



HCP(MD)No.1779 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2023

CORAM

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

H.C.P.(MD)No.1779 of 2022

Duraisamy

.. Petitioner / Detenu

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 filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S.(M)Confdl.No.204 of 2022 dated



HCP(MD)No.1779 of 2022

15.09.2022 on the file of 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu or body of the detenu namely, Duraisamy, aged about 25 years, S/o.Ponraj, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Duraisamy, S/o. Ponraj, aged about 25 years. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.204/2022 dated 15.09.2022 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



HCP(MD)No.1779 of 2022

have also perused the records produced by the Detaining Authority.

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3. 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 detenu, despite the same has been sought for by the petitioner in his representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4. It is submitted by the learned Additional Public Prosecutor for the respondents that upon completion of the investigation, charge sheet has been filed and the same is pending before the PCR Court, Tuticorin in SC No.35/2022.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, the representation made by the petitioner dated 12.10.2022, he had sought for the initial



HCP(MD)No.1779 of 2022

remand order, however, the same has not been furnished to the detenu,
which vitiates the order of detention.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.204/2022 dated 15.09.2022 passed by the second respondent is set aside. The detenu, viz., Duraisamy, S/o.Ponraj, aged about 25 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.)
12.07.2023

NCC : Yes / No
Index : Yes / No
RR



HCP(MD)No.1779 of 2022

To

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.



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HCP(MD)No.1779 of 2022

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

RR

H.C.P.(MD)No.1779 of 2022

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