



HCP(MD)No.1093 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.09.2023

CORAM

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

H.C.P.(MD)No.1093 of 2023

Shanthi

.. Petitioner / Mother of the
Detenu

Vs.

1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Kanniyakumari District,
Nagercoil.

3.The Superintendent of Prison,
Central Prison, Palayamkottai.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records from the 2nd respondent pertaining to the detention made in P.D.No.05/2023, dated 20.02.2023 in detaining the detenu under the Tamil Nadu Act 14 of 1982 as a “DRUG OFFENDER” and quash the same and direct the respondents to produce the said detenu viz., Dhanush @ Thendral, aged 19, S/o.Ramesh, who is now detained in the Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.S.Jeyasingh

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

ORDER

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

The petitioner is the mother of the detenu viz., Dhanush @ Thendral, S/o.Ramesh, aged about 19 years. The detenu has been detained by the second respondent by his Detention order in P.D.No.05/2023, dated 20.02.2023, holding him to be a "Drug Offender", as contemplated under



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Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. 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.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the petitioner has sent a representation on 27.02.2023, within 12 days from the date of detention order to the detaining authority. However, the said representation has not been referred to in the detention order. Therefore, he submitted that on the sole ground, the detention order is liable to be quashed.

4. On carefully going through the detention order, it is seen that though the petitioner has sent a representation on 27.02.2023, within 12



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days from the date of detention order to the detaining authority, the said representation has not been referred to in the detention order.

5. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.05/2023, dated 20.02.2023, passed by the second respondent is set aside. The detenu, viz., Dhanush @ Thendral S/o.Ramesh, aged about 19 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.)
07.09.2023

NCC : Yes / No
Index : Yes / No

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



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and
M.NIRMAL KUMAR,J.

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