



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

H.C.P. (MD) No.64 of 2021

G.Nagajothi

... Petitioner

-VS-

1.The State of Tamilnadu,
Rep. by its Principal Secretary,
Home (Prohibition & Excise) Department,
Fort St. George,
Chennai-600 009.

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

3.The Superintendent of Prison,
Central Prison Madurai,
Madurai.

... 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 relating to the detention of the petitioner's husband namely, Ganesan S/o.Rajendran, aged about 35 years vide detention order dated 10.11.2020 made in B.C.D.F.G.I.S.S.S.V.No.32/2020 passed by the 2nd respondent and quash the same and consequently direct the respondent to produce the body and person of the detenu namely, Ganesan, S/o.Rajendran, aged about 35 years (now detained at Central Prison, madurai) before this Court and set him at liberty.

For Petitioner : Mr.B.Pandiarajan

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor



O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the wife of the detenu, namely, Ganesan, son of Rajendran, aged about 35 years, against the detention order passed by the second respondent, in B.C.D.F.G.I.S.S.S.V.No.32/2020, dated 10.11.2020, branding him as "Drug Offender" as contemplated under Section 2(e) of Tamil Nadu Act, 14 of 1982.

2.Mr.B.Pandiarajan, learned counsel appearing for the petitioner would argue that though several grounds have been raised to assail the detention order impugned in this habeas corpus petition, he is entitled to succeed in this petition mainly on the ground of non application of mind on the part of the detaining authority while arriving at subjective satisfaction.

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that the detention order has been rightly passed against the detenu and the detaining authority has satisfied with the materials placed by the Sponsoring Authority before passing the detention order and there is no illegality therein warranting interference by this Court.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. A perusal of the detention order shows that the detenu in this case is one of the accused in Cr.No.38 of 2020 on the file of the Sindhupatti Police Station, which was registered for the offences under Sections 8(c) r/w 20(b)(ii) (C), 25, 29 (I) of NDPS Act and it is alleged that he was found in possession of 5.100 Kgs of Ganja. But while reaching the subjective satisfaction in paragraph-4 of the grounds of detention it has been stated that he is engaged habitually in possession and sale of intoxicated drugs. When the detenu is involved in only one case, referring the detenu as habitually involving in possession and sale of intoxicated drugs would certainly amounts to lack of non-application of mind.

6. In the light of the above facts and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.



7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in B.C.D.F.G.I.S.S.S.V.No.32/2020, dated 10.11.2020, is set aside. Consequently, the detenu, namely, Ganesan, son of Rajendran, aged about 35 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The Principal Secretary,
Home (Prohibition & Excise) Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Madurai District, Madurai.
- 3.The Superintendent of Prison,
Central Prison Madurai, Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai

H.C.P. (MD) No.64 of 2021

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