



HCP(MD)No.1257 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

HCP(MD)No.1257 of 2023

Chandra

... Petitioner

vs.

1. State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2. The District Magistrate and District Collector,
District Collector's Office,
Thanjavur District.

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in P.D.No.59/2023 dated 20.09.2023 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Vinothkumar, aged about 28 years, S/o. Manoharan, now detained at the Central Prison, Tiruchirappalli, Tiruchirappalli District before this Court and set him at liberty forthwith.



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For Petitioner : Ms.P.Krishnaveni
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SAKTHIVEL, J.**]

1. This Habeas Corpus Petition (hereinafter referred to as 'HCP') has been filed in this Court on 11.10.2023 by the mother of the detenu praying to quash the detention order dated 20.09.2023 passed by the 2nd respondent bearing reference P.D.No.59/2023.

2. On 17.10.2023, when the matter came before this Court for 'admission', the learned counsel raised a point that some of the pages found in the grounds booklet are illegible and despite request, typed copy of those illegible pages were not furnished to the detenu, which prevented the detenu from making a proper representation. But today, in the final hearing, learned counsel for the petitioner has raised a point that similar case bail order relied on by the detaining authority is not similar to the ground case. Learned counsel drew our attention to a portion of paragraph 5 of the grounds of detention which reads as follows:

'5) Moreover, in similar case registered in



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Thiruvudaimaurthur Police Station Crime No.630/2022, Under sections 341, 294(b), 324 and 307 of Indian Penal Code condition bail was granted to the accused Thiru. Prithiviraj and Sakthiprakash by the Principal District and Sessions Court, Thanjavur in Criminal Miscellaneous Petition No.3765/2022, Dated 26.08.2022. Hence, there is a real possibility of him (Thiru. Vinothkumar) coming out on bail in the above said Ground case, through the above said pending bail application, since, bails are granted by the courts in such cases.'

3. Learned counsel further submitted that the copy of similar case bail order namely, Prithiviraj's case bail order has been furnished to the detenu at page 66 as part of the grounds booklet. Learned counsel has further submitted that in Prithiviraj's case, the Public Prosecutor therein had submitted to the Court that the petitioners therein have no previous case. Considering the nature of the offence therein and also the submission made by the Public Prosecutor therein, learned Principal District and Sessions Judge, Thanjavur, granted bail to the petitioners therein. But, the petitioner herein has two adverse case. Hence, the subjective satisfaction arrived at by the detaining authority that there is an imminent possibility of the detenu being enlarged on bail is erroneous decision. Accordingly, learned counsel prayed to allow this petition.



4. Per contra, learned Additional Public Prosecutor submitted that the offences under the similar case and the offences under the ground case are broadly comparable. Accordingly, he prayed to sustain the detention order.

5. We have considered both sides' submissions. Petitioners therein in the similar case bail order had no previous case. Further, Public Prosecutor therein had not raised any serious objection to grant bail to the petitioners therein. The said aspects weighed the mind of the bail court for granting bail to the petitioners therein. In the case on hand, petitioner has two previous case. Detaining authority himself has stated the details of the adverse cases of the petitioner in the grounds of detention. Hence, the subjective satisfaction arrived at by the detaining authority regarding the possibility of the detenu being enlarged on bail would show his non-application of mind before passing the impugned preventive detention order. Hence, we are inclined to interfere with the detention order.

6. Accordingly, this HCP is allowed and the impugned detention order passed by the 2nd respondent dated 20.09.2023 bearing



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reference P.D.No.59/2023 is quashed and the detenu Thiru.Vinothkumar, aged about 28 years, son of Thiru.Manoharan is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
20.11.2023

Index : Yes / No
Neutral Citation : Yes / No
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P.S: Registry to forthwith communicate this order to Jail authorities in District Jail, Pudukkottai and Central Prison, Tiruchirappalli. All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
2. The District Magistrate and District Collector,
District Collector's Office,
Thanjavur District.
3. The Superintendent of Prison,
Central Prison, Thiruchirappalli,
Thiruchirappalli District.



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

5. The Joint Secretary to Government,
Public (Law and Order) Department,
Secretariat, Chennai.



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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

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ORDER MADE IN
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DATED : 20.11.2023