023

Thirumoorthy

.. Petitioner/detenu

Vs.

1.State of Tamil Nadu
rep. by the 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 District.

.. Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records connected with the detention order passed in HS(M) Confdl. No. 48/2023 dated 22.03.2023 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the



HCP(MD)No.882 of 2023

detenu, namely, Thirumoorthy, aged about 26 years, S/o.Maharajan, 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.Thiruvadikkumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Thirumoorthy, aged about 26 years S/o.Maharajan. The detenu has been detained by the second respondent by his order in HS(M) Confdl. No.48/2023 dated 22.03.2023 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.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly



HCP(MD)No.882 of 2023

focus his argument on the ground that, though there is no bail application filed by the detenu in the ground case and while arriving at a subjective satisfaction in the ground case with regard to coming out on bail, no reference has been made to the detenu's involvement in Crime No.31/2023, which is the adverse case and his likelihood of coming out on bail in the said case. Hence, the subjective satisfaction arrived at by the detaining authority suffers from non-application of mind.

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

5. In paragraph No.7 of the detention order, the detaining authority has made a reference to the ground case in Crime No.31/2023 and by quoting the bail order passed in the case of the co-accused in Cr.M.P.No. 4512/2015 dated 22.07.2015 in Crime No.422/2012, the detaining authority has arrived at a subjective satisfaction that the detenu is likely to come out on bail by filing bail application. However, no reference has been made to the detenu's involvement in Crime No.31/2023, which is the adverse case and his likelihood of coming out on bail in the said case. Thus, the



HCP(MD)No.882 of 2023

subjective satisfaction arrived at by the detaining authority would amount to non-application of mind. Hence, the impugned order of detention is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in HS(M) Confdl. No.48/2023 dated 22.03.2023 passed by the second respondent is set aside. The detenu, viz., Thirumoorthy S/o.Maharajan, 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.)
25.09.2023

NCC :Yes / No
Internet : Yes
RR



HCP(MD)No.882 of 2023

To

1. The Additional 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 District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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HCP(MD)No.882 of 2023

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

RR

H.C.P.(MD)No.844 of 2023

25.09.2023