



H.C.P.(MD) No.1578 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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S.Ragumabeevi

... Petitioner /mother of the
Detenue

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The District Collector and District Magistrate,
Nagercoil,
Kanyakumari District.

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

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Habeas Corpus, calling for the records relating to the
proceedings of the second respondent in Detention Order in



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P.D.No.42 of 2022 dated 24.06.2022, quash the same and consequently, direct the respondents to produce the detenue, namely, Riyas, S/o.Shakul hameed, aged 21 years, who is now detained in Central Prison, Palayamkottai, Tirunelveli District, before this Court and set him at liberty.

For Petitioner : Mr.N.Kamesh

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

O R D E R

(Order of the Court was made by R.SURESH KUMAR, J.)

Against the detenu, the second respondent/Detaining Authority had invoked Tamil Nadu Act 14 of 1982 and passed the detention order dated 24.06.2022, declaring him as “sexual offender” under Section 2 (ggg) of the said Act.

2. Challenging the said order, the present Habeas Corpus Petition has been filed.

3. Heard Mr.N.Kamesh, learned counsel appearing for the petitioner and Mr.A.Thirvadi Kumar, learned Additional Public Prosecutor appearing for the respondents.



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4. Among various grounds raised in this Habeas Corpus Petition, one such ground raised by the petitioner's side is that since it is only a solitary case which has been shown as a ground case to declare him as sexual offender, apart from this, no other case has been registered. When that being so, without any material basically, the Detaining Authority has come to a conclusion that if the detenu is released on bail, he would indulge in activity prejudicial to maintain the public health and public order. For coming to such a conclusion, to have a subjective satisfaction, no materials have been projected or considered by the Detaining Authority.

5. Though the learned Additional Public Prosecutor appearing for the respondents has made attempt to sustain the order impugned, we have gone through the said content made in the grounds of detention to have a subjective satisfaction by the Detaining Authority to state that the detenu would indulge in similar activity in future which would tend to prejudice the maintaining of public health and public order.

6. Insofar as the word 'public health' is concerned, that may not be required to refer here. But assuming that in respect of public order also, on



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what basis the Detaining Authority has come to such a conclusion by having the satisfaction that he would indulge in similar activity which would cause prejudice to the public order is not made available and therefore, on that ground, we feel that the impugned order cannot be sustained.

7. Accordingly, the detention order passed in P.D.No.42 of 2022 dated 24.06.2022, by the second respondent, is set aside and this Habeas Corpus Petition is allowed. Therefore, the detenu, namely, Riyas, S/o.Shakul Hameed, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)

13.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

ssb



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To

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