



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P.(MD) No.609 of 2020

M.Poongodi

... Petitioner

-vs-

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
George Fort,
Chennai-600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
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 records on the file of the 2nd respondent and set-aside the order of detention No.19/BCDFGISSSV/2020, dated 22.07.2020 and direct the Respondents to produce the detenu by name Premkumar, son of Hari, male aged 43 years before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

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 sister of the detenu, namely, Premkumar, son of Hari, aged about 43 years,
<https://hcservices.ecourts.gov.in/hcservices/>



challenging the detention order No.19/ BCDFGISSSV/ 2020, dated 22.07.2020, passed by the second respondent, branding him as "**Drug Offender**" as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982.

2. Mr.J.William Christopher, learned counsel appearing for the petitioner, would submit that even though the petitioner has raised several grounds to assail the order of detention, he has confined his arguments only to the non-application of mind on the part of the detaining authority. It is also stated that totally there are four accused in this case and all the accused have been clamped with order of detention, but, in respect of three detenus, orders have been quashed.

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents, while reiterating the counter affidavit filed by the second respondent, submitted that the detenu is a habitual offender and he is not only involved in NDPS case, but, also he involved in IPC offences. He further submitted that detenu is a history sheeter. The detention order came to be passed by the second respondent taking note of the involvement of the detenu in the criminal case and it has been passed to prevent the detenu from indulging in similar activities in future which is prejudicial to the maintenance of public order. There is no illegality or infirmity in the detention order and prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. A perusal of the grounds of detention would show that the detenu is one of the accused in Cr.No.285 of 2020 on the file of the B6 Jaihindpuram Police Station for the offences under Sections 8(c) r/w 20(b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and while reaching the subjective satisfaction, the second respondent has stated that the case is under investigation. In the booklet furnished to the detenu at page No.104, it is stated by the investigating officer that the investigation in Crime No.285 of 2020 was already completed and the charge-sheet is ready and they are awaiting approval from the Public Prosecutor Officer. This shows lack of non-application of mind while reaching the subjective satisfaction. So, we are of the opinion that the order impugned in this habeas corpus petition is liable to be set aside.

6. In fine, the Habeas Corpus Petition is allowed. The detention order No.19/BCDFGISSSV/2020, dated 22.07.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Premkumar, son of Hari, aged about 43 years, who is now detained at Madurai Central Prison, is directed to be released



forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar ()

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

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To:

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat,
George Fort,
Chennai-600 009.
 - 2.The Commissioner of Police,
Madurai City,
Madurai.
 - 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.
 - 4.The Joint Secretary to Government,
Public(Law and Order),
Fort St.George, Chennai-9.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.J.WILLIAM CHRISTOPHER, Advocate (SR-2728[F] dated 02/02/2021)

H.C.P. (MD) No.609 of 2020
01.02.2021

sj(CO)

KK(18.02.2021) 3P 7C

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