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H.C.P.No.1261 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06..12..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.1261 of 2022

Fathima
Wife of Mansoor

..... Petitioner

-Versus-

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat, Chennai 600009.
- 2.The Commissioner of Police/Detaining Authority,
Office of the Commissioner of Police/Detaining Authority,
Tiruppur City.
- 3.The Superintendent of Prison,
Central Prison at Coimbatore, Coimbatore-18.
- 4.The Inspector of Police,
Thirumuruganpoondi Police Station,
Tiruppur District.

.... Respondents



H.C.P.No.1261 of 2022

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the records relating to the detention order in No.C.No.35/D.O./IS/2022 dated 06.05.2022 passed by the 2nd respondent and to set aside the same and consequently direct the respondents herein to produce the body of the son of the petitioner, the detenu viz., Sowgath Ali, Son of Mansoor, aged 25 years, now, confined in Central Prison, at Coimbatore, before this court and set him at liberty.

For Petitioner : Ms.R.Subadra Devi

*For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor*

ORDER

[Order of the Court was made by N.ANAND VENKATESH.J.,]

The petitioner is the mother of the detenu viz., Sowgath Ali. The detenu has been detained by the second respondent by his order in detention order vide C.No.35/D.O./IS/2022 dated 06.05.2022 holding him to be a "Drug Offender", as contemplated under Section 2(e) 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



H.C.P.No.1261 of 2022

have also perused the records produced by the Detaining Authority.

WEB COPY

3. The main ground that was urged by the learned counsel for the appellant is that detaining authority, after being aware of the fact that the bail application filed by the detenu was dismissed by the Special Court, came to a conclusion that there is likelihood of the detenu coming out on bail by relying upon the order passed in CrI.M.P.No.115 of 2020 dated 29.06.2020. Therefore, the learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority was an interim bail and as such the detention order suffers from non application of mind.

4. On carefully going through the order passed by the learned Additional District Judge / Presiding Officer, Special Court for Essential Commodities Cases, Coimbatore, in CrI.M.P.No.115 of 2020 on 29.06.2020, it is seen that Special Court had granted only interim bail to the accused therein. This order was relied upon by the detaining authority to come to the conclusion that there is likelihood of detenu coming out of bail. This clearly reflects the non application of mind on the part of the detaining authority. Thus the impugned detention order is liable to be set aside on this ground.



H.C.P.No.1261 of 2022

In the result, the Habeas Corpus Petition is allowed and the order of detention in detention order in No.C.No.35/D.O./IS/2022 dated 06.05.2022 , passed by the second respondent is set aside. The detenu, viz., Sowgath Ali, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (N.A.V.,J.)
06..12..2022

Index: Yes/No
kmk

To

- 1.The Principal Secretary to Government, Home, Prohibition and Excise (XVI) Department, Fort St. George, Secretariat, Chennai 600009.
- 2.The Commissioner of Police/Detaining Authority,
Office of the Commissioner of Police/Detaining Authority,
Tiruppur City.
- 3.The Superintendent of Prison,Central Prison at Coimbatore,
Coimbatore-18.
- 4.The Inspector of Police,Thirumuruganpoondi Police Station,
Tiruppur District.
- 5.The Joint Secretary to Government of Tamil Nadu, Public, Law and
Order Department, Secretariat, Chennai – 9.
- 6.The Public Prosecutor, High Court, Madras.

Page 4 of 5



WEB COPY



H.C.P.No.1261 of 2022

P.N.PRAKASH.J.,
AND
N.ANAND VENKATESH.J.,

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H.C.P.No.1261 of 2022

06..12..2022