



H.C.P.(MD) No.1223 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM:

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

H.C.P.(MD) No.1223 of 2022

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... Petitioner

-VS-

- 1.The State of Tamil Nadu,
Represented by its
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai.
- 4.The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi District.

... Respondents



H.C.P.(MD) No.1223 of 2022

WEB CONTENT

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order passed by the second respondent in Detention Order H.S.(M)Confdl.No. 125/2022, dated 28.06.2022 and quash the same and direct the respondents to produce the detenu Karuppasamy @ Ottai, son of Muthu, male, aged 21 years, who is detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.R.Mariappan

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 mother of the detenu viz., Karuppasamy @ Ottai, son of Muthu, aged 21 years. The detenu has been detained by the second respondent by his order in H.S(M)Confdl.No.125/2022, dated 28.06.2022 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.



H.C.P.(MD) No.1223 of 2022

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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 the detention order is of the year 2022, the Hon'ble Division Bench of this Court, by order dated 20.06.2023 has passed the following order:-

"In these batch of Habeas Corpus Petitions among various grounds that has been raised on behalf of the detenues, three grounds particularly, raised by the detenues side are under consideration before us.

2. The first issue is that the non intimation of the arrest in the ground case whether would be a fatal to the subsequent detention order passed under Act 14 of 1982.

3. The second issue is whether the non-supply of entire materials or documents pertaining to the similar case that has been referred by the detaining authority in the detention order would also be a fatal to the detention order and the third issue is whether all the documents that has been mentioned in the grounds of detention irrespective of the fact whether it is relied upon document or not with translated version in vernacular to be



WEB COPY supplied to the detenu.

4. In respect of these three issues, so far as the first two issues are concerned there are judgments taking divergent views, therefore, we thought of necessarily to refer these two issues to be decided by an authoritative pronouncement by the Full Bench and our reasoning for such reference would follow.

5. In respect of third issue, we are deciding that issue and our reasoning for deciding the third issue also would follow.

6. In view of the aforestated as that would take some reasonable time to refer the matter to the Full Bench and Constitution of the Full Bench to decide those issues by giving authoritative pronouncement will naturally take some reasonable time, we feel that in the meanwhile, since atleast in respect of those two issues i.e., issue No.1 and 2 are concerned judgments have already been issued, taking the view in some judgments in favour of the detenues, by giving such benefit to the detenues in these cases, we feel that the respective detention order which are impugned in this batch of cases are concerned, such detention can be suspended by way of giving direction to make temporary release of these detenues as of now.

7. In view of the aforestated, there shall be a direction to the respondents to temporarily release the detenues concerned in these cases by way of an interim suspension of the detention order



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8. Post these matters for detailed judgment on 28.06.2023.

9. In view of the temporary release that has been ordered now under Section 15 of the Act 14 of 1982, they have to execute a bond and that shall be complied with by the detenues or on their behalf to the satisfaction of the jail authorities."

4. Thereafter, a detailed order was passed by the Division Bench of this Court on 30.06.2023 referring the matter to the Full Bench of this Court. After reference, the Full Bench of this Court by passing a detailed order dated 28.03.2024 answered the issue No.1 and No.2 in negative and directed all the H.C.Ps., to be listed before the concerned Bench for decision based on the facts and circumstances of each individual cases in the light of the above pronouncement to the issues referred.

5. In view of the above, this individual case is taken up for hearing to be decided on its own merits.



H.C.P.(MD) No.1223 of 2022

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6. The learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents would submit that the detenu has already undergone the entire period of preventive detention and he has been released. Even though, the interim suspension was granted on 20.06.2023, the detention order came to be passed on 28.06.2022 and he has already undergone the entire period of preventive detention.

7. In view of the above, this Habeas Corpus Petition is closed as infructuous since the detenu viz., Karuppasamy @ Ottai, son of Muthu, male, aged 21 years has already undergone the entire period of detention and he has been released and hence, no further order is required to be passed regarding the release of the detenu.

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

24.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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- 2.The District Collector and District Magistrate,
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- 4.The Inspector of Police,
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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