



H.C.P(MD)No.1657 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.1657 of 2022

M.Nithyadevasena

.. Petitioner

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

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records connected with the detention order passed in H.S.(M)Confdl.No.199/2022 dated 08.09.2022 on the file of the second respondent herein and quash the same and direct



the respondents to produce the detenu or body of the detenu namely Mayilvahanan, S/o.Chellappa, aged about 48 years, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.M.Vishnuvarthanan

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 wife of the detenu viz., Mayilvahanan, S/o.Chellappa, aged about 48 years. The detenu has been detained by the second respondent by order in H.S.(M)Confdl.No.199/2022 dated 08.09.2022 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. 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. The learned counsel appearing for the petitioner would submit that the detenu has been arrested in the third adverse in Crime No.32 of 2022 on the file of the District Crime Branch (Anti Land Grabbing Special Cell), Thoothukudi and in the ground case, only formal arrest has been made. 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 copy of the initial remand order has not been furnished to the petitioner, despite the same has been sought for by her in her representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side, it is seen that the detenu has been remanded to judicial custody in the third adverse case and in the ground case only formal arrest has been made. Upon perusal



H.C.P(MD)No.1657 of 2022

of the documents available on record, especially, the representation made by the petitioner dated 27.09.2022, it is seen that though the petitioner had sought for the initial remand order, the same has not been furnished to her, which vitiates the order of detention.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.199/2022 dated 08.09.2022 passed by the second respondent is set aside. The detenu, viz., Mayilvahanan, S/o.Chellappa, aged about 48 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.)

11.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

mbi



H.C.P(MD)No.1657 of 2022

To

WEB COPY

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



WEB COPY



H.C.P(MD)No.1657 of 2022

M.S.RAMESH, J.
and
M.NIRMAL KUMAR, J.

mbi

H.C.P(MD)No.1657 of 2022

11.07.2023

Page 6 of 6