



H.C.P.(MD) No.1506 Of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.02.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

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V.Maariammal ... Petitioner/wife of the detenu

-VS-

1.The Government of Tamil Nadu,
represented by the Principal Secretary to Government,
Home, Prohibition and Excise(XIV) Department,
Fort St.George,Secretariat,
Chennai – 600 009.

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

3.The Superintendent,
Central Prison,
Palayamkottai.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the Detention Order of the second respondent in MHS. Confdl.No.58 of 2023, dated 4.8.2023 and to quash the same as illegal and to directthe respondents to produce the person or body of the detenu



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namely Venkadesh, son of Vellasamy, aged 37 years(now detained at Central Prison, Palayamkottai) before this Court and set him at liberty.

For Petitioner : Mr.K.Dinesh

For Respondents : Mr.S.Ravi,
Addl.Public Prosecutor

ORDER

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

This habeas corpus petition has been filed by the wife of the detenu, namely, Venkadesh, son of Vellasamy, aged 37 years, challenging the detention order in MHS. Confdl.No.58 of 2023, dated 4.8.2023, passed by the second respondent, branding him as "Goonda " as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.This Habeas Corpus Petition is filed by the wife of the detenu challenging the detention order on the ground of non-application of mind and that similar case referred for involving likelihood of getting bail, is not similar to the facts of the case involved.



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4.The short point in this case is that the husband of the Petitioner is one of the three accused in this case where the complaint has been lodged by a 17 year old girl alleging that she was taken in an auto by three persons and gang raped. The victim being minor child, offence under Section 5 and 6 of the POCSO Act has been slapped against those persons including the Petitioner's husband and they are detained in prison as under trial prisoners in a connected case which was registered in Crime No.3 of 2023. In the meanwhile, they were detained under Act 14 of 1982.

5.The detaining authority has referred to a bail order which was granted to the case of POCSO offence on the ground of not filing and by invoking Section 167(2) of Cr.P.C. The above reference case cannot be a similar case on facts to the case under consideration. Therefore, this Court is of the view that there is non-application on the part of the detaining authority while passing the detention order, which necessarily calls for interference by this Court.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in MHS. Confdl.No.58 of 2023, dated 4.8.2023, passed by the second respondent, is set aside. Consequently, the detenu, namely, Venkadesh, son of Vellasamy, aged 37 years, who is now detained at Central Prison,



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Palayamkottai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

[G.J.,J.] [C.K.,J.]

22.02.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To:

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,Secretariat,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Tenkasi District.
- 3.The Superintendent,
Central Prison,
Palayamkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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ORDER MADE IN

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