



HCP(MD)No.1570 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 02.04.2024

CORAM

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

H.C.P.(MD)No.1570 of 2023

V.Annadurai

.. Petitioner / Father of the Detenu

Vs.

1.State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

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

.. 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 passed in M.H.S.Confdl No.62/2023 dated 04.09.2023 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



HCP(MD)No.1570 of 2023

petitioner's son i.e., Karuppasamy alias Undial, aged about 25 years, S/o.Annadurai, 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.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA,J.)

The petitioner is the father of the detenu viz., Karuppasamy alias Undial, aged about 25 years, S/o.Annadurai. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.62/2023 dated 04.09.2023 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 have also perused the records produced by the Detaining Authority.



HCP(MD)No.1570 of 2023

3. The learned counsel appearing for the petitioner drew the attention of this Court to the prison report dated 12.08.2023 and would submit that the said report contains information regarding the last date of remand as 22.08.2023 and subsequent extension till 05.09.2023. He would also submit that the remand period of the detenu was extended till 05.09.2023 vide remand extension order dated 22.08.2023 and that the said order could not have been available with the prison authorities on the date of the prison report, i.e., 12.08.2023. No clarification had been sought for by the Detaining Authority with regard to the said document. Hence, the impugned order suffers from non-application of mind with regard to custody and the same is liable to be interfered with.

4. Mr.A.Thiruvadikumar, learned Additional Public Prosecutor, strongly opposed the Habeas Corpus Petition by filing his counter.

5. This Court has perused the document relied upon by the Detaining Authority at Page 115 of the booklet, which is a prison report dated 12.08.2023. In the said report, the last date of remand was shown as 22.08.2023 and subsequent extension till 05.09.2023. However, on



HCP(MD)No.1570 of 2023

12.08.2023, the extension of remand order dated 22.08.2023, extending the remand period till 05.09.2023, could not have been available with the prison authorities. Therefore, this Court finds that the Detaining Authority had passed the impugned order of detention without getting clarification regarding custody and thereby, the detention order is vitiated, since one of the materials relied on by the Detaining Authority to arrive at the subjective satisfaction based on the prison report, has not been clarified by the Detaining Authority. The impugned order of detention is, therefore, liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl No.62/2023 dated 04.09.2023 passed by the second respondent is set aside. The detenu, viz., Karuppasamy alias Undial, S/o.Annadurai, aged about 25 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.)
02.04.2024

NCC : Yes / No
Index : Yes / No
Lm



HCP(MD)No.1570 of 2023

To

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



WEB COPY



HCP(MD)No.1570 of 2023

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

Lm

H.C.P.(MD)No.1570 of 2023

02.04.2024