



H.C.P(MD)No.1810 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.07.2023

CORAM :

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

H.C.P(MD)No.1810 of 2022

Amutha

.. Petitioner

vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.

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

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

... 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 of the second respondent in P.D.No.136/2022 dated 25.09.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Saravanan, S/o.Athmanathan, aged about 35 years, now detained as 'Goonda' at Tiruchirappalli, Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.Pragadeesh Kumar

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., Saravanan, S/o.Athmanathan, aged about 35 years. The detenu has been detained by the second respondent by order in P.D.No.136/2022 dated 25.09.2022 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.



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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.4734/2020 dated 11.11.2020 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 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 this petition by filing counter.

5. On carefully going through the detention order and upon perusal of the documents on record, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No.4734/2020 dated 11.11.2020, the offences alleged against the accused therein include an offence under the Arms Act. However, in the present case, no offence under the Arms Act is alleged against the detenu. 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 P.D.No.136/2022 dated 25.09.2022 passed by the second



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respondent is set aside. The detenu, viz., Saravanan, S/o.Athmanathan, aged about 35 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.)
13.07.2023

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

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate,
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Thanjavur District.
- 3.The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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