



WEB COPY



HCP(MD)No.1406 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2023

CORAM

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

H.C.P.(MD)No.1406 of 2022

Usha

.. Petitioner /Wife of Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
District Collector's Office,
Thoothukudi District.

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the detention order passed by the 2nd respondent in H.S.(M)Confdl.No.144 of 2022 dated 21.07.2022 under Section 2(f) of Tamilnadu Act 14 of 1982 as a



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Goonda and quash the same and direct the respondents to produce the detenue namely, Kasidurai, S/o.Jeyaraj, Male aged about 31 years detained at Central Prison, Palayamkottai, before this Court and set him of liberty forthwith.

For Petitioner : M/s.K.Abiya

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Kasidurai, S/o.Jeyaraj, aged about 31 years. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.144/2022 dated 21.07.2022 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.



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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 focus his argument on the ground that the detaining authority has relied upon the order passed in CrI.O.P.(MD).No.23893 of 2016 dated 23.12.2016 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same was dismissed. However, he came to the conclusion that there is every possibility of the detenu coming out on bail by filing another bail application. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.



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

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.O.P.(MD).No.23893 of 2016 dated 23.12.2016, bail was granted to the accused therein for the offences under Sections 294(b), 302 and 506(ii) IPC. However, in the present case, the offences involved are under Sections 341 and 302 IPC. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

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 H.S.(M)Confdl.No.144/2022 dated 21.07.2022 passed by the second respondent is set aside. The detenu, viz., Kasidurai, S/o.Jeyaraj, aged



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about 31 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.)
03.07.2023

NCC : Yes / No
Index : Yes / No
Lm/RR

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
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- 2.The District Collector and District Magistrate,
District Collector's Office,
Thoothukudi District.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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