



H.C.P.(MD) No.1505 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Gandhimathi

... Petitioner / Wife of the Detenu

Vs.

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

2.The District Collector and District Magistrate,
Office of the District Magistrate and District Collector,
Dindigul District, Dindigul.

3.The Superintendent of Prison,
Madurai Central Prison, Madurai 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 connected with the detention order of the 2nd respondent in Detention Order No.75 / 2022, dated 15.08.2022 and quash the same and direct the respondents to produce the body or person of the detenu, namely, Rajendran, S/o.Palanichamy, aged



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about 45 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu, namely, Rajendran, S/o.Palanichamy, aged about 45 years. The detenu has been detained by the 2nd respondent by his proceedings in Detention Order No.75 / 2022, dated 15.08.2022, 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.The learned counsel for the petitioner has stated that there is one solitary case that has been shown as a ground case and there has been no previous case against the detenu. When that being so, in order to come to subjective satisfaction, the detaining authority has stated that if the detenu comes out on bail, he will indulge in similar activities in future, which will



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prejudicial to the maintenance of public order, for which, there has been no material.

3.We have heard the learned Additional Public Prosecutor for the respondents, who would submit that, the solitary case can be shown as ground case and that is enough to come to a safe conclusion by the detaining authority to have a subjective satisfaction to declare the detenu as 'Goonda' under the provisions of Act 14 of 1982.

4.We have considered the said rival submissions made on either side.

5.Mere involvement in a crime assuming that if it is heinous in nature from the point of view of the prosecution would not give rise to invoke Act 14 of 1982. There must be some materials placed to come to a safe conclusion that if the detenu comes out on bail, certainly, he will indulge in similar activities, which may cause prejudice to the maintenance of the public order. Here in the case in hand, it is a murder case due to personal motive. Therefore, the question of his involvement in further



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similar crime, if he comes out on bail, may not be available, for which, there has been no material. Hence, the subjective satisfaction reached by the detaining authority is not based on the material. Accordingly, we feel that the impugned detention order passed by the 2nd respondent in Detention Order No.75 / 2022, dated 15.08.2022 can be set aside, accordingly, it is set aside. Hence, this Habeas Corpus Petition is allowed. As a sequel, the 3rd respondent is hereby directed to set the detenu, namely, Rajendran, S/o.Palanichamy, aged about 45 years, at free, if his presence in the jail is not required for any other cases.

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

19.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

To

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

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2.The District Collector and District Magistrate,
Office of the District Magistrate and District Collector,
Dindigul District, Dindigul.

3.The Superintendent of Prison,
Madurai Central Prison, Madurai District.

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



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