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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.03.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD) No.50 of 2024

J.Banupriya

... Petitioner/wife of the detenu

-VS-

1.The State of Tamil Nadu,
represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Madurai.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Habeas Corpus calling for the entire
records connected with the Detention Order passed in Detention Order



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No.54/2023, dated 11.10.2023, on the file of the second respondent and to quash the same and to direct the respondents to produce the detenu namely Jeyaprakash, aged about 39 years, son of Krishnan, now detained at the Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi,
Addl.Public Prosecutor

ORDER

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

This habeas corpus petition has been filed by the wife of the detenu, namely, Jeyaprakash, aged about 39 years, son of Krishnan, challenging the detention order in Detention Order No.54/2023,dated 11.10.2023,, passed by the second respondent, branding him as "Goonda " as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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3.The Petitioner is the wife of the detenu. According to the Petitioner, a case was registered by the Police against the detenu on 29.07.2023 under Section 302 of IPC. Further, it was only a family dispute, which ended in the murder, and the learned counsel would further contend that after the occurrence, the detenu himself has voluntarily surrendered before the Police. Therefore, there is no question of public order involved and at the best, it may be law and order problem. It was also further contended by the learned counsel for the Petitioner that there is no live link and proximity from the date of occurrence to the date of detention.

4.Per contra,the learned Additional Public Prosecutor appearing for the respondents/State strongly objected the contention putforth by the learned counsel for the Petitioner. He would further submit that it is a cruesome murder in a public place.Therefore, if the detention order is quashed, it would cause grave insecurity among the general public and had also strongly objected for this petition.

5.We have given our anxious consideration to the submissions made on either side and perused the materials placed



before this Court.

6. We have perused the detention order. The detaining authority stated that on the secret information received through his relatives that the detenu would file a bail petition and in that event, there is every possibility for granting bail, and it was also observed in the said order that if the detenu come out on bail, he will indulge in similar activities, which would be prejudicial to public peace and public order. On a perusal of the detention order, this Court finds that there are no material neither to show about the probensity of committing similar offence by the detenu nor any criminal antecedents shown as against the detenu. As a matter of record, this is a solitary case, that too, within that family and upon sudden provocation. Thus, from the perusal of the detention order, we could not find any material to show that the conduct of the detenu has caused prejudicial to the maintenance of public peace and public order. Thus, we are of the firm view that the detention order has been passed without any basis and there are no material so as to justify the subjective satisfaction of the detaining authority. Hence the detention order vitiates.



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7.In fine, the Habeas Corpus Petition is allowed. The detention order in Detention Order No.54/2023, dated 11.10.2023 passed by the second respondent, is set aside. Consequently, the detenu, namely, Jeyaprakash, Son of Krishnan, aged about 39 years, now detained at the Central Prison, Madurai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

[G.J.,J.] [C.K.,J.]

21.03.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To:

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

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



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

vsn

ORDER MADE IN
H.C.P.(MD) No.50 of 2024

21.03.2024