



HCP(MD)No.1437 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.07.2023

CORAM

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

H.C.P.(MD)No.1437 of 2022

Esakkiraja alias Vathu

.. Petitioner/Detenu

Vs.

1.State of Tamil Nadu

Represented by the Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.

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

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 the detention order passed in M.H.S.Confdl.No.129/2022 dated 29.07.2022



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on the file of 2<sup>nd</sup> respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Esakkiraja alias Vathu, aged about 24 years, S/o.Thangapandi alias Ayyadurai, 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.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

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

The petitioner is the detenu viz., Esakkiraja alias Vathu, S/o.Thangapandi alias Ayyadurai, aged about 24 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No. 129/2022 dated 29.07.2022 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 Cr.M.P.No.6458/2020 dated 26.11.2020 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 Cr.M.P.No.6458/2020 dated 26.11.2020, bail was granted to the accused therein since no one sustained injury and there was no serious objection made. However, in the present case, the detenu was involved in five previous cases, which was not referred to in the similar case. 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 M.H.S.Confdl No.129/2022 dated 29.07.2022 passed by the



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second respondent is set aside. The detenu, viz., Esakkiraja alias Vathu, S/o.Thangapandi alias Ayyadurai, aged about 24 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.)  
04.07.2023

NCC : Yes / No  
Index : Yes / No  
Lm

To

- 1.The Additional Chief Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.
- 2.The District Collector and District Magistrate,  
Tirunelveli District,  
Tirunelveli.
- 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.**

Lm

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