



H.C.P.(MD) No.1549 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1549 of 2022

Chinnathurai

... Petitioner / 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,
Office of the District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 H.S.(M)Confdl.No.161/22 dated 03.08.2022 and quash the same and direct the respondents to produce the body or person of the detenu namely Chinnathurai, S/o.Ganapathy, aged



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about 26 years, now confining as “Goonda” at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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 detenu, namely, Chinnathurai, S/o.Ganapathy, aged about 26 years. The detenu has been detained by the 2nd respondent by his proceedings in H.S.(M)Confdl.No.161/22, dated 03.08.2022, 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 detenu has been arrested in the solitary ground case on 08.07.2022. Pursuant to which, Act 14 of 1982 has been slapped against him on 03.08.2022. On that date, the detention order has been passed, which is impugned in this Habeas Corpus Petition.



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3.The learned counsel for the petitioner would submit that though there are totally five accused in this case, against the detenue alone Act 14 of 1982 has been slapped.

4.We have perused the grounds of detention, wherein in paragraph No.5, it has been stated by the detaining authority that the accused Chinnathurai is an active rowdy and in paragraph No.6, it is further stated by the detaining authority that the accused is habitually committing crimes.

5.If he is already an active rowdy and committing crimes habitually, atleast few cases might have been registered against him. However, the learned Additional Public Prosecutor for the respondents would submit that there has been no previous case registered against the detenue.

6.When that being so, on what basis the detaining authority has stated that the accused is an active rowdy and habitually committing crimes. Therefore, it shows non-application of mind on the part of the detaining authority or otherwise the Court has presumed that despite this detenue has



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been committing crimes habitually, he has not been punished under the law and no case has been registered against him, which shows that the detainee might have involved in such a crime with the connivance of the concerned Police people. *Ipso facto*, it is a very serious issue. However, we do not want to go on that line.

7.In view of the above, we feel that it is a total non-application of mind by the detaining authority by making the aforestated submissions in paragraph Nos.5 and 6 of the grounds of detention and that itself would not sustain under the law. Therefore, the impugned detention order passed by the 2nd respondent in H.S.(M)Confdl.No.161/22, dated 03.08.2022 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 detainee, namely, Chinnathurai, S/o.Ganapathy, aged about 26 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.)

27.04.2023

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,
Madurai.



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