



HCP(MD)No.1526 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.06.2023

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

H.C.P.(MD)No.1526 of 2022

Ashok Kumar

.. Petitioner/
Father of the detenu

Vs.

1. The State of Tamil Nadu Rep.by,
The Additional Chief Secretary to Government,
Home, Prohibition and Exercise Department,
St.George Fort, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the Collectorate Building,
Thanjavur District,
Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the entire records pertaining to the detention order passed by the second respondent in P.D.No.104/2022 dated



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14.08.2022 and quash the same and to direct the respondents to produce the body or person of the detenu by name Anandbabu, son of Ashokkumar, aged about 37 years, now detained at Central Prison, Trichy, before this Court and set him at liberty forthwith.

For Petitioner : Mr.T.Indrachithu

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

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The detenu has been detained by the second respondent by his order dated 14.08.2022 holding him to be "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. The detenu has been arrested in an alleged POCSO offence case on 08.06.2022. Thereafter, after two months, ie., on 14.08.2022, the detaining authority had passed the impugned detention order slapping the Tamilnadu Act 14 of 1982 against the detenu.



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3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

4. Though several grounds had been urged on behalf of the detenu by the Mr.T.Indrachithu, learned counsel for the petitioner, one such ground was that, in the reasons of grounds for detention in order to have a subjective satisfaction, the detaining authority has stated that, on perusal of all the records, the accused is in the habit of indulging in sexual offences against women and children. In order to come to such a conclusion to have the subjective satisfaction, the detenu must have involved in the previous cases and there must be materials to show that he had involved in previous cases, unless he had involved in any previous cases or at least complaints had been given that he has been continuously involving in such sexual offences against women and children, such a satisfaction could not be arrived at by the detaining authority, as has been stated in para 8 of the grounds of detention and therefore, it shows that there was a complete non-application of mind on the part of the detaining authority on passing the order. On the sole ground, we feel that the impugned detention order is liable to set aside.



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5. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.104/2022, dated 14.08.2022 passed by the second respondent is set aside. The detenu, Anandbabu, aged 37 years, son of Ashokkumar, is directed to be released forthwith unless his detention is required in connection with any other cases.

[R.S.K.,J.] & [K.K.R.K.,J.]
05.06.2023

Index : Yes/No
Internet : Yes
PJL

To

1. The Additional Chief Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Exercise Department,
St.George Fort, Chennai-600 009.
2. The District Collector and District Magistrate,
Office of the Collectorate Building,
Thanjavur District,
Thanjavur.
3. The Superintendent of Prison,
Central Prison,
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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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