



HCP(MD)No.1456 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.02.2023

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1456 of 2022

Ravichandran

.. 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,
Thoothukudi District,
Thoothukudi.

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, calling for the entire records connected with the



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detention order passed in H.S(M) Confdl.No.123/2022, dated 28.06.2022 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 Ravichandran, aged about 36 years, S/o.Iyyapillai, 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

DR. G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

This Habeas Corpus Petition is filed by the detenu viz., Ravichandran, aged about 36 years, S/o.Iyyapillai. The detenu has been detained by the second respondent, by his order in H.S(M) Confdl.No. 123/2022, dated 28.06.2022 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. According to the petitioner, he has been branded as Goonda for involving a murder case taken up for investigation by Thattaparai Police Station, Thoothukudi, in Crime No.76 of 2022, dated 08.06.2022.

4. The learned counsel appearing for the petitioner would submit that the sole case has been registered against the petitioner and due to some personal motive alleging that the detenu had illicit intimacy with the wife of the deceased. When the detenu was arrested and remanded to judicial custody on 10.06.2022, he had made certain statements to the Magistrate and while making representation, a specific request was made to furnish a copy of the remand order. However, the detaining authority has not furnished the copy of the remand order and hence, the detenu was not able to make an effective representation. In view of the same, the learned counsel submitted that there is infraction of fundamental rights of the detenu and hence, the detention order suffers from illegality.



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5.This Court, on verifying the records, finds that extending the remand order subsequently, wrong supplied and not the first remand order.

The subjective satisfaction of the remand Magistrate and the statement made by the accused at the time of remand is not furnished to the detenu. This is a serious lapse which deprive the detenu to make effective representation.

6.In view of the above lapse, the detention order is vitiated and 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 H.S(M) Confdl.No.123/2022, dated 28.06.2022 passed by the second respondent is set aside. The detenu, viz., Ravichandran, aged about 36 years, S/o.Iyyapillai, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (S.M.,J.)
06.02.2023

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



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



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