



HCP(MD)No.1892 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.08.2023

CORAM

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

H.C.P.(MD)No.1892 of 2022

Andal

.. Petitioner /Mother of Detenu

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the detention order in No.68/BCDFGISSSV/2022 dated 18.08.2022 passed by the second respondent and set aside the same by setting the detenu namely



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Saranraj S/o.Nagaraj, aged 31 years and set him at liberty, now detain at Central Prison, Madurai, Madurai District.

For Petitioner : Mr.S.Vikram

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the mother of the detenu viz., Saranraj, aged about 31 years, S/o.Nagaraj. The detenu has been detained by the second respondent by his order in No.68/BCDFGISSSV/2022 dated 18.08.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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.



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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.1251/2021 dated 17.11.2021 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 by filing bail application in the ground case. The learned counsel for the petitioner therefore 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 the Habeas Corpus Petition by filing his counter.

5. On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P. No.1251/2021 dated 17.11.2021, the accused therein was enlarged on bail for the offences under Sections 11(3), 11(4) 5(l), 6, 12 of Protection of Children from Sexual Offences Act, 2012 and Section 67 of Information Technology Act. However, in the present case, the offences involved are



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under Sections 366 IPC, 5(l), 6 of Protection of Children from Sexual Offences Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006. 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 No.68/BCDFGISSSV/2022 dated 18.08.2022 passed by the second respondent is set aside. The detenu, viz., Saranraj, S/o.Nagaraj, aged about 31 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.)
01.08.2023

NCC : Yes / No
Index : Yes / No
Lm/Yuva



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To

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2. The Commissioner of Police,
Madurai City,
Madurai.
3. The Superintendent of Prison,
Central Prison,
Madurai.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George,
Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
M.NIRMAL KUMAR,J.

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