



HCP(MD)No.1698 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2023

CORAM

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

H.C.P.(MD)No.1698 of 2022

Mariyappan

.. Petitioner/Father of the Detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise (IX) Department,
Secretariat,
Chennai – 9.

2.The District Magistrate and District Collector,
O/o. District Collector,
Virudhunagar District,
Virudhunagar.

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the entire records pertaining to detention order dated 05.10.2022 passed by the second respondent in



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Cr.M.P.No.39/2022 and quash the same as illegal and further direct the respondents herein to produce the body or person of the detenu namely Alagumurugan, S/o.Mariappan, aged about 19 years now detained at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.C.Senthil Murugan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Alagumurugan, aged about 19 years, S/o.Mariappan. The detenu has been detained by the second respondent by his order in Cr.M.P.No.39/2022 dated 05.10.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 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 in CrI.M.P.No.1951/2020 dated 15.10.2020 and came to the conclusion that in a similar case, bail has been granted and that there is likelihood of the detenu coming out on bail in the adverse case in Crime No.181/2022. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the said 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.



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4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. It is further submitted that investigation has been completed in this case and final report has been filed in S.C.No.214/2022 and the same is pending before the Mahila Court, Srivilliputtur.

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No. 1951/2020 dated 15.10.2020, the accused therein had suffered 84 days of incarceration and the accused therein was enlarged on bail considering the COVID-19 pandemic situation. 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.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.39/2022 dated 05.10.2022 passed by the second respondent is set aside. The detenu, viz., Alagumurugan, S/o.Mariappan, aged about 19 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.)
20.09.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (IX) Department,
Secretariat,
Chennai – 9.
- 2.The District Magistrate and District Collector,
O/o. District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Superintendent,
Central Prison,
Madurai.



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4.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai.

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



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

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