



HCP(MD)No.1541 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.04.2024

CORAM

**THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HON'BLE MR JUSTICE K.RAJASEKAR**

H.C.P.(MD)No.1541 of 2023

M.Mariammal

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

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

3.The Superintendent of Central Prison,
Central Prison, Palayamkottai
Tirunelveli District.

.. Respondents

PRAYER: Habeas Corpus 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 MHS Confdl. No.



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121/2023 dated 29.09.2023 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son ie., Mariraj alias Rasukutty, aged about 26 years, S/o.Mariappan, 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.Thiruvadikkumar
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., Mariraj @ Rasukutty, aged about 26 years, S/o.Mariappan. The detenu has been detained by the second respondent by his order in MHS Confdl. No.121/2023 dated 29.09.2023 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.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We



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have also perused the records produced by the Detaining Authority.

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3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority, without any particulars with regard to previous cases, has arrived at a subjective satisfaction that if the detenu comes out on bail, there is every possibility that the detenu will indulge in further activities in future and thereby the detention order is vitiated for non application of mind and liable to be quashed.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. However, he would fairly concede that though it is stated in the order of detention that there is no previous cases and based on the solitary case, detention order has been clamped, however, there are previous cases pending against the detenu.

5. The detaining authority, while recording the detenu's involvement in the sole ground case in Crime No.332/2023, had observed.that that there



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is a real possibility of the detenu coming out on bail, since bails are being granted by the appropriate Courts in such cases and had referred to a similar case, wherein, bail was granted to one Manikandan alias Mani in CrI.M.P.No.1805/2018 dated 09.04.2018 by the Principal Sessions Court, Tirunelveli. While observing so, the detaining authority had stated that if the detenu comes out on bail, he will indulge in further activities in future, which will be prejudicial to the maintenance of the public order. Though it is represented by the learned Additional Public Prosecutor that there are several cases pending against the detenu, the documents supplied does not disclose about those cases.

6. In such circumstances, the subjective satisfaction arrived at by the detaining authority to the effect that the detenu is likely to indulge in further activities in future, is baseless and would amount to non-application of mind. Hence, the impugned order of detention is liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in MHS Confdl. No.121/2023 dated 29.09.2023 passed by the second respondent is set aside. The detenu, viz., Mariraj @ Rasukutty,



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S/o.Mariappan, aged about 26 years, 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.)
01.04.2024

NCC :Yes / No
Internet : Yes

RR

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.The District Collector and District Magistrate
Collectorate,
Tirunelveli District, Tirunelveli
- 3.The Superintendent of Central Prison,
Central Prison, Palayamkottai
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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A.D.JAGADISH CHANDIRA, J.
and
K.RAJASEKAR,J.

RR

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