



H.C.P.(MD) No.514 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM:

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

H.C.P.(MD) No.514 of 2024

Muthuduraichi

... Petitioner

-VS-

1.The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Home,(Prohibition and Excise) Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate,
O/o.District Collectorate,
Tenkasi.

3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.

... Respondents



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WEB CONTENT

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 in M.H.S.Confdl.No.86/2023, dated 28.11.2023 passed by the second respondent on petitioner's son namely, Selvakumar, S/o.Karuthapandiyan, aged 26 years has been detained and branded as "Drug Offender" under the Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act 1982 (Tamil Nadu) Act 14/1982) and confined at Central Prison, Palayamkottai, Tirunelveli District.

For Petitioner : Mr.S.P.Veerapandi

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 father of the detenu viz., Selvakumar, son of Karuthapandian, aged about 26 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.86/2023, dated 28.11.2023, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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. Though several grounds have been raised in the habeas corpus petition, learned counsel for the petitioner focused mainly on the ground that at paragraph-3 of the grounds of detention it has been observed by the detaining authority that the detenu was arrested in Kadayanallur Police Station in Cr.No. 451/2023 on 04.11.2023 and he was produced before the Judicial Magistrate, Sivagiri, whereas, at page No.65 of the booklet Volume-I, it has been stated that the request for remand was filed before the learned Judicial Magistrate, Tenkasi and the learned Judicial Magistrate, Tenkasi has passed the order of remand. The detaining authority without application of mind has stated that the detenu was produced before the Judicial Magistrate, Sivagiri. 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.



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4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the impugned detention order 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.65 of the booklet Volume-I, the prayer for remand sought for before the Judicial Magistrate, Tenkasi and the remand order at Page No.73 of the booklet Volume-I has also been passed by the learned Judicial Magistrate, Tenkasi 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.



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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.86/2023, dated 28.11.2023, passed by the second respondent is set aside. The detenu, viz., Selvakumar, aged about 26 years, son of Karuthapandian, is directed to be released forthwith unless his detention is required in connection with any other case.

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

[A.D.J.C., J.] [K.R.S., J.]
20.06.2024



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To:

- 1.The Principal Secretary to Government,
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- 2.The District Collector and District Magistrate,
Tenkasi.
- 3.The Superintendent,
Central Prison,
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- 4.The Inspector of Police,
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Tenkasi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
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