



HCP(MD)No.1859 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2023

CORAM

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

H.C.P.(MD)No.1859 of 2022

Sudha

.. Petitioner / Wife of the detenu

Vs.

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

2.The District Collector/District Magistrate,
Collectorate,
Tirunelveli,
Tirunelveli District.

3.The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records in Detention Order in M.H.S.Confdl.No.188/2022, dated 21.10.2022, passed by the second respondent on the petitioner's husband namely, Manikandan @ Kattamani (35/2022), S/o.Esakki Thevar, before this Court and set him at liberty.



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For Petitioner : Mr.R.Venkatesan
for Mr.S.Lenin Prabhu
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by **M.NIRMAL KUMAR, J.**)

The petitioner is the wife of the detenu viz., Manikandan @ Kattamani, aged about 35 years, S/o.Esakki Thevar. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No. 188/2022, dated 21.10.2022, 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.

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



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focus his argument on the ground that the detenu was granted bail in the ground case on 20.10.2022 in Cr.M.P.No.10367 of 2022 and thereafter, on 21.10.2022, the sponsoring authority requested the second respondent to take action against the petitioner's husband/detenu under the Tamil Nadu Act 14 of 1982, pursuant to which, the second respondent passed the detention order on the same day itself without applying his mind and also without considering the material in detail and therefore, on that score, the detention order is liable to be interfered with.

4. In support of his contention, the learned counsel for the petitioner relied on the order of this Court in **Selvakumar vs. The Secretary to Government, Home, Prohibition and Excise Department, Chennai and two others [H.C.P.(MD)No.948 of 2018, dated 05.07.2018]**, wherein it has been held as under:-

"3. The order of detention reflects a most blatant attempt to scuttle the grant of bail by this Court to the detenu and defeat the order passed by this Court. The detention order dated 27.06.2018 informs that the detenu has been granted bail on the very same date under orders in Crl.O.P.(MD).No.9959 of 2018, on 27.06.2018 and thereafter proceeds to state that the detenu has not produced sureties, as ordered by this Court.



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4. We fail to understand how the Detaining Authority can insist that the detenu to produce the sureties on the very date of the order of bail granted by this Court and how not doing so can be stated as a reason informing likelihood of the detenu being released on bail and therefore, the need for his detention."

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

6. On carefully going through the detention order, it is seen that the the detenu was granted bail in the ground case on 20.10.2022 in Cr.M.P.No. 10367 of 2022 and thereafter, on the next day *i.e.*, on 21.10.2022, the sponsoring authority requested the second respondent to take action against the petitioner's husband/detenu under the Tamil Nadu Act 14 of 1982, pursuant to which, the second respondent passed the detention order on the same day itself without applying his mind and also without considering the material in detail. Further, a Divison Bench of this Court, in similar situation, quashed the detention order. The facts of the present case is also on the same line.



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7. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and therefore, the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.188/2022, dated 21.10.2022 passed by the second respondent is set aside. The detenu, viz., Manikandan @ Kattamani, aged about 35 years, S/o.Esakki Thevar, is directed to be released forthwith unless his detention is required in connection with any other case.

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
smn2/youva
To

(M.S.R.,J.) (M.N.K.,J.)
18.07.2023

- 1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector/District Magistrate,
Collectorate,
Tirunelveli,
Tirunelveli District.



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3. The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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