



HCP(MD)No.1897 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH

AND

THE HON'BLE MR JUSTICE M.NIRMAL KUMAR

H.C.P.(MD)No.1897 of 2022

Rahul @ Mariyappan

.. Petitioner / detenu

Vs.

1.The Additional Chief Secretary to the Government

State of Tamil Nadu,

Home Prohibition and Excise Department,

Secretariat, Chennai-600 009.

2.The District Magistrate and District Collector,

Office of the District Magistrate and District Collector,

Dindigul District,

Dindigul.

3.The Superintendent of Prison,

Madurai Central Prison,

Madurai District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, connected with the detention order of the second respondent in Detention Order No.103/2022 dated 13.10.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name, Rahul @ Mariyappan, S/o.R.P.Muthu, aged about 32 years, now detained as "Goonda" at Madurai Central Prison, before this Court and set him at liberty forthwith

For Petitioner : Mr.R.Karthick Kumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Rahul @ Mariyappan, S/o.R.P.Muthu, aged about 32 years. The detenu has been detained by the second respondent by his order in Detention Order No.103/2022 dated 13.10.2022 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 has relied upon the order passed in CrI.M.P.No.1681/2020 dated 26.08.2020 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.



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5. The learned Additional Public Prosecutor, on instructions, submitted that the investigation was completed and final report was filed and it was taken on file by the Judicial Magistrate Court, Palani, in C.C.No.242 of 2022.

6. 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.1681/2020 dated 26.08.2020, the accused therein was enlarged on bail on the ground that the accused had suffered more than 79 days of incarceration and there was no mention about previous cases. However, in the present case, there are previous cases pending against the detenu. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

7. 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.



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8. In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.103/2022 dated 13.10.2022 passed by the second respondent is set aside. The detenu, viz., Rahul @ Mariyappan, S/o.R.P.Muthu, aged about 32 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.)
14.07.2023

Internet : Yes
Index : Yes / No
NCC : Yes / No

RM/RR



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and
M.NIRMAL KUMAR,J.

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