



H.C.P.(MD) No.1997 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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S.Umarani

... Petitioner / Mother of the
Detenue

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,

O/o.The District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.

3.The Superintendent,

Central Prison, Tiruchirappalli.

...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



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detention order passed in Cr.M.P.No.34 / 2022, dated 19.05.2022 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely, Pradeepan alias Sidharth, S/o.Sampath, male, aged 24 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

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

ORDER

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

The petitioner is the mother of the detenu, namely, Pradeepan alias Sidharth, S/o.Sampath, aged about 24 years. The detenu has been detained by the 2nd respondent by his proceedings in Cr.M.P.No.34 of 2022, dated 19.05.2022, 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.



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2. It is the version of the respondents that against the petitioner's son there has been two adverse cases and one ground case. The ground case is for the alleged offence punishable under Section 302 IPC. In that case, the petitioner's son was arrested on 29.03.2022.

3. Thereafter, the 2nd respondent has considered the case of the petitioner's son and he came to a conclusion that in a similar circumstance, the Court has granted bail in a case related to Crime No.52 of 2022 on the file of the Inspector of Police, Government Hospital Police Station, where according to the respondents, bail was granted to one Nagaraj and that has been shown as a main reason for passing the detention order dated 19.05.2022.

4. Challenging the said order, the learned counsel appearing for the petitioner would contend that even though it has been stated that in a similar case, bail was granted to one Nagaraj, the actual fact remains that in that Crime No.52 of 2022, bail was granted to one Kalaiselvi, W/o. Nagaraj and in that case, the accused was having two children and the same was also taken into account by the Court which granted bail. Therefore, it is not a similar case. Hence, the non-application of mind



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citing the order of the bail granted to one Kalaiselvi, since it has been stated as Nagaraj in the similar case itself is a ground for considering the plea of the petitioner to set aside the impugned detention order, the learned counsel contended.

5.On the other hand, the learned Additional Public Prosecutor appearing for the respondents would submit that the detention order was passed on 19.05.2022 and thereafter, in the ground case, where he was arrested on 29.03.2022, the prosecution has completed the investigation and filed final report before the concerned Court, which has been accepted and the case is pending in S.C.No.227 of 2022 on the file of the learned 2nd Additional District Judge, Trichirappalli.

6.The learned Additional Public Prosecutor would also submit that the bail was granted in the similar case to one Kalaiselvi, W/o.Nagaraj. Therefore, the error mentioning the name would not entitle the petitioner to seek quashment of the detention order on the ground of the alleged non-application of mind, he contended.

7.We have considered the submissions made by both sides.



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8. The Constitution makers accepted the preventive detention as a necessary evil to prevent the danger to the community eventhough the same has infringe the liberty of the person without trial. So law demand the subjective satisfaction over the material placed before him by the sponsoring authority. In this case, as rightly pointed out by the learned counsel for the petitioner, wrong mentioning of name of Nagaraj instead of Kalaiselvi in the impugned detention order shows the non-application of mind on the part of the detaining authority and hence on that ground the detention order is liable to be quashed.

9. In the result, the order impugned dated 19.05.2022 made in Cr.M.P.No.34 of 2022, is set aside. This Habeas Corpus Petition is allowed. Therefore, the detenu, namely, Pradeepan alias Sidharth, S/o.Sampath, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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

06.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MYR



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To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
- 3.The Superintendent,
Central Prison, Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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