



H.C.P(MD)No.1839 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

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.1839 of 2022

Ramya

.. Petitioner

vs.

1.State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.

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

4.The Inspector of Police,
Karaikudi South Circle Police Station,
Sivagangai.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records relating to the detention of the petitioner's father namely Sundar @ Balasundar, S/o.Kalimuthu, aged about 58 years under Section 2(e) of the Tamil Nadu



Act 14 of 1982 vide Detention Order dated 24.09.2022 in Cr.M.P.No. 41/D.O/2022 passed by the second respondent herein and quash the same as illegal and consequently direct the respondents herein to produce the person or body of the detenue Sundar @ Balasundar, S/o.Kalimuthu, aged about 58 years, now confined at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mrs.N.Rekha

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 daughter of the detenu viz., Sundar @ Balasundar, S/o.Kalimuthu, aged about 58 years. The detenu has been detained by the second respondent by order in Cr.M.P.No.41/D.O/2022 dated 24.09.2022, holding him to be a 'Drug Offender', as contemplated under Section 2(e) 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



have also perused the records produced by the Detaining Authority.

WEB COPY

3. The learned counsel for the petitioner submits that in the grounds of detention, the detaining authority has stated that he was aware that the detenu is now at Borstal School and District Jail, Pudukkottai in connected with the ground case. He further submits that since the Borstal Schools have been abolished in the State, the detenu could not have been detained in the Borstal School. Even without considering the same, the detaining authority had passed the detention order and therefore, it is liable to be set aside.

4. The learned Additional Public Prosecutor strongly opposed this petition by filing counter.

5. In the grounds of the detention, the detaining authority had recorded that he was aware that the accused is now at Borstal School and District Jail, Pudukkottai in connection with his involvement in the ground case in Crime No.136 of 2022. In the booklet supplied in support of the grounds of detention, the order of detention clearly indicates that the detenu



H.C.P(MD)No.1839 of 2022

was detained in the Sub Jail, Thiruppathur. It is common knowledge that the Borstal Schools have already been abolished in the State long back and as such, the detenu could not have been detained in the Borstal School. Furthermore, the Borstal School and District jail, Pudukkottai cannot be housed in the same place. All these aspects have not been considered by the detaining authority while arriving at the subjective satisfaction for passing the order of detention. Hence, the order itself is not sustainable in law.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.41/D.O/2022 dated 24.09.2022, passed by the second respondent is set aside. The detenu, viz., Sundar @ Balasundar, S/o.Kalimuthu, aged about 58 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



H.C.P(MD)No.1839 of 2022

To

WEB COPY

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Inspector of Police,
Karaikudi South Circle Police Station,
Sivagangai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



H.C.P(MD)No.1839 of 2022

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

mbi

H.C.P(MD)No.1839 of 2022

13.07.2023