



HCP(MD)No.2128 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

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

H.C.P.(MD)No.2128 of 2022

Karthik

.. Petitioner / Detenu

Vs.

- 1.The Principal Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate
Virudhunagar District
- 3.The Superintendent of Prison,
Madurai Central Prison, ,
Madurai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with



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the detention order of the respondent No.2 in Cr.M.P.No.44/2022 (goonda) dated 21.11.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Karthik, son of Jeyamuniasamy aged about 30 years, now detained at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Karthik, S/o. Jeyamuniasamy, aged about 30 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.44/2022 (goonda) dated 21.11.2022 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



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have also perused the records produced by the Detaining Authority.

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3. Apart from the other grounds, the main ground that was urged by the learned counsel appearing for the petitioner is that the detaining authority had taken into consideration the dismissal of bail petition filed by the detenu and in spite of the same, the detaining authority has recorded satisfaction that there is a real and imminent possibility of the detenu coming out on bail by filing another bail application without any material. Therefore, it was urged that the detention order suffers from non-application of mind.

4. The learned counsel for the petitioner submitted that the detaining authority, without the availability of materials, cannot *ipso facto* satisfy himself regarding the imminent possibility of the detenu coming out on bail.

5. The learned Additional Public Prosecutor strongly opposed



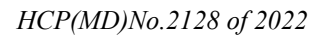
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the Habeas Corpus Petition by filing his counter.

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6. Insofar as the main ground that was urged by the learned counsel for the petitioner, we have carefully considered the detention order, particularly, paragraph No.5(ii) of the order. The detaining authority has recorded the dismissal of the bail petition filed by the detenu. However, a satisfaction has been recorded as if there is a real and imminent possibility of the detenu coming out on bail by filing bail application before the appropriate Court. To arrive at such a satisfaction, there is absolutely no material and the detaining authority has not even placed reliance upon any similar case to atleast come to the conclusion that bail has been granted in a similar case. It is very clear that the detention order suffers from illegality. 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 Cr.M.P.No.44/2022 (goonda) dated 21.11.2022 passed by the second respondent is set aside. The detenu, viz., Karthik



unless his detention is required in connection with any other case.

20.07.2023

Index : Yes / No

RR

To

4. The Superintendent of Prison,
Madurai Central Prison, Madurai District.



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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

RR

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