



H.C.P.(MD) Nos.1643 and 1653 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 02.06.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**AND**

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**H.C.P.(MD)Nos.1643 and 1653 of 2022**

Muniyammal

... Petitioner / Mother of the Detenu  
in H.C.P.(MD) No.1643 of 2022

Thangam

... Petitioner / Mother of the Detenu  
in H.C.P.(MD) No.1653 of 2022

**Vs.**

1.The State of Tamilnadu,

Rep. by its Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai – 600 009.

2.The District Collector and District Magistrate,

Thoothukudi District,  
Thoothukudi.

3.The Superintendent of Prison,

Central Prison, Palayamkottai,  
Tirunelveli District.

... Respondents in both petitions



H.C.P.(MD) Nos.1643 and 1653 of 2022

**COMMON PRAYER:** Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records leading to the detention of the petitioners' son namely Sivaperumal @ Siva, S/o. Karuppasamy, aged about 26 years vide detention order dated 11.08.2022 made in H.S.(M) Confdl. No.166/2022 and Muthuraja @ Babhuraja, S/o. Muthusamy, aged about 20 years vide detention order dated 11.08.2022 made in H.S.(M) Confdl. No.167/2022 respectively passed by the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to produce the body or person of the detenues now detained at Central Prison, Palayamkottai, before this Hon'ble Court and set them at liberty.

For Petitioner : Mr.S.Vishnuardhan  
in both petitions

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

**COMMON ORDER**

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioners are the mothers of the respective detenues. These Habeas Corpus Petitions have been filed by them to call for the records pertaining to the detention orders passed by the 2<sup>nd</sup> respondent made in H.S. (M) Confdl. Nos.166 and 167/2022, dated 11.08.2022 and quash the same



and consequently set the detenues namely Sivaperumal @ Siva, S/o. Karuppasamy, aged about 26 years and Muthuraja @ Babhuraja, S/o. Muthusamy, aged about 20 years, who have been termed as Goondas and detained at Central Prison, Palayamkottai, at liberty.

2. In a case in Crime No.98 of 2022 on the file of the Kurumbur Police Station, there had been four accused. These detenues are also accused ranking A3 and A4. Based on the said murder case, where these detenues were arrested, the investigating authority decided to make a recommendation to the detaining authority to slap Act 14 of 1982 against these two detenues and accordingly, on the basis of the recommendation, the detaining authority by order dated 11.08.2022 passed the impugned detention orders in respect of these two detenues, which are under challenge.

3. Among various grounds, learned counsel for the petitioners would canvass the point that, insofar as these two detenues are concerned, except the ground case as referred to above, there has been no previous case, however, to have a subjective satisfaction, the detaining authority in



the grounds of detention has stated that these detenues have been doing crimes and thereby acted in a manner prejudicial to the maintenance of public order.

4. The said statement given by the detaining authority by treating these detenues as habitual offenders by committing various crimes even previously prior to the ground case is without any materials and to that extent no material has been shown by the detaining authority by indicating the same in the grounds of detention. Therefore, the main criteria for having the subjective satisfaction are not available and therefore, on that ground, the learned counsel seeks indulgence of this Court.

5. Heard Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents, who would submit that insofar as these two detenues are concerned, they have been detained along with the other two accused as there were totally four accused in the ground case and insofar as the other two accused are concerned, they have already involved in a previous case, which is also a murder case punishable under Section 302 I.P.C. and those two accused stood as A1 and A2 as they engaged A3



and A4, who are the present detenues for committing the murder and therefore, by taking into account the totality of the situation, where a gang of four people involved in the crime of murder, the detaining authority on the basis of the materials available before him as well as the recommendations made by the recommending authority has come to a conclusion with a satisfaction that, all the four jointly been involved in the crime, therefore, that can be taken into account for having such a subjective satisfaction on the part of the detaining authority, he contended.

6. We have considered the said rival submissions made by the learned counsel for the parties and perused the materials placed before this Court.

7. Though such an attempt was made by the learned Additional Public Prosecutor appearing for the respondents, we are not impressed with the same because if a detaining authority has come to a subjective satisfaction, that too branding a person as a Goonda on the basis of his continuous involvement of crime and if it is averred in the grounds of detention, there must be some materials backing such a decision or



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conclusion arrived at by the detaining authority and without any such material, as no such previous crime has been registered against these two detenues, such a conclusion arrived by the detaining authority to have a subjective satisfaction may not be justifiable, therefore, on that ground we feel that the impugned orders would not stand in the legal scrutiny.

8. In the result, these Habeas Corpus Petition are allowed. The order of detention passed by the second respondent, in H.S.(M) Confdl. Nos.166 and 167/2022, dated 11.08.2022 are set aside. Consequently, the detenues, namely, Sivaperumal @ Siva, S/o. Karuppasamy, aged about 26 years and Muthuraja @ Babhuraja, S/o. Muthusamy, aged about 20 years, who are now detained at Central Prison, Palayamkottai, are directed to be released forthwith unless their presence or custody or detention is required in connection with any other case.

**(R.S.K., J.) & (K.K.R.K, J.)**

**02.06.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
SJ



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To

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- 2.The District Collector and District Magistrate,  
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- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**AND**

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