



H.C.P.(MD) No.1487 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1487 of 2022

Petchithai

... Petitioner / Mother of Detenu

Vs.

1.State of Tamilnadu,

Rep. by its Additional Chief Secretary to the Government,

Home, Prohibition and Excise Department,

Fort. St. George,

Chennai - 600 009.

2.The District Collector and District Magistrate,

Thoothukudi District,

Thoothukudi.

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 entire records leading to the detention of the petitioner's son namely Premkumar, S/o. Pandaram, aged



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about 21 years vide detention order dated 10.08.2022 made in No. H.S.(M) Confdl. No.163/2022 passed by the 2nd respondent and quash the same and consequently direct the respondents to produce the body or person of the detenu now detained at Central Prison, Palayamkottai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Vishnuvardhan

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

ORDER

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

This Habeas Corpus Petition has been filed to call for the records connected with the detention order in H.S.(M) Confdl. No.163/2022 dated 10.08.2022 on the file of the Respondent No.2 and quash the same as illegal and direct the Respondents to produce the body or person of the Petitioner's son namely Premkumar, S/o. Pandaram, aged about 21 years, now confined at Central Prison, Palayamkottai, before this Hon'ble Court and set him at liberty forthwith.

2. The detenu viz., Premkumar allegedly involved in a crime punishable under Section 302 I.P.C. Following the same, the recommending authority i.e., the investigating officer desired to make a recommendation to



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the detaining authority to slap Act 14 of 1982 against the detenu and accordingly, the detaining authority by order dated 10.08.2022 passed the order of detention against the detenu Premkumar. Challenging the same, the present Habeas Corpus Petition has been filed.

3. We have heard Mr.S.Vishnuvardhan, learned counsel appearing for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor, appearing for the respondents.

4. We have gone through the grounds of detention. As per order dated 10.08.2022, passed by the second respondent / District Collector / detaining authority, it is a case of murder that has taken place inside the house of the deceased, in which, he allegedly aided A1 to commit murder of his wife. Further, except this alleged fault, no other case has been pending or filed against the detenu. However, in the grounds of detention, the detaining authority has stated that, the detenu has been doing crimes and thereby acted in a manner prejudicial to the maintenance of public order, for which, absolutely there has been no material.



5. It has further been stated by the detaining authority that, the crime has taken place in a busy locality, however, it is admittedly taken place inside the premises of the deceased i.e., the house and therefore, it cannot be treated as a busy locality.

6. Atleast in one place, the detaining authority has stated that the detenu is a rowdy element, even for such decision taken and uttered by the detaining authority, there has been no material.

7. In view of the aforesaid, we are satisfied that the detaining authority before passing the order impugned has not applied his mind, therefore, for all these reasons, we feel that, the impugned detention order could not stand in the legal scrutiny.

8. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in H.S.(M) Confdl. No. 163/2022 dated 10.08.2022, is set aside. Consequently, the detenu, namely, Premkumar, S/o. Pandaram, aged about 21 years, who is now detained at Central Prison, Palayamkottai, is directed to be released forthwith unless his



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presence or custody or detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)
02.06.2023

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

To

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort. St. George,
Chennai - 600 009.

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

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

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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AND
K.K.RAMAKRISHNAN, J.

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