



H.C.P(MD)No.2088 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.2088 of 2022

S.Krishnaveni

.. Petitioner

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.District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.

3.The Superintendent,
Central Prison,
Palayamkottai.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records in detention order passed in H.S(M)Confdl.No.233/2022, dated 10.11.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband,



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namely, Senthilkumar @ Senthilmurugan, S/o.Muthurakkan, male, aged 39 years, who is detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.P.Aju Tagore

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

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

The petitioner is the detenu viz., Senthilkumar @ Senthilmurugan, S/o.Muthurakkan, aged about 39 years. The detenu has been detained by the second respondent by order in H.S(M)Confdl.No.233/2022, dated 10.11.2022 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.

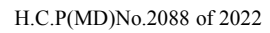


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3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 10.11.2022 and the grounds of detention ought to have been served within five days, i.e., on or before 15.11.2022. However, it was served on the detenu only on 18.11.2022 and therefore, there is a delay of eight days in serving the booklet to the detenu. On that sole ground, he contended that the detention order is liable to be set aside.

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

5. Perusal of the records would go to show that, the detention order was passed on 10.11.2022 and the booklet was served on the detenu only on 18.11.2022 and the scanned copy of the relevant endorsement is as follows:

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As per Section 8 of the Tamil Nadu Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of seven days and hence, the detention order is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S(M)Confdl.No.233/2022, dated 10.11.2022 passed by the second respondent is set aside. The detenu, viz., Senthilkumar @ Senthilmurugan, S/o.Muthurakkan, aged about 39 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.)
19.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

mbi/Lm



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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent,
Central Prison,
Palayamkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary,
Public (Law and Order) Department,
Fort St. George, Chennai.



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and
M.NIRMAL KUMAR, J.

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