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H.C.P.(MD) No.1329 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2024

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD)No.1329 of 2023

Thillai Divya

... Petitioner/wife of the detenu

-Vs-

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector/
District Magistrate,
The District Collectorate,
Sivagangai District.

3.The Superintendent of Police,
Central Prison,
Madurai.

... 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 in Cr.M.P.No.5 of 2023 dated 05.05.2023 passed by the second respondent on the petitioner's husband namely 'Santhosh @ Jeyaraman", Male, aged about 22 years, son of Alagurajan who has been detained and branded as 'Goonda' in exercise of Powers conferred by Section 3(1) of the Tamil Nadu Prevention of

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Dangerous Activities of Boot-Leggars, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 and confined at District Prison, Madurai District and set him at liberty forthwith.

For Petitioner : Mr.S.Anandha Rajagopal
For R1 to R3 : Mr.E.Antony Sahaya Prabhakar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
AND
C.KUMARAPPAN, J.

The wife of the detenu has preferred this Habeas Corpus Petition to quash the detention order passed under Act 14 of 1982 on the ground that there is no proximity between the ground case and the detention order.

2.The learned counsel appearing on behalf of the petitioner states that the ground case relied upon by the detaining authority is in respect of Crime No. 57 of 2023 for the offence under Section 394 IPC. Considering him as a habitual offender based on other two cases registered against him in Crime No.37 of 2022 dated 01.05.2022 for the offence under Section 392 IPC and in Crime No.68 of 2022 dated 01.05.2022 for the offence under Section 392 IPC, the present



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detention order was passed on 05.05.2023 almost one month 9 days later. Further, the learned counsel for the petitioner also submitted that a total non-application of mind is manifestly seen from the reasons given by the detaining authority referring the bail granted to the co-accused on 21.04.2023 and the possibility of getting bail by this detenue also. The learned counsel also drew our attention to some of the pages in the paper book, which are not legible and in handwritten and states that this has highly prejudiced the detenue in making his representation.

3.The learned Additional Public Prosecutor appearing on behalf of the respondents submitted that after considering the materials furnished to the detenue, proper representation was made and was duly considered. Just because the detention order was passed one moth ten days later of the ground case, the reasoning for detention cannot be doubted.

4.This court on perusing the record and antecedents of the detenue finds that the ground case for the offence under Section 394 IPC, is based on the complaint given by one Chekadiyan. The subsequent confession statement alleged to have been recorded by the respondent police, indicates that the matter involves snatching of 107 sovereigns of gold chain and cell phone. Though the detaining authority has considered that there is a every possibility of obtaining bail by the



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petitioner, since the co-accused was granted bail, that alone cannot justify the reasoning of the detaining authority to detain the detenu under Act 14 of 1982.

More so, the detenu has not been provided with clean copies of the documents relied upon by the detaining authority. For the aforesaid reasons, this Court is of the view that the petition is liable to be allowed and the detention order is to be quashed.

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.5 of 2023 dated 05.05.2023 passed by the second respondent is set aside. The detenu, viz., Santhosh @ Jeyaraman, S/o.Alagurajan, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.J.] & [C.K.J.]
19.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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