



H.C.P.(MD) No.1762 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)No.1762 of 2022

Pugalenthi @ Prabhakaran

... Petitioner / Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Ramanathapuram District.

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

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Habeas Corpus, calling for the records connected with the



H.C.P.(MD) No.1762 of 2022

detention order of the Respondent No.2 in S.R.No.22/Goonda/2022 dated 11.08.2022 and quash the same and direct the Respondents to produce the body or person of the detenu by name Pugalenthil @ Prabhakaran son of Nageswaran aged about 31 years, now detained as “Goonda” at Madurai Central Prison before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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 detenu. This Habeas Corpus Petition has been filed by him to call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in S.R.No. 22/Goonda/2022 dated 11.08.2022 and quash the same and direct the respondents to produce the detenu, namely, Pugalenthil @ Prabhakaran son of Nageswaran aged about 31 years, now detained as “Goonda” at Madurai Central Prison before this Court and set him at liberty forthwith.

2. A criminal case has been registered in Crime No.162 of 2022 under Section 302 I.P.C. at R.S. Mangalam Police Station, based on which,



according to the respondents, investigation reveals that the detenu has committed the murder, based on his confession statement which was recorded, and therefore, the investigating authority has recommended to the detaining authority to invoke the provision of Act 14 of 1982 against the detenu. Accordingly, the detaining authority passed an order on 11.08.2022 detaining the detenu under the Act 14 of 1982 branding him as a Goonda. Challenging the same, the present HCP has been filed.

3. Heard Mr.Alagumani, learned counsel appearing for the petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor, appearing for the respondents.

4. We have gone through the grounds of detention, where, the registration of the criminal case as stated supra has been mentioned, thereafter, it was stated that the investigation revealed that the accused, who is the detenu, has committed the crime, therefore, he was arrested on 22.05.2022 at 12.00 hours and his confession statement was recorded. Only based on these narrations, the detaining authority has immediately come to a conclusion to state that, he was satisfied that the detenu has acted in a



manner prejudicial to the maintenance of public order, therefore, he can be treated as a Goonda as contemplated under Section 2(f) of Act 14 of 1982.

The detaining authority has further stated that, by committing the aforestated crime, he has created a feeling of insecurity in the minds of people, thereby, acted in a manner prejudicial to the maintenance of public order.

5. By making this statement, whether the detaining authority has had a subjective satisfaction, for which, whether any materials are available and in this context, atleast any statement has been recorded from the womenfolk in that locality are all absent as no such material seems to have been collected or placed before the detaining authority.

6. The detaining authority also by narrating the abovestated, only come to a cryptic conclusion mechanically, without applying his mind as if that he has got a subjective satisfaction to declare the detenu as a Goonda within the meaning of Section 2(f) of the Act.



7. If this kind of mechanical way of slapping the provision of Act 14 of 1982 against every accused, who allegedly involved in a case of murder, is followed, then in each case of murder the detaining authorities of the various districts have to necessarily invoke the provisions of Act 14 of 1982.

8. That is not intended by any provision of the Preventive Detention Act and several effective measures are provided emanating from Article 22 of the Constitution which has been time and again held by the Courts of Law in a catena of decisions.

9. If we evaluate the reasons given in this case within the parameter of the aforestated, we have no hesitation to hold that the detention order would not stand in the legal scrutiny.

10. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in S.R.No.22/Goonda/2022 dated 11.08.2022, is set aside. Consequently, the detenu, namely, Pugalenthil @ Prabhakaran, Son of Nageswaran, aged about 31 years, who is now



H.C.P.(MD) No.1762 of 2022

detained at Central Prison, Madurai, is directed to be released forthwith unless his 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

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
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3.The Superintendent of Prison,
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Madurai District.



H.C.P.(MD) No.1762 of 2022

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



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AND
K.K.RAMAKRISHNAN, J.

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