



H.C.P.(MD) No.1007 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.04.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

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Kathees Kumari

... Petitioner/wife of the
Detenu

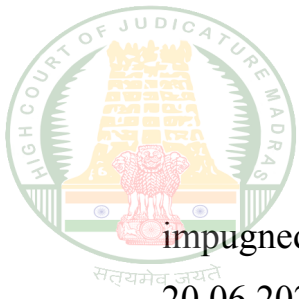
-Vs-

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Secretariat, Chennai- 600 009.
2. The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai District.
4. The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, by calling for the records relating to the

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impugned Order of detention made in H.S(M) Condl.No. 84/2024 dated 20.06.2024 on the file of the District Collector and District Magistrate, Thoothukudi, the 2nd respondent herein, branding the Petitioner's husband/detenu by name Marikannan S/o. Mariappan, aged 44 years as 'SEXUAL OFFENDER' who is now confined in Central Prison, Palayamkottai, Tirunelveli District and quash the impugned order of detention and set him at liberty by producing him before this Court.

For Petitioner : M/s.R. Amarnath

For Respondents : Mr.S. Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

The petitioner is the wife of the detenu who was arrested on 25.05.2024 on a complaint given by the victim for the alleged offence under Sections 3(a), 4, 5 (m) read with 6 of the Protection of Children from Sexual Offences Act, 2012.

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.

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3. The detention order, under Act 14 of 1982 was passed on 20.06.2024. The same is challenged on the ground that the detaining authority has not applied his mind properly. The apprehension of detenu getting bail in the ground case by citing a similar case is not a similar case, as per the document annexed by the detaining authority furnished to justify the detention order.

4. The Learned Counsel appearing for the petitioner would submit that the detaining authority has referred a case registered by All Women Police Station, Thoothukudi, in Crime No. 20 of 2018 for the offence under Section 5(i) (ii)5(1) 6 of the Protection of children from Sexual Offences Act 2012 and 506(i) of IPC, wherein the accused by name Sivalingam was granted bail by the District Mahila Court, Thoothukudi, in CRL.M.P No.306 of 2019 dated 24.01.2019, whereas the document furnished to the detenu is the First Information Report registered at Vilathikulam All women Police station in Crime No.10 of 2018, as against one Ramesh S/o.Madurai Veeran for the alleged offence under Sections 376 & 506(i) of IPC. The bail order referred in the detention order not been furnished, but bail granted to the accused by name Ramesh in Crime No.10 of 2018 registered by All Women Police Station, Vilathikulam, alone is furnished. He would further submit that the non application of mind and failure to furnish the correct document had disabled the detenu to make his representation effective.



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5. In view of the above, this Court finds that the detention order was passed in a cavalier manner, without even verifying whether the documents referred to in the detention order were properly furnished to the detenu. On this sole ground, the detention order suffers from illegality, therefore, the same is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the detention order made in H.S(M) Condl.No. 84/2024 dated 20.06.2024, passed by the second respondent is hereby set aside. The detenu, viz., Marikannan, aged 44 years, S/o. Mariappan, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J., J.] & [R.P., J.]

01.04.2025

NCC : Yes / No
Index : Yes / No
KSA

Note : Issue a copy of order on 03.04.2025



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Kovilpatti,
Thoothukudi District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

KSA

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