



H.C.P.(MD) No.1437 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM:

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

H.C.P.(MD) No.1437 of 2023

A.Puvanakasthuri

... Petitioner

-VS-

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

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

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.82 of 2023, dated 10.08.2023 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., Ananth alias Avudaiyappan, aged about 29 years, S/o.Pichumani, 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., Ananth alias Avudaiyappan, son of Pichumani, aged about 29 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.82 of 2023, dated 10.08.2023 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.



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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 detenu was arrested in Cr.No.200 of 2023 on 31.07.2023 and was remanded to judicial custody on the same day, however, in the history sheet enclosed at page No.135 a different date had been mentioned. No clarification has been sought for by the detaining authority from the sponsoring authority with regard to the discrepancy. There is no possibility of the history sheet showing an ante-date to arrest and hence, the detention order vitiated the non-application of mind.

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 and there is no illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petition.



H.C.P.(MD) No.1437 of 2023

WEB COPY

5. The actual date of arrest is 31.07.2023, whereas as per the document furnished at Page No.135, a different date had been mentioned. However, no clarification has been sought for in this case. This aspect exposes the non-application of mind on the part of the detaining authority. 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 and hence, the impugned detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl No.82 of 2023, dated 10.08.2023, passed by the second respondent is set aside. The detenu, viz., Ananth alias Avudaiyappan, aged about 29 years, son of Pichumani, 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.]
15.04.2024

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

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Tirunelveli.
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Central Prison,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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