



H.C.P.(MD) No.1508 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1508 of 2022

Arunpandian

... Petitioner / Son of the Detenu

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The District Magistrate and District Collector ,
Madurai District, Madurai.
- 3.The Superintendent of Prison,
Central Prison, Madurai, Madurai District.
- 4.The Inspector of Police,
Silaiman Police Station, 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 in



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B.C.D.F.G.I.S.S.S.V.No.46 of 2022, dated 28.06.2022 and quash the same and direct the respondents to produce the body or person of the detenu, namely, S.Manikandan, S/o.Seenivasan, aged about 46 years, now detained at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.V.M.Jegadeesha Pandian

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 son of the detenu, namely, S.Manikandan, S/o.Seenivasan, aged about 46 years. The detenu has been detained by the 2nd respondent by his proceedings in Detention Order in B.C.D.F.G.I.S.S.S.V.No.46 of 2022, dated 28.06.2022, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.



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3.The learned counsel for the petitioner would submit that the detenu has been declared as 'Sexual Offender' under the provisions of Act 14 of 1982, which is a solitary case and in the documents that have been supplied to the detenu, similar case bail order has been applied, where it is an incomplete document, as atleast 3 pages are missing. That apart the statement under Section 161 Cr.P.C., given by the mother of the alleged victim, which has been recorded by the Inspector of Police, has been served in the paper book and the very same statement in the name of the victim girl also has been recorded and signed by the Inspector of Police, which has also been served in the paper book. Therefore, in a mechanical way by a cut and paste method the statement recorded in the name of the mother of the victim has been re-produced in the name of the victim also and this has not been noticed by the detaining authority.

4.Therefore, this kind of discrepancies even though are available in the respondents' paper book itself and if those documents are the documents, which have been perused by the detaining authority to have a subjective satisfaction, certainly it would be the case of non-application of mind.



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5.The said submission made by the learned counsel for the petitioner is appealing, as the statement under Section 161 Cr.P.C., said to have given by the mother of the victim has been replaced or re-produced as if the statement has been given by the victim and therefore, it is sure non- application of mind like and certain pages of the bail order in the similar case also have not been served on the detenu.

6.All these reasons would go to show that there has been non-application of mind on the part of the detaining authority. For the said reason, the impugned detention order passed by the 2nd respondent in Detention Order in B.C.D.F.G.I.S.S.S.V.No.46 of 2022, dated 28.06.2022 is set aside. Hence, this Habeas Corpus Petition is allowed. As a sequel, the 3rd respondent is hereby directed to set the detenu, namely, S.Manikandan, S/o.Seenivasan, aged about 46 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.)

21.06.2023

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



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To

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Madurai Bench of Madras High Court,
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