



HCP(MD)No.1046 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.1046 of 2023

A.Lakshmanan

.. Petitioner / Brother of the
Detenu

Vs.

1.State of Tamil Nadu,
Rep. By 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



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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 entire records connected with the detention order passed in H.S.(M) Confdl.No.39/2023, dated 02.03.2023 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, the petitioner's brother i.e., Nellaiappan, aged about 22 years, S/o.Arumuga Nainar, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

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 brother of the detenu viz., Nellaiappan, S/o.Arumuga Nainar, aged about 22 years. The detenu has been detained by the second respondent by his Detention order in H.S.(M) Confdl. No. 39/2023, dated 02.03.2023, 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.



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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 though reliance has been placed by the detaining authority on the remand order, the copy of the remand order has not been furnished to the detenu. Therefore, he submitted that on the sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, when the detaining authority has placed reliance upon the remand order, the same has not been furnished to the detenu, which vitiates the order of detention.



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5. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(MD) Confdl. No.39/2023, dated 02.03.2023, passed by the second respondent is set aside. The detenu, viz., Nellaiappan S/o.Arumuga Nainar, 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.)
07.09.2023

NCC : Yes / No
Index : Yes / No

vsm



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- 3.The Superintendent of Prison,
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Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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