



H.C.P.(MD) No.322 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.322 of 2024

A.Kalyani

... Petitioner

-VS-

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

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

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.80/2023, dated 16.11.2023 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., Ananthakuma, aged about 55 years, S/o.Arumugam, 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., Ananthakumar, son of Arumugam, aged about 55 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.80/2023, dated 16.11.2023 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.



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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. The learned counsel appearing for the petitioner would submit that the detention order suffers from non application of mind on the part of the detaining authority and thereby it is vitiated. He would submit that the prison report sent by the officer dated 07.11.2023 has been placed at page No.91 of the booklet. In col. No.IX of the report it is stated that remand extension order was passed on 20.11.2023 extending remand till 24.11.2023. The date of extending remand on 20.11.2023 cannot be reflected in the document viz., prison report dated 07.1.2023. If the report has been actually made ready on 07.11.2023, it cannot reflect the extension of remand order dated 10.11.2023. In this regard the detaining authority has not sought for any explanation from the sponsoring authority regarding the same and he has mechanically passed order without there being any explanation, thereby the entire order has been vitiated.



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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, we find that at page No.91 of the booklet which is the prison report dated 07.11.2023 it is stated that remand extension order was passed on 10.11.2023 extending the remand till 24.11.2023. If the report had been made ready on 07.11.2023, it cannot reflect the date of extension order dated 10.11.2023 and thereby, the detention order is 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.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl No.80/2023, dated 16.11.2023, passed by the second respondent is set aside. The detenu, viz., Ananthakumar, aged about 55 years, son of Arumugam, 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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To:

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Tenkasi District, Tenkasi.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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