



HCP(MD)No.1662 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.07.2023

CORAM

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

H.C.P.(MD)No.1662 of 2022

Subbulakshmi

.. Petitioner / Mother of the detenu

Vs.

1.The Additional Chief Secretary to Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate,
Tuticorin District,
Tuticorin.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in Detention Order H.S.(M)Confdl.No.179/2022, dated 25.08.2022, in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as



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a "Goonda", quash the same and direct the respondents to produce the detenu namely, Murugan @ Stephen, S/o.Jeyaraman, Male, aged 40 years, detained in Central Prison, Palayamkottai, Tirunelveli District, before this Court and set him at liberty.

For Petitioner : Mr.KA.Raamakrishnan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu *viz.*, Murugan @ Stephen, S/o.Jeyaraman, Male, aged 40 years. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.179/2022, dated 25.08.2022, 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.



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3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority has relied upon the order passed by this Court in CrI.O.P.(MD)No.23893 of 2016, dated 23.12.2016, and came to the conclusion that in a similar case, bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non-application of mind on the part of the detaining authority.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority, passed in CrI.O.P. (MD)No.23893 of 2016, dated 23.12.2016, this Court after considering the fact that the accused therein namely, Kanagaraj had suffered more than 173



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days of incarceration, granted bail to him. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

6. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.179/2022, dated 25.08.2022, passed by the second respondent is set aside. The detenu, viz., Murugan @ Stephen, S/o.Jeyaraman, aged about 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
smn2/RR

(M.S.R.,J.) (M.N.K.,J.)
07.07.2023



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To

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



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