



WEB COPY



HCP(MD)No.1439 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.1439 of 2022

Elanthalir @ Ashok @ Ashokkumar .. Petitioner / detenu

Vs.

1.State of Tamil Nadu
rep. by the Additional Chief 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

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, connected with the detention order passed in M.H.S.Confdl.No.73/2022 dated 11.08.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Elanthalir @ Ashok @ Ashokkumar, aged about 30 years, S/o.Raja, now detained at



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

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For Petitioner : Mr.N.Pragalathan

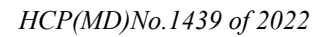
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Elanthalir @ Ashok @ Ashokkumar, aged about 30 years, S/o.Raja. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.73/2022 dated 11.08.2022 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.



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

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Section 167(2) Cr.P.C. 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.73/2022 dated 11.08.2022 passed by the second respondent is set aside. The detenu, viz., Elanthalir @ Ashok @ Ashokkumar S/o.Raja, aged about 30 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,
Secretariat, Chennai-600 009.
2. The District Collector and District Magistrate
Tenkasi District, Tenkasi.
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.

RR

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