



H.C.P.(MD).No.1520 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.03.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD).No.1520 of 2023

Vijaya

... Petitioner/
Mother of Detenu

Vs.

- 1.The State of Tamil Nadu,
Rep. by The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent,
Central Prison,
Trichirappalli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the entire records relating to the



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petitioner's son detention order in P.D.O.No.14/2023 dated 20.07.2023 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Naveen @ Kosu, S/o.Shanmugam, Male, aged about 22 years, who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.G.Mathavan

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The mother of the detenu is before this Court challenging the detention order passed by the second respondent under the Tamil Nadu Act 14 of 1982.

2. The detention order indicates that the authority satisfied from the records that the detenu is the drug offender and his presence will cause disturbance to the public peace. Further, the detention order indicates that



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the detenu was earlier arrested for possessing 1.100 kgs of ganja and arrested on 03.05.2023 in Crime No.176 of 2023 by the Pudukottai Town Police, for the offences under Section 8(c) r/w Section 20(b)(ii)(B) of NDPS Act. Soon after he was released on bail for the said offence, he was again found in possession of 2 kgs of ganja which was seized from him by the same police in Crime No.255 of 2023.

3. The learned counsel for the petitioner submitted that the petitioner is a HIV patient and he has been falsely implicated in the narcotic drugs offence. In the first case which was registered against him on 03.05.2023, he was granted bail and the second case was foisted against him as if he had in possession of 2 kgs of ganja and again arrested on 15.06.2023. However, the detention order was passed only on 20.07.2023. There is no live link between the occurrence shown as a ground case and the detention order. From the date of arrest for the ground case, the State has taken nearly 35 days to pass the detention order.



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4. In the counter filed by the second respondent on behalf of the State, it is stated that there is no time limit prescribed for passing the detention order, though 35 days delay has occurred due to the time for collecting the record and for preparing the booklet.

5. This Court finds that only one adverse case apart from the ground case has been shown against the detenu and taken for consideration. However, in the course of arguments, the learned Additional Public Prosecutor states that there are few more cases against the detenu arising under IPC and Arms Act, but they were not considered by the detaining authority, except the one adverse case registered by the same sponsoring authority. We also found that the time taken to impose Goonda is not being properly explained. Therefore, this Court is of the view that the detaining authority has not applied his mind in the proper perspective to hold that the presence of the accused in public will be prejudicial to the public peace.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.O.No.14/2023 dated 20.07.2023 passed by the second



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respondent is set aside. The detenu, viz., Naveen @ Kosu, S/o.Shanmugam, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (C.K.,J.)
04.03.2024

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

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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