



H.C.P.(MD) No.1635 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1635 of 2022

Kavitha

... Petitioner / Aunty of the Detenue

Vs.

1.The State of Tamil Nadu,

Represented by its

Principal Secretary to Government,

Home, Prohibition and Excise Department,

Fort St.George, Chennai-600 009.

2.The Commissioner of Police,

Madurai City, Madurai.

3.The Superintendent of Prison,

Central Prison, Madurai.

4.The Inspector of Police,

E1-K.Pudur Police Station, Madurai City.

...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 Detention Order No.58/BCDFGISSSV/2022 dated 22.07.2022 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu Pandiyarajan @ Sadai, S/o.Kumar, aged about 22 years, who is detained at Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.R.Manoharan

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 aunty of the detenu, namely, Pandiyarajan @ Sadai, S/o.Kumar, aged about 22 years. The detenu has been detained by the 2nd respondent by his proceedings in Detention Order No.58/BCDFGISSSV/2022 dated 22.07.2022, 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.Mr.R.Manoharan, learned counsel appearing for the petitioner on behalf of the detenue would submit that it is a solitary case, which has



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been shown as a ground case for which the detinue has been arrested on 29.05.2022. Subsequently, the detention order has been passed on 22.07.2022. Insofar as the ground for such detention is concerned, it has been simply stated that if the detinue is released on bail, it would affect the public peace and tranquility in that area. By having some apprehension the detaining authority has slapped Goonda Act against the detinue.

3. There are totally four accused in the ground case. Against all the four accused, the Act 14 of 1982 has been slapped. In respect of the detinue, namely, Manimaran, S/o.Irulappan, H.C.P.(MD)No.1276 of 2022 has been filed, which has been considered by the co-ordinate Bench of this Court by order dated 27.02.2023 and that Habeas Corpus Petition was allowed.

4. Citing the said order passed by the co-ordinate Bench of this Court, the learned counsel appearing for the petitioner would canvass the point that since the detinue in this case also is a similarly placed person, the reason given by the co-ordinate Bench of this Court in H.C.P.(MD)No.1276 of 2022, is squarely applicable to the present case also.



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5. We have heard both sides and carefully perused the materials placed before this Court.

6. Insofar as the order dated 27.02.2023 passed in H.C.P.(MD) No.1276 of 2022 is concerned, the co-ordinate Bench of this Court, where one of us is a party, has considered the background factual matrix of the ground case and accordingly, has held as follows:-

“6. This Court, on perusing the papers relied on by the detaining authority to invoke Article 14 of 1982, found that except the confession statement of the witnesses, the statement of one witness, who seen the accused person and the deceased alive near a bar quarrelling, there is no other evidence directly implicating the detenu in this case. Further, the occurrence, even according to the prosecution, has taken place in a secret place without any eye witness to the occurrence and the petitioner has no adverse case against him. Fear or apprehension that there is a likelihood of getting bail and if the detenu comes out on bail, he will indulge in future activities, which prejudicial to the maintenance of peace, is highly unsustainable. Therefore, the detention order is liable to be quashed.”



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7.The said view taken by the co-ordinate Bench of this Court certainly would be applicable to the present case. Therefore, we are of the view that the detenue is also entitled to the same relief. Accordingly, the impugned detention order passed by the 2nd respondent in Detention Order No.58/BCDFGISSSV/2022, dated 22.07.2022 is set aside. In the result, this Habeas Corpus Petition is allowed. As a sequel, there shall be a direction to the 3rd respondent to set the detenue, namely, Pandiyarajan @ Sadai, S/o.Kumar, aged about 22 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.)
16.03.2023
(3/3)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MYR

To

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

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AND

K.K.RAMAKRISHNAN, J.

MYR

2.The Commissioner of Police,
Madurai City, Madurai.

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

4.The Inspector of Police,
E1-K.Pudur Police Station, Madurai City.

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

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