



HCP(MD)No.1403 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1403 of 2022

M.Muthulakshmi

.. Petitioner/Sister of the detenu

Vs.

1.State of Tamil Nadu,
Rep. 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



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the detention order passed in M.H.S.Confdl.No.67/2022 dated 21.06.2022 on the file of the 2nd the respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, the petitioner's brother i.e., Sureshkumar alias Suresh, aged about 33 years, son of Gandhipandian, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The detenu has been detained by the second respondent by his order dated 21.06.2022 holding him to be "Sexual Offender", as contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. Among various grounds, it was highlighted by Mr.G.Pragalathan, learned counsel appearing for the petitioner that eventhough the detention



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order is dated 21.06.2022, the paper book consisting of all documents had been served on 18.06.2022 after 4.00 p.m, to the detenu where the detenu also signed on 18.06.2022. The Additional Superintendent of Central Prison, Palayamkottai, also signed on 18.06.2022 and in support of his contention, he has produced the original before this Court, where we found that the Jail Superintendent signed in the paper book on 18.06.2022 which has been served on the detenu on 18.06.2022 at 4.00 p.m.

4. When this was specifically questioned, the learned Additional Public Prosecutor though made an attempt to clarify this by stating that wrongly the date might have been mentioned by the jail superintendent, we are not impressed with the same because, on perusal, we find that the sponsoring affidavit itself was signed on 21.06.2022 and the grounds was served only on 23.06.2022. When that being so, the paper book ought not to have been served on the detenu on 18.06.2022.

5. However, the Additional Superintendent of Central Prison, Palayamkottai, also had signed on 18.06.2022, therefore, we cannot simply take it as an error, it is a sure non-application of mind on the part of the



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detaining authority, as before the detaining authority applied his mind on passing the order of detention, this paper book has been made ready in pukka form and it might have been transmitted to the jail authorities for the supply of the same to the detenu.

6. Therefore, it shows that it is predetermined that certainly the detaining authority would sign in the detention order and expecting the same or awaiting the orders, the paper book might have been despatched earlier to the jail authorities by serving the same to the detenu.

7. So, this is the case where the authorities, who made a request for slapping Act 14 of 1982 against the detenu, had predetermined the same and the detaining authority with non-application of mind would sign the orders. Therefore, if this ground is taken into account, we have no hesitation to hold that the impugned detention order would not be sustained in the legal scrutiny. Accordingly it is to be interfered with.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention M.H.S.Confdl.No.67/2022 dated 21.06.2022 passed by the



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second respondent is set aside. The detenu, Sureshkumar alias Suresh, aged about 33 years, son of Gandhipandian, is directed to be released forthwith unless his detention is required in connection with any other cases.

[R.S.K.,J.] & [K.K.R.K.,J.]
12.06.2023

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

PJL

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,
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Tenkasi.
- 3.The Superintendent of Prison,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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