



HCP(MD)No.1910 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.07.2023

CORAM

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

H.C.P.(MD)No.1910 of 2022

Muthulakshmi

.. Petitioner /Mother of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

2.The District Collector and District Magistrate,
Dindigul,
Dindigul District.

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 entire records in pursuant to the proceedings of the second respondent in Detention Order No.76/2022 dated 15.08.2022 and quash the same and consequently direct the respondents to produce the detenu, namely Kauspandi, S/o.Selvam, aged 25



HCP(MD)No.1910 of 2022

years who is now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.K.Sathish 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 mother of the detenu viz., Kauspandi, aged about 25 years, S/o.Selvam. The detenu has been detained by the second respondent by his order in Detention Order No.76/2022 dated 15.08.2022 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.1910 of 2022

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.61/2019 dated 04.02.2019 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 was dismissed. However, he came to the conclusion that there is every possibility of the detenu coming out on bail by filing another bail application. 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. It is further submitted that investigation has been completed in this case and final report has been filed and the same is pending trial before the Sessions Court, Dindigul, in Spl.S.C.No.43/2022.



HCP(MD)No.1910 of 2022

WEB COPY

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.61/2019 dated 04.02.2019, the accused therein was granted bail for the offences under Sections 147, 148, 302, 506(ii) IPC @ 147, 148, 302, 506(ii) and 109 IPC. However, in the present case, the offences involved are under Sections 302 IPC @ 302 IPC and Section 3(1)(r), 3(1)(s) and 3(2)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 @ 302, 201 IPC and Section 3(1)(r), 3(1)(s) and 3(2)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. 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 Detention Order No.76/2022 dated 15.08.2022 passed by the



HCP(MD)No.1910 of 2022

second respondent is set aside. The detenu, viz., Kauspandi, S/o.Selvam, 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.)
06.07.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.
- 2.The District Collector and District Magistrate,
Dindigul,
Dindigul District.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.1910 of 2022

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

Lm

H.C.P.(MD)No.1910 of 2022

06.07.2023