



HCP(MD)No.1473 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.07.2023

CORAM

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

H.C.P.(MD)No.1473 of 2022

Sudalaimuthu.S

.. Petitioner / father of the
detenu

Vs.

1.State of Tamil Nadu
rep. by the Additional Chief Secretary to Government
Home Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Collector and District Magistrate
Tirunelveli, Tirunelveli District

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order of the 2nd respondent in M.H.S.Confdl.No.134/2022 dated 05.08.2022 and quash the same and direct the respondents to produce the body or person of the detenu namely Kumar, S/o.Sudalaimuthu.S, aged about 20 years now



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detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz.,Kumar, aged about 20 years, S/o.Sudalaimuthu. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.134/2022 dated 05.08.2022 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.

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



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Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority, being aware of the fact that the detenu has not filed any bail application in the ground case, has relied upon the order passed in CrI.M.P.No.700/2021 dated 27.01.2021 and came to the conclusion that in a similar case bail has been granted and that there is a real possibility of the detenu coming out on bail. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar, since in the similar case, the offences are under Sections 294(b), 353, 307, 379 (sand theft) and 506(ii) IPC and there is non application of mind on the part of 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, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No. 700/2021 dated 27.01.2021, since the learned Public Prosecutor has no serious objection, the accused therein was enlarged on bail. Hence, the



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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 M.H.S.Confdl.No.134/2022 dated 05.08.2022 passed by the second respondent is set aside. The detenu, viz., Kumar S/o.Sudalaimuthu, aged about 20 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.)
05.07.2023

Internet : Yes
RR



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To

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
Tirunelveli, Tirunelveli District
3. The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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

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