



HCP(MD)No.2037 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2023

CORAM

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

H.C.P.(MD)No.2037 of 2022

Malathy

... Petitioner / Wife of the Detenu

Vs.

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai – 600 009.

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

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

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4.The Superintendent of Police,
Tuticorin, Tuticorin District.

5.The Deputy Superintendent of Police,
Kovilpatty Sub Division,
Tuticorin, Tuticorin District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in H.S.(M)Confdl.No.228/2022, dated 31.10.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Mariappan @ Stalin, S/o.Kodungala Pandian, aged about 31 years now detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.K.Prabhu

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Mariappan @ Stalin, S/o.Kodungala Pandian, aged about 31 years. The detenu has been detained



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by the second respondent by his order in H.S.(M)Confdl.No.228/2022, dated 31.10.2022, 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.

3.Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the copy of the remand order has not been furnished to the detenu. Therefore, on the sole ground, the detention order is liable to be quashed.

4.Though the learned Additional Public Prosecutor for the respondents has not filed any counter, he has strongly opposed this petition.



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5.On consideration of the submissions made on either side and upon perusal of the documents available on record, it is seen that the remand order is not available in the paper book. It, therefore, reflects non application of mind on the part of the detaining authority.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.228/2022, dated 31.10.2022 passed by the second respondent is set aside. The detenu, viz., Mariappan @ Stalin, S/o.Kodungala Pandian, aged about 31 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.)
18.07.2023

NCC : Yes / No
Index : Yes / No

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3. The Superintendent,
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Tirunelveli.
4. The Superintendent of Police,
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5. The Deputy Superintendent of Police,
Kovilpatty Sub Division,
Tuticorin, Tuticorin District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.**

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