



H.C.P.(MD) No.1918 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1918 of 2022

Nandhini

... Petitioner / wife of the Detenu

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.



H.C.P.(MD) No.1918 of 2022

4.The Superintendent,
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 pertaining to the order of detention passed by the 2nd Respondent in his proceedings in CrI.M.P.No.27/2022 (Goonda) dated 07.07.2022 and set aside the same and direct the Respondents 1 to 3 to produce the detainee Manikandan S/o. Potthaivan, aged about 25 years, before this Hon'ble Court now confined in Central Prison, Madurai and set him at liberty.

For Petitioner : Mr.M.Jothi Basu

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 pertaining to the order of detention passed by the 2nd Respondent in his proceedings in CrI.M.P.No.27/2022 (Goonda) dated 07.07.2022 and set aside the same and direct the Respondents 1 to 3 to produce the detainee Manikandan S/o. Potthaivan, aged about 25 years, before this Hon'ble Court now confined in Central Prison, Madurai and set him at liberty.



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 12.06.2022 for the solitary case for the offences punishable under Section 302 I.P.C. (2 counts) on 05.06.2022, following which, the detaining authority on the basis of the sponsoring authority's request decided to slap Act 14 of 1982 against the petitioner / detenu and accordingly the detention order has been passed against the detenu on 07.07.2022. Challenging the same, the present Habeas Corpus Petition is filed.

3. Learned counsel appearing for the petitioner has pointed out that the alleged murder, according to the prosecution, has taken place at a night hours in the tank side of the village, despite that they have stated that, it has taken place in a busy locality by thus, it created panic in the minds of the people and thereby he acted in a manner prejudicial to the maintenance of public order and public peace.

4. We have heard Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents, who would submit that,



insofar as the maintenance of public order is concerned, whether the crime has taken place in a busy place or remote place that is immaterial and due to the propensity of the offence committed, whether that has created any panic situation in the locality, by thus the authorities would not be able to maintain the public order effectively, unless the person responsible for creating such a situation has to be dealt with under the provisions of the Act 14 of 1982, alone is the matter, therefore, the said ground cannot be taken to have a successful challenge against the impugned detention order, he contended.

5. We have considered the said submissions made by the learned counsel for both sides and perused the materials placed before this Court.

6. In the grounds of detention, it has been specifically stated by the detaining authority that he was aware that, there is a real possibility of the detenu coming out on bail by filing bail petition in the ground case before the concerned Court or in higher Courts in future and since the detenu is continuously committing crimes, it was claimed by the detaining authority that he was further satisfied that, if he comes out on bail, he will



further indulge in activities in future, which will be prejudicial to the maintenance of public order and public peace.

7. In this context, it is to be noted that, when we specifically asked the question to the learned Additional Public Prosecutor as to whether any previous case has been registered against the detenu, he said no, as it is a soldiery case, which has been shown as a ground case, except which, so far no case has been registered against the detenu. The reason stated by the detaining authority that he is continuously committing crimes has no basis, therefore, such kind of averments uttered in the grounds of detention is nothing but a non-application of mind, therefore, it is a mechanical drafting made by the detaining authority. Hence, the subjective satisfaction said to have been arrived at by the detaining authority cannot be accepted in view of the aforestated.

8. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in Cr.M.P.No. 27/2022 dated 07.07.2022, is set aside. Consequently, the detenu, namely, Manikandan, son of Potthaiyan, aged about 25 years, who is now detained at Central



H.C.P.(MD) No.1918 of 2022

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.)
29.03.2023

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

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Inspector of Police,
Vachakarapatti Police Station,
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- 4.The Superintendent,
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H.C.P.(MD) No.1918 of 2022

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
K.K.RAMAKRISHNAN, J.

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