



H.C.P.(MD) No.2073 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.2073 of 2022

Prema

... Petitioner / Mother of detenu

Vs.

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

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

3.The Superintendent of Prison,
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 records pertaining to the impugned direction order passed by the 2nd respondent made in his proceedings in P.D. No.32 of 2022 dated 17.04.2022 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the Detenu namely Arivazhagan, S/o. Venkatachalam, Male, aged about 21 years, who is detained in Central Prison, Tiruchirappalli, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

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. This Habeas Corpus Petition has been filed by her to call for the records pertaining to the impugned order passed by the 2nd respondent made in his proceedings in P.D. No.32 of 2022 dated 17.04.2022 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and to direct the respondents to produce the detenu namely Arivazhagan, S/o. Venkatachalam, Male, aged about 21 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.



2. Heard Mr.K.M.Karunakaran, learned counsel for the petitioner, who would submit that, on 25.03.2022 the detenu has been arrested, followed by the detention order, which is impugned herein dated 17.04.2022 under Act 14 of 1982.

3. There were three adverse cases and one ground case. Insofar as third adverse case is concerned, the bail petition filed by the detenu was pending and insofar as the ground case is concerned the bail petition has been rejected, but, they have stated only in respect of pendency of the bail petition in the third adverse case.

4. That apart, the learned counsel appearing for the petitioner has raised a point that, in the grounds of detention at para 8, the detaining authority has relied upon the History Sheet No.79 of 2022 dated 11.01.2022, which is one of the document relied upon for arriving at the conclusion to make the detention order against the detenu. However, in the paper booklet at page No.153, the said History Sheet document has been furnished to the detenu, but it is in English.



5. Despite this has been asked for by the detenu to supply in Tamil that has not been considered. Therefore, that was also one of the point raised by the learned counsel for the petitioner.

6. Heard Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor, appearing for the respondents. He would submit that insofar as the subjective satisfaction with regard to the likelihood of the detenu coming out on bail is concerned, merely because the pendency of the bail petition in the adverse case and rejection of the same in the ground case, it would not alter the situation because any time the Court can grant bail depending upon the situation and therefore, such kind of apprehension can always be made available for the detaining authority to have the subjective satisfaction.

7. Insofar the non furnishing of the translated copy of the history sheet is concerned, the learned Additional Public Prosecutor submitted that though some reliance have been made in the grounds of detention that is not the sole criteria, based on which such detention order seems to have been made, therefore, that cannot be taken as a ground to assail the impugned detention order successfully by the petitioner, he contended.



8. We have considered the said submissions made by learned counsel on both sides and perused the materials placed before this Court.

9. Insofar as the subjective satisfaction is concerned, the defence taken by the learned Additional Public Prosecutor appearing for the respondent can be taken note of because the subjective satisfaction of the detaining authority varies from case to case depending upon the circumstances, where the likelihood of coming out on bail by the detenu in a ground case or an adverse case depends upon the nature of the offences as well as the circumstances and the dismissal of the earlier bail applications. Therefore, there cannot be any constant rule on this aspect and therefore, insofar as the said ground raised by the petitioner is concerned, the same is to be rejected.

10. Insofar as the second ground that non-supply of translated version of history sheet is concerned, in para 8 of the grounds of detention, as stated supra, the history sheet document has been relied upon by the detaining authority and it is settled proposition that whatever be the relied on document, the same shall be furnished to the detenu and where there is a



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demand to furnish in vernacular that should be furnished in vernacular. Here in this case, subsequently though such a demand has been made on behalf detenu, the translated copy of the document concerned has not been furnished, however, only English version has been supplied at page No.153 of the paper book. Therefore, that ground raised on behalf of the petitioner can very well be accepted by this Court.

11. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in in Cr.M.P.No. 32/2022 dated 17.04.2022, is set aside. Consequently, the detenu, namely, Arivazhagan, son of Venkatachalam, aged about 21 years, who is now detained at Central Prison, Tiruchirppalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)
24.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SJ



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To

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2. The District Collector and District Magistrate,
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Thanjavur.

3. The Superintendent of Prison,
Central Prison,
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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