



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2021

CORAM:

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

H.C.P. (MD) No.62 of 2021

P.Vijaya ... Petitioner/Wife of Detenu

-vs-

- 1.State of Tamil Nadu,
Rep. by it's The Additional Chief Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Superintendent,
Central Prison,
Madurai. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus to call for the records pertaining to the proceedings of the 2nd respondent made in his proceedings Detention Order No.33/2020 dated 23.06.2020 and quash the same and set the petitioner's husband by name Pandi S/o Palsamy aged about 60 years at liberty from Central Prison, Madurai/3rd respondent herein.

For Petitioner : Mr.M.Jegadeesh Pandian

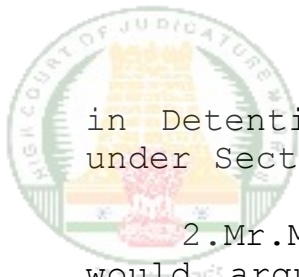
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The Habeas Corpus Petition has been filed by the wife of the detenu namely, Pandi, son of Palsamy, male, aged about 60 years, who has been branded as "Drug Offender" by the second respondent

<https://heservices.hcprts.gov.in/heservices/>



in Detention Order No.33/2020 dated 23.06.2020, as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982.

2.Mr.M.Jagadeesh Pandian, learned counsel for the petitioner would argue that the detention order impugned in this habeas corpus petition is liable to be set aside on the sole ground of non application of mind on the part of the detaining authority. It is further contended that totally there are 4 accused in this case and all the accused have been detained under the Tamil Nadu Act 14 of 1982. The detention orders in respect of A1 and A4 were revoked by the Government and the detention order passed against A3 was quashed by this Court. In this case, the detenu is A2. It is next contended that the similar case relied on by the detaining authority to arrive at subjective satisfaction is not similar to the case of the prosecution.

3.Per contra, Mr.K.Dinesh Babu, learned counsel for the petitioner would argue that the second respondent has rightly detained all the accused in the ground case taking note of their antecedence and only after satisfying with the materials produced by the sponsoring authority. According to the learned Additional Public Prosecutor, there is no infirmity or irregularity in the order of detention passed by the second respondent warranting interference of this Court and hence, he prayed for dismissal of the Habeas Corpus Petition.

4.We have heard the rival submissions and perused the materials available on records.

5.The detenu was arrested in the adverse case on 17.05.2020 and formal arrest was made in the ground case on 19.05.2020. The detaining authority for reaching subjective satisfaction has referred the bail granted to the accused in Crime No.106/2013 on the file of the Inspector of Police, Sedappatti Police Station, wherein this Court, by order dated 18.09.2013, made in CrI.O.P(MD) No.13789 of 2013, has granted bail to the accused and he did not have adverse case and the co-accused were already granted anticipatory bail in CrI.O.P(MD)No.1279 of 2013. But admittedly, in the matter on hand, as stated supra, all the accused have been detained and no one was granted anticipatory bail in the ground case. So, we are of the considered opinion that the similar case referred by the detaining authority is not similar to the case of the detenu. Hence, on this sole ground, the impugned detention order is liable to be set aside.

6.In fine, the order of detention passed by the second respondent, in Detention Order No.33/2020 dated 23.06.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detention of, namely, Pandi, son of Palsamy, male, aged about 60



years, 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(AE)

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/ /2021

Sub Assistant Registrar(CS)

Skn

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 Additional Chief Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Superintendent,
Central Prison, Madurai.
4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.62 of 2021
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sss (CO)

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