



HCP(MD)No.1882 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.07.2023

CORAM

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

H.C.P.(MD)No.1882 of 2022

M.Kamatchi

.. Petitioner /Sister of the Detenu

Vs.

1.The State represented by  
The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department (XVI),  
Fort St.George,  
Chennai – 9.

2.The District Collector/District Magistrate,  
Thoothukudi District,  
Thoothukudi.

3.The Superintendent,  
Central Prison,  
Palayamkottai,  
Tirunelveli 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 of the detention order passed in H.S.(M)Confdl.No.198/2022 dated 08.09.2022 on the file of the second respondent herein and set aside the same as illegal and direct the



HCP(MD)No.1882 of 2022

respondents to produce the body or person of the petitioner's brother namely Muneeswaran Son of Chettiperumal aged about 25 years who is detained at Central Prison, Palayamkottai, Tirunelveli District and set him at liberty.

For Petitioner : Mr.R.Jegadeeswaran

For Respondents : Mr.A.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

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

The petitioner is the sister of the detenu viz., Muneeswaran, aged about 25 years, S/o.Chettiperumal. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.198/2022 dated 08.09.2022 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.



HCP(MD)No.1882 of 2022

WEB COPY

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 Cr.M.P.No.429/2018 dated 02.02.2018 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. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. 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 Cr.M.P.No.429/2018 dated 02.02.2018, the accused therein was enlarged on



HCP(MD)No.1882 of 2022

bail for the offences under Sections 294(b), 392 and 506(ii) IPC. However, in the present case, the offence involved is under Section 392 IPC. 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 H.S.(M)Confdl.No.198/2022 dated 08.09.2022 passed by the second respondent is set aside. The detenu, viz., Muneeswaran, S/o.Chettiperumal, aged about 25 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.)**  
**11.07.2023**

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



HCP(MD)No.1882 of 2022

To

WEB COPY

1. The Additional Chief Secretary to Government,  
The State,  
Home, Prohibition and Excise Department (XVI),  
Fort St. George,  
Chennai – 9.
2. The District Collector/District Magistrate,  
Thoothukudi District,  
Thoothukudi.
3. The Superintendent,  
Central Prison,  
Palayamkottai,  
Tirunelveli District.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



*HCP(MD)No.1882 of 2022*

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

Lm/mbi

H.C.P.(MD)No.1882 of 2022

11.07.2023