



H.C.P.(MD) No.22 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

H.C.P.(MD) No.22 of 2024

V.Rabisha

... 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,
Tirunelveli District,
Tirunelveli.

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

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention order passed in M.H.S.Confdl.No.167/2023, dated 19.11.2023 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 husband i.e., Valan, aged about 34 years, S/o.Appolian, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The petitioner is the wife of the detenu viz., Valan, son of Appolian, aged about 34 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.167 of 2023, dated 19.11.2023 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.



H.C.P.(MD) No.22 of 2024

WEB COPY

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 points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the ground that in the ground case in Cr.No.330/2023 has been registered under Section 4 (b) of Explosive Substances Act, 1908 and later the case has been altered into under Section 120-B, 147, 148, 294(b), 506(ii) IPC and Section 4(b) of Explosive Substances Act, 1908, but the alteration report has not been placed before detaining authority. Despite the request made by the petitioner in the representation, dated 22.12.2023, alteration report was not furnished to the detenu and thereby, the detenu was deprived of making effective representation. He would further submit that the detaining authority has also not sought for any clarification from the sponsoring authority in this regard and thereby, the detention order has vitiated on the ground of non-application of mind.



H.C.P.(MD) No.22 of 2024

WEB COPY

4. Learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the impugned detention order with proper application of mind and there is no illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petition.

5. As per the submission of the learned counsel for the petitioner and on perusal of the records that despite the request made by the petitioner in the representation, dated 22.12.2023, alteration report has not been furnished to the detenu and thereby, the detenu was deprived of making effective representation and also the detaining authority has also not sought for any clarification from the sponsoring authority in this regard and thereby, the detention order has vitiated on the ground of non-application of mind.

6. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of non-application of mind on the part of the detaining authority in passing the impugned detention order.



H.C.P.(MD) No.22 of 2024

WEB COPY

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl No.167/2023, dated 19.11.2023, passed by the second respondent is set aside. The detenu, viz., Valan, aged about 34 years, son of Appolian, is directed to be released forthwith unless his detention is required in connection with any other case.

[A.D.J.C., J.] [K.R.S., J.]
19.06.2024

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

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H.C.P.(MD) No.22 of 2024

WEB COPY

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