



HCP(MD)No.1814 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2023

CORAM

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

H.C.P.(MD)No.1814 of 2022

R.Mutharaselvi

.. Petitioner /Wife of the Detenu

Vs.

1.State of Tamil Nadu,
Represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

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 No.80/BCDFGISSSV/2022 dated 18.10.2022



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on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's husband i.e., Ramdas, aged about 36 years, S/o.Thangavel, 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 wife of the detenu viz., Ramdas, aged about 36 years, S/o.Thangavel. The detenu has been detained by the second respondent by his order in No.80/BCDFGISSSV/2022 dated 18.10.2022 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, had inferred that if the detenu is released on bail, there is every possibility of the detenu indulging in further activities in future, which is bereft of particulars and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5. The detaining authority had come to the subjective satisfaction that if the detenu is released on bail, he is highly likely to indulge in such further activities, which will be prejudicial to the maintenance of public order. Admittedly, the detenu was involved in a solitary case, which is the ground



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case and no reference has been made to any other adverse cases. We are unable to comprehend as to how the detaining authority had come to such a satisfaction that the detenu would indulge in further similar activities when there was no previous or adverse cases against the detenu.

6. A co-ordinate Bench of this Court, in similar circumstances, in the case of ***Jebasta @ Jebasta Gnanamalar Vs. The State of Tamil Nadu and others*** passed in ***H.C.P.(MD).No.1815 of 2022 vide order dated 21.02.2023***, had considered the involvement of the detenu in a solitary case and the satisfaction arrived by the detaining authority that the detenu would indulge in further activities and had set aside the detention order on the ground that a mere apprehension that the detenu will indulge in further activities in future, without any adverse cases, cannot be sustained. Hence, the impugned order of detention is liable to be quashed.

7. In the light of the above observations and the order passed by the co-ordinate Bench of this Court in H.C.P.(MD).No.1815 of 2022 referred to supra, the Habeas Corpus Petition is allowed and the order of detention in



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No.80/BCDFGISSSV/2022 dated 18.10.2022 passed by the second respondent is set aside. The detenu, viz., Ramdas, S/o.Thangavel, aged about 36 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.)
17.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi

To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 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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and
M.NIRMAL KUMAR,J.

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