



HCP(MD)No.1939 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2023

CORAM

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

H.C.P.(MD)No.1939 of 2022

M.Vadivel

.. Petitioner /father of the
detenu

Vs.

1.State of Tamil Nadu

Rep. by the Additional Chief Secretary to Government
Home Prohibition and Excise Department, Secretariat
Chennai-600 009.

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

3.The Superintendent of Prison,
Central Prison,Palayamkottai
Tirunelveli

.. Respondents

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 passed in H.S.(MD) Confdl. No.202 of 2022 dated 15.09.2022 on the file of the 2nd respondent herein and quash the same and



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direct the respondents to produce the detenu or body of the detenu namely the petitioner's son ie., Muthuraj, aged about 39 years, S/o.Vadivel, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is father of the detenu viz., Muthuraj, aged about 39 years, S/o.Vadivel. The detenu has been detained by the second respondent by his order in detention order in H.S.(MD) Confdl. No.202 of 2022 dated 15.09.2022 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



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have also perused the records produced by the Detaining Authority.

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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 after being aware of the fact that there was no bail application filed by the detenu came to the conclusion that there is a real possibility of the detenu coming out on bail by relying upon the order passed in CrI.O.P.No.23893/2016. The learned counsel therefore submitted that the order that was relied upon by the detaining authority was not a similar and on that score, the detention order is liable to be interfered with.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter and submitted that on completion of investigation, charge sheet has been filed and the same is pending in SC No.78/2023 before the Principal District Judge, Tuticorin and the case is posted on 09.08.2023.

5. On carefully going through the detention order, the detaining



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authority was aware of the fact that no bail application was filed by the detenu. However, the detaining authority took into consideration the order passed in CrI.O.P.No.23893/2016 dated 23.12.2016 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Perusal of the order shows that the accused therein had already suffered 107 days incarceration and charge sheet has been filed and hence, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(MD) Confdl. No.202 of 2022 dated 15.09.2022 passed by the second respondent is set aside. The detenu, viz., Muthuraj S/o.Vadivel, aged about 39 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.)
12.07.2023

NCC : Yes/No
Internet : Yes
RR



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To

1. The Additional Chief Secretary to Government
Home Prohibition and Excise Department, Secretariat
Chennai-600 009.

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

3. The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli

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



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

RR

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