



HCP(MD)No.2059 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2023

CORAM

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

H.C.P.(MD)No.2059 of 2022

Vadivu

... Petitioner / Mother of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli-9.

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

.. Respondents

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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 M.H.S.Confdl.No.187/2022, dated 20.10.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Murugan, S/o.Arunachalam alias Poochi, aged about 22 years now detained at Palayamkottai Central Prison before this Court and set him at liberty.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Murugan, S/o.Arunachalam alias Poochi, aged about 22 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No. 187/2022, dated 20.10.2022, 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.



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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 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 has relied upon the order passed in CrI.M.P.No.986/2020 dated 28.02.2020 and came to the conclusion that in a similar case bail has been granted and that there is likelihood of the detenu released on bail. The learned counsel submitted that the detaining authority was aware of the fact that the detenu filed bail application in the ground case and the same is pending. The learned counsel for the petitioner therefore submitted that the order relied upon by the detaining authority is not similar and there is non application of mind on the part of the detaining authority.



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4.The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter.

5.On carefully going through the detention order, it is seen that in the order that was relied upon by the detaining authority in CrI.M.P.No.986/2020 dated 28.02.2020, the accused therein was enlarged on bail since there was no previous case pending against him. However, in the present case, there are previous cases pending against the detenu. Hence, the order that was relied upon by the detaining authority cannot be considered to be an order passed in a similar case.

6.In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.

7.In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.187/2022, dated 20.10.2022 passed



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by the second respondent is set aside. The detenu, viz., Murugan, S/o.Arunachalam alias Poochi, aged about 22 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.)
17.07.2023

NCC : Yes / No
Index : Yes / No

Yuva / VSM

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.
- 3.The Superintendent of Prison,
Madurai Central Prison, Madurai.
- 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.**

Yuva / VSM

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