



H.C.P(MD)No.580 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HON'BLE Ms.JUSTICE R.POORNIMA**

H.C.P.(MD) No.580 of 2024

Ducklas Mani @ Manikandan

... Petitioner

Vs

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Secretariat, Chennai-600 009.

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

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

4. The Superintendent,
District Jail,
Pudukottai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in detention passed by the 2nd respondent made in proceedings in P.D.No.06/2024,



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dated 12.04.2024 in detaining the detenu under Sections 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenue namely Ducklas Mani @ Manikandan, S/o.Krishnan, aged 33 years, male, now detained at District Jail, Pudukottai before this Court and set him at liberty.

For Petitioner : Mr.O.S.Thilak Pasumbadiyar

For Respondents : Mr.S.Ravi

Additional Public Prosecutor.

ORDER

The petitioner is the mother of the detenu viz., Ducklas Mani @ Manikandan, S/o.Krishnan, aged 33 years. The detenu has been detained by the second respondent by his order in Detention Order in P.D.No.06/2024, dated 12.04.2024 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 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 grounds of detention at paragraph No.5 it is stated that

“Thirumathi.Rasathi, mother of the accused Thiru.Ducklas Mani @ Manikandan is taking action to take out her son Thiru. Ducklas Mani @ Manikandan on bail for the ground case registered in Thanjavur Medical College Hospital Police Station Crime No.47/2024”.

4.The learned counsel for the petitioner further submitted that the subjective satisfaction that has been arrived at by the detaining authority at Paragraph No.5 of the order is not supported by any materials. Therefore, the same also suffers from non application of mind.

5.The learned counsel for the petitioner, in order to substantiate the submissions, relied upon the judgment of the Full Bench reported in **2005 (2) LW 946 [K.Thirupathi v. District Magistrate and District Collector, Tiruchirappalli District & another]**.



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6. We have carefully considered the submissions made on either side and also the materials available on record.

7. Even though several grounds have been raised in the petition filed before this Court, this Court is inclined to consider the main ground that has been focussed by the learned counsel for the petitioner.

8. It has been further stated that the detenu's mother had not filed any bail application till date. It is not known on what basis the detaining authority had come to the conclusion that the mother of the detenu is taking steps to file bail application before the competent Court. Though the source of information need not be disclosed, the credibility of such information ought to have been disclosed. Thus, the ground on which the detaining authority arrived at subjective satisfaction on that aspect become questionable.

9. At this point of time, it will be relevant to take note of the Full Bench judgment, which has been referred supra.



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10. The relevant portions are extracted hereunder:

“24. The detaining authority is required to follow strictly and scrupulously the forms and rules of law prescribed in that behalf or by the statutory provision under which the order of detention is being made after arriving at a subjective satisfaction. In the event of any deviation or violation of the statutory provisions or infraction of constitutional guarantees, the Courts will not hesitate to quash the orders of detention. Whatever be the jurisdiction to detain and the slightest infraction of the constitutional guarantee would lead to the detenu being set at liberty.

25. It is by now well settled that in all detention laws, the orders of detention and its continuance of detention should be in conformity with [Article 22](#) of the Constitution of India and slightest infraction of the Constitutional protection enshrined therein would be a valid ground to set the detenu at liberty.

26. There must be cogent material before the Authority passing the detention order for inferring that the detenu was likely to be released on bail. This inference must be drawn from material on record and must not be the ipse dixit of the Authority passing the detention order.



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27. In the case of a person in custody a detention order can validly be passed if the authority passing the order is aware of the fact that he is actually in custody; if he has reason to believe on the basis of reliable material placed before him--

(a) that there is a real possibility of his being released on bail, and

(b) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording its satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition to question it before a higher Court.

28. It is neither possible nor advisable catalogue the types of materials which can form the basis of a detention order under the Act. That will depend on the facts and situation of a case. That is why there is no provision in the Act in that regard and the matter is left to the discretion of the detaining authority. However, the facts stated in the materials relied upon should be true and should have a reasonable nexus with the purpose for which the order is passed.”

11.It is clear from the above that where the detenu is in



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custody and he has not filed any bail petition, there are no materials to show that he is taking steps to file a bail petition by himself. This conclusion by the detaining authority was based merely on presumptions made. The same reflects non application of mind on the part of the detaining authority.

12. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court.

13. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order in P.D.No.06/2024, dated 12.04.2024, passed by the second respondent is set aside. The detenu, viz., Ducklas Mani @ Manikandan, S/o.Krishnan, aged 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(C.V.K., J.) (R.P., J.)
15.10.2024

Index : Yes / No
Internet : Yes / No



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NCC : Yes / No

PNM

To

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Secretariat, Chennai-600 009.

2. The District Collector and District Magistrate,
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Thanjavur.

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



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C.V.KARTHIKEYAN, J.
and
R.POORNIMA, J.

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ORDER MADE IN
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15.10.2024