



H.C.P.(MD) No.1896 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1896 of 2022

Deva @ Manikandan

... Petitioner / Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Secretariat,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Sivagangai District,
Sivagangai.

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

...Respondents



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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 of the Respondent No.2 in Cr.M.P.No. 22/S.O./2022 dated 20.05.2022 and quash the same and direct the Respondents to produce the body or person of the detenu by name Deva @ Manikandan, Son of Ramaiah, aged about 21 years, now confining as “Sexual Offender” at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

This Habeas Corpus Petition has been filed to call for the entire records connected with the detention order of the second respondent in Cr.M.P.No. 22/S.O./2022 dated 20.05.2022 and quash the same and consequently to direct the respondents to produce the body or person of the detenu by name Deva @ Manikandan, Son of Ramaiah, aged about 21 years, now confining as “Sexual Offender” at Madurai Central Prison, before this Court and set him at liberty forthwith.



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2. Insofar as the facts of the case as projected by the learned counsel appearing for the petitioner is that, in this case, the detenu was arrested on 19.04.2022 in respect of a case punishable under Sections 376, 302 and 377 I.P.C., which is the only solitary case, based on which the detaining authority having been satisfied with the materials available before him, decided to slap the detention order against the petitioner and accordingly, the detention order was passed on 20.05.2022. Challenging the same, the present Habeas Corpus Petition is filed.

3. Learned counsel appearing for the petitioner, among various grounds, has raised two grounds, first one is that, similar case theory as projected by the respondents is not a similar case as that of the detenu.

4. Secondly, he has submitted that insofar as the documents, which were furnished to the detenu in the booklet page Nos.5, 32, 33, 35 78, 79, 107 and 108 are concerned, they are in English and in respect of those documents, though the petitioner in his representation dated 07.11.2022 had sought for Tamil translation as the detenu does not know English, the Tamil version has not been supplied to the detenu.



5. In this regard, learned counsel for the petitioner further submitted that, insofar as these documents are concerned, which are remand reports, postmortem certificate as well as the bail order in the similar case, they are mainly relied upon by the detaining authority to come to a conclusion that detention order can be passed against the detenu and these relied upon documents should have been provided with the translated version without which or in the absence of the translated version of these documents being supplied to the detenu that would be fatal to the detention order, and therefore, on that ground itself, learned counsel for the petitioner seeks indulgence of this Court.

6. We have heard Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents, who would fairly submit that, insofar as the documents which are being supplied in the form of booklet to the detenu is concerned, some times both relied documents as well as referred documents are supplied. Insofar as the referred documents are concerned, though it is not in vernacular language the vernacular copies need not be supplied to the detenu because based on those documents there would be no prejudice caused to the detenu.



7. However, insofar as the relied upon documents are concerned, those documents are essential documents, based on which the detaining authority has come to a conclusion in the satisfaction that, proceedings under Tamil Nadu Act 14 of 1982, can be slapped on the detenu concerned and therefore, those documents are very essential for which suppose if any of such documents are not in vernacular and when specifically the same has been asked for by the detenu to supply the same in vernacular, the same has to be complied by the detaining authority and in this regard if there is any lapse on the part of the respondents that can be taken note of this Court.

8. We have considered the said fair submission made by the learned Additional Public Prosecutor and we have perused the materials placed before this Court in this regard, where the documents referred to in page Nos.5, 32, 33, 35 78, 79, 107 and 108 are in English, out of which the remand report order is also one of the documents which is in English.

9. In the reasoning out given by the detaining authority in the impugned detention order and the grounds of detention, he has very much relied upon the remand order passed by the Court concerned in respect of



the detenu, which has been subsequently extended and therefore, that was one of the relied upon documents which triggered the mind of the detaining authority to come to a conclusion that the detenu would come out on bail and therefore, when by relying upon the said document the detaining authority has come to a conclusion that the detenu is likely to come out on bail, therefore, the public order cannot be maintained in the locality and passing of order under Tamil Nadu Act 14 of 1982 is necessary against the detenu, such documents are essential one and therefore, the document must be in the known language of the detenu, which the respondents have failed to comply despite the same has been asked by the petitioner at paragraph 9 of the representation dated 07.11.2022.

10. Moreover, in similar circumstances, a Division Bench of this Court in a recent order *dated 13.02.2023* in the matter of ***Kutty @ Chellakutty v. State of Tamil Nadu, rep. by the Additional Chief Secretary to Government and others in H.C.P. (MD) No.1464 of 2022*** has taken a similar view, where the Division Bench has held as follows:-



“3. This Court on perusing the records finds that when the detention order with paper book was served to the detenu, the petitioner on 24.08.2022 has made a specific request to furnish the initial remand order, however, the same has not been furnished to him.

4. This Court is of the opinion non furnishing of vital documents, even after demand, has prejudice the petitioner to put forth his case effectively before the advisory board and for the said single reason, the detention order is liable to be quashed.”

11. Relying upon the said decision and based on the reasons given herein above and in view of the aforestated facts and circumstances on the sequel of non-supply of relied on documents in the vernacular or known language of the detenue, we are inclined to accept the plea raised by the petitioner.

12. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in in Cr.M.P.No. 22/S.O./2022 dated 20.05.2022, is set aside. Consequently, the detenu, namely, Deva @ Manikandan, son of Ramiah, aged about 21 years, who is



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now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)
14.03.2023

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

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Secretariat,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Sivagangai District,
Sivagangai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
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