



HCP(MD)No.112 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.04.2024

CORAM

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

H.C.P.(MD)No.112 of 2024

Kavitha

.. Petitioner / Mother of Detenu

Vs.

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Virudhunagar.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Inspector of Police,
Virudhunagar Rural Police Station,
Virudhunagar.

.. 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 the detention order of the Respondent No.2 in Cr.M.P.No.15/2023 (Goonda)



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dated 29.08.2023 and quash the same and direct the respondents to produce the body or person of the petitioner's son by name Vijay @ Chellam son of Samuthirapandi aged about 19 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA,J.)

The petitioner is the mother of the detenu viz., Vijay @ Chellam, aged about 19 years, S/o.Samuthirapandi. The detenu has been detained by the second respondent by his order in Cr.M.P.No.15/2023 dated 29.08.2023 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.

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 petitioner's son, the detenu herein, was arrested in the ground case on 23.06.2023 and the detention order has been passed on 29.08.2023 resulting in the live and proximate link between the grounds and purpose of detention getting snapped. He would further submit that the co-accused one Ajith @ Ajithkumar was similarly placed and this Court, on finding that the proximate link between the grounds and purpose of detention getting snapped, had quashed the detention order in H.C.P.(MD).No.1286 of 2023 vide order dated 20.11.2023.

4. Mr.A.Thiruvadikumar, learned Additional Public Prosecutor, strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that materials had to be collected and thereby, there was a delay of few months in passing the detention order. However, he would submit that on the ground of live and proximate link being snapped, this Court had allowed the Habeas Corpus Petition in respect of the co-accused.



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5. This Court has perused the grounds of detention. The first adverse case is in Crime No.35 of 2023 registered by the Virudhunagar Rural Police Station for the alleged offence under Section 294(b) IPC and the occurrence is said to have taken place on 13.03.2023. The second adverse case against the detenu is Crime No.37 of 2023 registered by the very same Police Station for the alleged offence under Section 379 IPC and the occurrence is on 19.03.2023. Subsequently, the ground case in Crime No.123 of 2023 was registered by the very same Police Station for the alleged offence under Section 302 IPC, which was later altered to Sections 302 and 201 IPC. The offence is said to have been committed on 20.06.2023 and the detenu was arrested and remanded to judicial custody on 23.06.2023 and the detention order has been clamped on the detenu on 29.08.2023. When the documents relating to the adverse cases and the ground case were available with the Sponsoring Authority/4th respondent, the reason for the delay cannot be accepted. The time consumed for detaining the accused has not been explained and thereby, the detention order is vitiated. The impugned detention order is, therefore, liable to be quashed.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.15/2023 dated 29.08.2023 passed by the second respondent is set aside. The detenu, viz., Vijay @ Chellam, S/o.Samuthirapandi, aged about 19 years, 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.)
02.04.2024

NCC : Yes / No
Index : Yes / No
Lm

To

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



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