



HCP(MD)No.1820 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.01.2023

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1820 of 2022

Chitra

.. Petitioner

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

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

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 entire records, connected with the detention order of the Respondent No.2 in Detention Order No.52/2022 dated 07.06.2022 and quash the same and direct the respondents to produce



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the body or person of the detenu by name Mummoorthi @ Thothal , son of Balamurugan, aged about 20 years, now confining at “Sexual Offender” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner :Mr.R.Alagumani

For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

The petitioner Chitra is the mother of one Mummoorthi @ Thothal, who has been detained under Goondas Act being branded as “Sexual Offender”.

2. In view of registration of the complaint in Cr.No.109/2022 given by the mother of the minor boy alleging that the detenu has sexually assaulted her minor son, the case under Section 4 of Protection of Children from Sexual Offences Act 2012 was registered on 14.05.2022.

3. The detaining authority, on considering the antecedents of the



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detenu Mummoorthi @ Thothal propensity to commit similar offence, has detained him under Act 14 of 1982 preventively vide proceedings dated 07.06.2022. The said detention order is challenged on the ground that the detaining authority has not applied the mind properly to the records and further, the adverse case record is not similar offence. Further more, the complaint itself motivated one. The medical records of the victim boy clearly indicates that there is no sign of violence on the private part of the victim boy. It is also contended that in the booklet order Tamil Version of the remand extension was not furnished to the detenu to make effective representative.

4. A detailed counter been filed by the second respondent, wherein, it is stated that the detenu was an accused in C.C.No.76/2022 pending trial for the offences under Sections 294(b), 323, 324 and 506(ii) IPC. As far as this case is concerned, investigation has been completed and final report filed and the same was taken on file by Mahila Court, Theni in Spl.S.C.No. 92/2022. On considering the gravity of offence and the fear caused to the public, detention order was passed on 07.06.2022 and the same was confirmed on 29.08.2022. The imminent possibility of the accused coming



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out on bail and committing the similar offence was the reason for detaining the detenu under Act 14 of 1982 branding him as Sexual Offender.

5. This Court on perusing the record finds that the adverse case is not similar offence and said offence is in connection with the family dispute. As far as the ground case is concerned, the subjective satisfaction of the detaining authority that the detenu propensity to commit the similar offence is not bound by any records. The presumption drawn by the detaining authority is without any basis and therefore, the detention order is liable to be quashed.

6. In fine, the Habeas Corpus Petition is allowed. The detention order passed in No.52 of 2022, dated 07.06.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Mummoorthi @ Thothal, S/o.Balamurugan, aged about 20 years, who is now detained in Central Prison, Madurai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

[G.J.,J.] [S.M.,J.]
31.01.2023

Index : Yes / No
Internet : Yes / No
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