



HCP(MD)Nos.1429 and 1608 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.06.2023

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)Nos.1429 and 1608 of 2022

HCP(MD).1429 of 2022:

Keerthiga

.. Petitioner/ wife of the detenue

Vs.

1.State of Tamil Nadu,
Rep. by the Principal Secretary to the Government,
Home, Prohibition & Excise Department,
Chennai-600 009.

2.The Commissioner of Police,
Madurai City,
Madurai

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the entire records pertaining of



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the 2nd respondent made in his proceedings in detention order No. 64/BCDFGISSSV/2022 dated 13.08.2022 and quash the same and set the petitioner's husband by name Karthick, son of Kasimayan, aged about 29 years, at liberty from Central Prison, Madurai/3rd respondent.

For Petitioner : Mr.M.Jegadeesh Pandian

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

HCP(MD).1608 of 2022:

K.Parameshwari .. Petitioner/wife of the detenue

Vs.

1. Government of Tamilnadu,
Rep. by the Principal Secretary to the Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Madurai City,
Madurai

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents



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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 2nd respondent in No.65/BCDFGISSV/2022 dated 13.08.2022 and quash the same and direct the respondent to produce the person or body of the detenu namely, Kaviarasan @ Kavin, son of Ponnangan, aged 32 years, (now detained at Central Prison, Madurai) before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Dinesh

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

COMMON ORDER

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

The detenus have been detained by the second respondent by his order dated 13.08.2022 holding them to be "Goondas", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said orders are under challenge in these Habeas Corpus Petitions.



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2. There is one ground case which is a solitary case wherein the detenus had been arrested on 21.06.2022 pursuant to which the Forensic Report under the Tamilnadu Act 14 of 1982 has been slapped against the detenus and the order of detention had been passed on 13.08.2022.

3. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

4. In the grounds of detention, mainly, the detaining authority has stated that if the detenues come out on bail, they will indulge in future activities which will be prejudicial to the maintenance of public order.

5. In this context, it is to be noted that the similar issue had engaged a Co-ordinate Division Bench of this Court wherein H.C.P(MD)No.1815 of 2022 dated 21.02.2023 the Division Bench has held as follows:

“4. The possibility of releasing the accused on bail was imminent and if he is released on bail, his presence likely to cause prejudice to the public peace and therefore, the preventive detention order been slapped after due consideration of merit and careful consideration of relevant records. It is stated in the counter that recourse in normal criminal law effectively preventing him from



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indulging in such activity in future which are prejudice to the maintenance of the public order. The detaining authority has arrived at such a conclusion based on the sole and solitary case against the petitioner that too, arising out of a property dispute which is purely civil in nature and except this one case, there is no adverse record against the detenu to infer that he had been indulging in such activity in the past or he will indulge in such activity in future. Mere apprehension that he will indulge in such activity in future is not suffice to invoke the provision of Act 14 of 1982. There must be some prima facie material to arrive at such conclusion. In this case, this Court finds that no such material. Therefore for bereft of supportive documents, the detention order is vitiated.”

6. Mere apprehension that they will indulge in such activities in future, is not sufficient to invoke the provisions of the Tamilnadu Act 14 of 1982.

7. In these present cases also by mere apprehension that they will indulge in future activities, which have prejudicial to the maintenance of public order since the subjective satisfaction allegedly arrived at by the detaining authority which culminated in the order of detention which is impugned herein, we feel that based on mere apprehension, such a subjective satisfaction cannot be arrived at by the detaining authority and



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based on which Tamilnadu Act 14 of 1982 cannot be slapped against the accused/detenues. Therefore on that ground, we feel that the order of detention cannot sustained.

8. In the result, the Habeas Corpus Petitions are allowed and the order of detentions in No.64/BCDFGISSSV/2022 and No.65/BCDFGISSV/2022 dated 13.08.2022, passed by the second respondent are set aside. The detenus, viz., Karthick, son of Kasimayan, aged about 29 years and Kaviarasan @ Kavin, son of Ponnangan, aged 32 years, are directed to be released forthwith unless their detentions are 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

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To

- 1.State of Tamil Nadu
Rep.by its the Principal secretary to the Government,
Govt. of. Tamilnadu, Home,Prohibition
Excise Department,
Chennai-600 009.
- 2.The Comisioner of Police,
Madurai City,
Madurai
- 3.The Superintendent ,
Central prison,
Madurai
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.SURESH KUMAR,J.
and
K.K.RAMAKRISHNAN,J.

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