



H.C.P.(MD).No.24 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.03.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD).No.24 of 2024

S.Chinnadurai

.. Petitioner/Brother of the Detenu

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,
Thoothukudi District,
Thoothukudi.

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

.. Respondents



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PRAAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records, connected with the detention order passed in H.S.(M) Confdl No.82/2023 dated 10.07.2023 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely, the petitioner's brother i.e., Maharaja @ Paul Maharaja, aged about 39 years, S/o Sudalaimuthu, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The petitioner is detained under the Tamil Nadu Act 14 of 1982 by the impugned order dated 10.07.2023 on the subjective satisfaction of the detaining authority that the presence of the accused is likely to cause disturbance to the public peace. The detention order is under challenge in the present Habeas Corpus Petition.



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2. The detention order is challenged on the ground that the solitary incident which is subject matter of the ground case in Crime No.237 of 2023 for the offences under Sections 450, 294(b), 307 and 506(ii) IPC r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, does not fall within the scope and ambit of incident prejudicial to the maintenance of public peace.

3. The learned counsel appearing for the petitioner submitted that an extra marital affairs developed by the wife of an inter-caste community couple has led to this incident. The detenu and his father are arrayed as accused in Crime No.237 of 2023 and the solitary incident has nothing to do with the public peace or order. However, apprehending that this may create communal disturbance in the area, the detention order has been passed and the reasons given by the detaining authority does not satisfy the test of prejudicial to the public peace.

4. On a perusal of the detention order and the supporting documents as well as the counter filed by the second respondent, this Court finds that



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the reasonable apprehension of the detaining authority has been stated in paragraph 3 of the detention order.

5. A reading of the content in paragraph 3 of the detention order, in nowhere, disclose any reasonable apprehension of causing prejudicial to the public peace. This Court finds that the detention order is devoid of reasoning and justification.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M) Confdl No.82/2023 dated 10.07.2023 passed by the second respondent is set aside. The detenu, viz., Maharaja @ Paul Maharaja, aged about 39 years, S/o Sudalaimuthu, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (C.K.,J.)
13.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
skn



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To

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