



HCP(MD)No.1049 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.08.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.1049 of 2023

Mariyammal

.. Petitioner / Mother of detenu

Vs.

1.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

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for records pertaining to the impugned detention order passed by the second respondent made in his proceedings in H.S.(M).Confdl.No.28/2023 dated 14.02.2023 in detaining



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the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the body or person of the detenu namely Anthony Surya Son of Muthuraj aged about 22 years, who is detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.V.Selvakumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The present Habeas Corpus Petition came up for admission on 21.08.2023 and we had granted six weeks' time for the learned Additional Public Prosecutor to file his counter affidavit. Thereafter, it was brought to our notice that the detention orders in the case of detenus, who were detained under orders passed after the detenu herein was detained under Act 14, have been quashed by this Court. In this background, we are of the view that the present Habeas Corpus Petition can be taken out of turn and accordingly, the matter is listed before us today under the caption “for being spoken to”.



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2. The petitioner is the mother of the detenu viz., Anthony Surya, aged about 22 years, S/o.Muthuraj. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.28/2023 dated 14.02.2023 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.

3. 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.

4. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 14.02.2023 and the grounds of detention ought to have been served within five days, i.e., on or before 18.02.2023. However, it was served on the detenu only on 21.02.2023 and therefore, there is a delay of eight days in serving the booklet to the detenu. On the said sole ground, he contended that the detention order is liable to be set aside.



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5. The learned Additional Public Prosecutor has not filed his counter.

However, he strongly opposed the Habeas Corpus Petition.

6. Perusal of the record would go to show that no doubt, the detention order was passed on 14.02.2023 and the booklet was served on the detenu only on 21.02.2023, which is evident from the endorsement made as under:

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As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of seven days and hence, the detention order is 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.28/2023 dated 14.02.2023 passed by the second respondent is set aside. The detenu, viz., Anthony Surya, S/o.Muthuraj, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
29.08.2023

NCC : Yes / No
Index : Yes / No
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2. The District Collector and District Magistrate,
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Thoothukudi.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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